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**JOURNAL OF THE SENATE  
STATE OF WASHINGTON  
1998 REGULAR SESSION  
FIFTY-FIFTH LEGISLATURE**

**FIRST DAY**

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**NOON SESSION**

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Senate Chamber, Olympia, Monday, January 12, 1998

At 12:00 noon, pursuant to law, the Senate of the 1998 Regular Session of the Fifty-fifth Legislature of the state of Washington assembled in the Senate Chamber at the State Capitol. Lieutenant Governor Brad Owen, President of the Senate, called the Senate to order.

The Washington State Patrol Honor Guard, consisting of Troopers Craig Anders, Jimmy Craig, Ted DeHart, Zachary Elmore, Dena Gundermann, Robert Koozewski and Robert Veliz, presented the Colors.

The President led the Senate in the Pledge of Allegiance.

Reverend Joan Anthony, pastor of St. Benedict's Episcopal Church of Lacey, offered the prayer.

**MOMENT OF SILENCE**

The Senators stood for a moment of silence in memory of Terry Husseman, Deputy Director of the Department of Ecology and former Senate employee, who passed away Tuesday, January. 6.

**INTRODUCTION OF LAKEFAIR QUEEN**

The President welcomed and introduced Sarah Rood, the 1997-1998 Lakefair Queen, who was seated on the rostrum. With permission of the Senate, business was suspended for Queen Sarah to welcome the Senators to Olympia.

**MESSAGE FROM THE SECRETARY OF STATE**

The Honorable President of the Senate  
The Legislature of the State of Washington  
Olympia, Washington

I, Ralph Munro, Secretary of State of the state of Washington, do hereby certify that, according to the provisions of RCW 29.62.130, I have canvassed the returns of the 1,718,307 votes cast by the 3,032,992 registered voters of the state for and against the initiatives, referendums, constitutional amendments and legislative offices which were submitted to the vote of the people at the state general election held on November 4, 1997, as received from the County Auditors.

**INITIATIVE MEASURE 673**

"Shall health insurance plans be regulated as to provision of services by designated health care providers, managed care provisions, and disclosure of certain plan information?"

Yes 521,161

No 1,087,903

**INITIATIVE MEASURE 676**

"Shall the transfer of handguns without trigger-locking devices be prohibited and persons possessing or acquiring a handgun be required to obtain a handgun safety license?"

Yes 496,690  
No 1,194,004

INITIATIVE MEASURE 677

"Shall discrimination based on sexual orientation be prohibited in employment, employment agency, and union membership practices, without requiring employee partner benefits or preferential treatment?"

Yes 666,073  
No 985,169

INITIATIVE MEASURE 678

"Shall dental hygienists who obtain a special license endorsement be permitted to perform designated dental hygiene services without the supervision of a licensed dentist?"

Yes 787,607  
No 883,488

INITIATIVE MEASURE 685

"Shall penalties for drug possession and drug-related violent crime be revised, medical use of Schedule 1 controlled substances be permitted, and a drug prevention commission established?"

Yes 659,244  
No 1,006,964

REFERENDUM BILL 47

"Shall property taxes be limited by modifying the 106 percent limit, allowing property valuation increases to be spread over time, and reducing the state levy?"

Yes 1,009,309  
No 579,620

HOUSE JOINT RESOLUTION 4208

"Shall the Constitution be amended to permit voter-approved school district levies to run for an optional four-year period, rather than the current two-year maximum?"

Yes 858,777  
No 759,259

HOUSE JOINT RESOLUTION 4209

"Shall the Constitution be amended to permit local governments to make loans for the conservation or the more efficient use of stormwater or sewer services?"

Yes 1,002,382  
No 573,083

STATE SENATOR

35<sup>TH</sup> LEGISLATIVE DISTRICT

(Grays Harbor, Kitsap, Mason, Thurston)

(1 Year Unexpired Term)

Tim Sheldon (D) 24,656  
Dick Taylor (R) 11,244

Charles Crawford (Ref) 1,841

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the Seal of the state of Washington, this 3rd  
day of December, 1997.

(Seal)

RALPH MUNRO,

Secretary of State

EDITOR'S NOTE: Senator Jacobsen, 46th District; Senator Kline, 37th District and Senator Patterson, 33rd District; all representing single counties, were certified by their county election officials.

EDITOR'S NOTE: Senator Tim Sheldon took the oath of office for Senator on December 5, 1997, to fill the unexpired term of Senator from the 35th District.

OATH OF OFFICE FOR UNEXPIRED TERM  
OATH OF SENATOR FOR THE STATE OF WASHINGTON  
35th LEGISLATIVE DISTRICT

I, TIM SHELDON, do solemnly swear that I will uphold the Constitution and Laws of the United States of America, the Constitution and Laws of the state of Washington, and the rules of the Washington State Senate, and that I will faithfully perform the duties of State Senator to the best of my ability, so help me God.

SENATOR TIM SHELDON

Subscribed and sworn to before me this 5th day of December, 1997

GERRY L. ALEXANDER,  
SUPREME COURT JUSTICE

MOTIONS

On motion of Senator Franklin, Senator Wojahn was excused.

On motion of Senator Hale, Senators Benton and Finkbeiner were excused.

ROLL CALL

The Secretary called the roll and all Senators were present except Senators Benton, Finkbeiner and Wojahn who were excused.

APPOINTMENT OF SPECIAL COMMITTEE

The President of the Senate appointed a committee of honor consisting of Senators Brown, Franklin, Loveland and Snyder to escort the newly elected Senators to the rostrum.

The President welcomed and introduced the Honorable Charles Z. Smith, Justice of the Supreme Court of the state of Washington, who will administer the oath of office to the newly elected Senators.

Justice Charles Z. Smith thereupon administered the oath of office to Senator Jacobsen, Senator Kline, Senator Patterson and Senator Tim Sheldon.

The President presented each of the newly elected Senators a certificate of election.

The committee escorted each of the newly elected members to their seats in the Senate Chamber.

MOTION

On motion of Senator Johnson, the following resolution was adopted:

SENATE RESOLUTION 1998-8680

By Senators McDonald, Sellar, Snyder, and Loveland

BE IT RESOLVED, That a committee of four be appointed to notify the House that the Senate is now organized and ready to transact business.

APPOINTMENT OF SPECIAL COMMITTEE

In accordance with Senate Resolution 1998-8680, the President appointed Senators Tim Sheldon, Patterson, Horn and Stevens to notify the House of Representatives that the Senate is organized and ready to transact business.

MOTION

On motion of Senator Johnson, the appointments were confirmed.  
The committee retired to the House of Representatives.

MOTION

On motion of Senator Johnson, the Senate reverted to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6112 by Senators Haugen, Goings, Prentice, Heavey, Hargrove, Patterson, Rasmussen, Kohl, Brown, McAuliffe, Fairley, B. Sheldon, Fraser, Franklin, Spanel, Snyder, T. Sheldon, Loveland, Thibaudeau, Jacobsen, Kline, Wojahn and Bauer

AN ACT Relating to reductions in motor vehicle excise tax through uniform reductions in vehicle value; amending RCW 82.44.041 and 82.44.110; and creating a new section.  
Referred to Committee on Ways and Means.

SB 6113 by Senators Wood, West, Thibaudeau, Kohl, Long and Rasmussen

AN ACT Relating to the property tax exemption for nonprofit organizations providing medical research or training of medical personnel; amending RCW 84.36.045; and creating a new section.  
Referred to Committee on Health and Long-Term Care.

SB 6114 by Senators Jacobsen, Oke, Spanel, Kline, Snyder and Haugen

AN ACT Relating to prevention and control of nonindigenous aquatic species; creating new sections; prescribing penalties; and declaring an emergency.  
Referred to Committee on Natural Resources and Parks.

SB 6115 by Senators Fairley, Swecker, Kohl and Winsley

AN ACT Relating to sexual exploitation of children; amending RCW 9.68A.011 and 9.68A.040; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6116 by Senators Fairley, Fraser and Spanel

AN ACT Relating to the Puget Sound council; and amending RCW 90.71.030.  
Referred to Committee on Agriculture and Environment.

SB 6117 by Senators Morton, Snyder, Swecker, Stevens, Rossi and Oke

AN ACT Relating to repurchasing commercial salmon fishing licenses; amending RCW 75.44.140 and 75.44.150; adding a new section to chapter 75.30 RCW; creating a new section; repealing RCW 75.44.100, 75.44.110, 75.44.120, and 75.44.130; and making an appropriation.  
Referred to Committee on Natural Resources and Parks.

SB 6118 by Senators Long and Spanel

AN ACT Relating to gifts under ethics in public service laws; and amending RCW 42.52.010 and 42.52.150.  
Referred to Committee on Government Operations.

SB 6119 by Senators Schow, Haugen, Patterson, McCaslin and Roach

AN ACT Relating to voter approval of a city assumption of a water-sewer district; amending RCW 35.13A.010 and 35.13A.020; adding new sections to chapter 35.13A RCW; and repealing RCW 35.13A.030, 35.13A.040, 35.13A.050, and 35.13A.060.  
Referred to Committee on Government Operations.

SB 6120 by Senators Roach, Long and Haugen (by request of Board for Judicial Administration)

AN ACT Relating to court of appeals consideration of personal restraint petitions; and amending RCW 10.73.140.  
Referred to Committee on Law and Justice.

SB 6121 by Senators Roach, Long and Haugen (by request of Court of Appeals)

AN ACT Relating to court of appeals judicial positions; and amending RCW 2.06.076.  
Referred to Committee on Law and Justice.

SB 6122 by Senators Morton and Rasmussen (by request of Department of Agriculture)

AN ACT Relating to the inspection and certification of horticultural products; amending RCW 15.17.010, 15.17.020, 15.17.030, 15.17.050, 15.17.060, 15.17.080, 15.17.090, 15.17.130, 15.17.140, 15.17.150, 15.17.170, 15.17.190, 15.17.200, 15.17.210, 15.17.230, 15.17.240, 15.17.260, 15.17.290, 15.04.100, and 42.17.31909; adding new sections to chapter 15.17 RCW; adding a new chapter to Title 15 RCW; creating a new section; recodifying RCW 15.04.100 and 15.17.130; repealing RCW 15.17.040, 15.17.070, 15.17.100, 15.17.110, 15.17.115, 15.17.120, 15.17.160, 15.17.180, 15.17.220, 15.17.250, 15.17.280, 15.17.910, 15.17.920, 15.17.930, 15.17.950, 15.04.020, 15.04.030, 15.04.040, 15.04.060, 15.04.070, and 15.04.080; and prescribing penalties.  
Referred to Committee on Agriculture and Environment.

SB 6123 by Senators Morton and Rasmussen (by request of Department of Agriculture)

AN ACT Relating to animal health; amending RCW 16.36.005, 16.36.010, 16.36.020, 16.36.040, 16.36.050, 16.36.060, 16.36.070, 16.36.080, 16.36.090, 16.36.096, 16.36.100, 16.36.105, 16.36.110, 16.44.130, 16.44.140, 16.44.160, and 43.23.070; adding new sections to chapter 16.36 RCW; recodifying RCW 16.44.130, 16.44.140, and 16.44.160; repealing RCW 9.08.020, 16.36.030, 16.36.103, 16.36.107, 16.36.108, 16.36.109, 16.36.120, 16.36.130, 16.44.020, 16.44.030, 16.44.040, 16.44.045, 16.44.050, 16.44.060, 16.44.070, 16.44.080, 16.44.090, 16.44.110, 16.44.120, 16.44.150, and 16.44.180; and prescribing penalties.  
Referred to Committee on Agriculture and Environment.

SB 6124 by Senators McCaslin, Snyder, West and Haugen

AN ACT Relating to state government; and adding a new section to chapter 2.06 RCW.  
Referred to Committee on Government Operations.

SB 6125 by Senators Kline, Zarelli, T. Sheldon, Haugen, Goings, Rasmussen, Rossi, Johnson and Oke

AN ACT Relating to victim impact panels; amending RCW 46.20.311; reenacting and amending RCW 46.61.5055 and 46.63.020; adding new sections to chapter 46.61 RCW; creating a new section; repealing RCW 46.61.5152; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6126 by Senators B. Sheldon, Wood, Snyder, T. Sheldon and Haugen

AN ACT Relating to construction projects in state waters; and amending RCW 75.20.160.  
Referred to Committee on Natural Resources and Parks.

SB 6127 by Senators Roach, Fraser, Long and West (by request of Court of Appeals)

AN ACT Relating to an additional division I judge position in King County; amending 1997 c 149 s 110 (uncodified); and making an appropriation.  
Referred to Committee on Law and Justice.

SB 6128 by Senators McDonald, Snyder, Prince, Haugen, Patterson, Goings, Oke, Jacobsen, Prentice, Heavey, Rasmussen, Morton, Sellar, Horn, Schow and Benton

AN ACT Relating to the legislative transportation committee; amending RCW 44.40.010; and providing an effective date.  
Referred to Committee on Transportation.

SB 6129 by Senators Swecker, Fraser and Winsley (by request of Department of Ecology)

AN ACT Relating to allowing continued use of pollution control tax credits after facilities are modified to maintain effective pollution control; amending RCW 82.34.100; and repealing RCW 82.34.080.  
Referred to Committee on Agriculture and Environment.

SB 6130 by Senators Swecker, Fraser, Patterson and Winsley (by request of Department of Ecology)

AN ACT Relating to underground storage tanks; amending RCW 90.76.020, 90.76.040, 90.76.050, 90.76.060, 90.76.090, and 90.76.120; adding new sections to chapter 43.131 RCW; creating a new section; and repealing RCW 90.76.030 and 90.76.903.  
Referred to Committee on Agriculture and Environment.

SB 6131 by Senators Oke, Snyder and Swecker (by request of Department of Health)

AN ACT Relating to sanitary control of shellfish; and adding a new section to chapter 69.30 RCW.  
Referred to Committee on Natural Resources and Parks.

SB 6132 by Senators Schow, Wojahn, Loveland, Heavey, Roach, Newhouse, Wood, T. Sheldon and Winsley

AN ACT Relating to travel sales; amending RCW 19.138.040, 19.138.100, 19.138.110, 19.138.120, 19.138.140, 19.138.170, 19.138.180, 19.138.190, 19.138.200, 19.138.210, 19.138.240, 19.138.250, and 19.138.310; adding a new section to chapter 19.138 RCW; adding new sections to chapter 43.131 RCW; creating a new section; and prescribing penalties.  
Referred to Committee on Commerce and Labor.

SB 6133 by Senators Oke, Long and Winsley

AN ACT Relating to inspection of records and property held by pawnbrokers and second-hand dealers; and amending RCW 19.60.020, 19.60.050, and 19.60.055.  
Referred to Committee on Commerce and Labor.

SB 6134 by Senators Oke, Rasmussen, Benton and Fraser

AN ACT Relating to fuel taxes attributable to marine and nonhighway uses; and amending RCW 43.99.070, 46.09.170, and 46.10.170.  
Referred to Committee on Natural Resources and Parks.

SB 6135 by Senators Oke, Swecker, Hargrove, Rossi and Anderson

AN ACT Relating to covenant marriages; amending RCW 26.04.080, 26.04.090, 26.04.160, 26.04.180, and 26.09.030; adding new sections to chapter 26.04 RCW; and creating a new section.  
Referred to Committee on Law and Justice.

SB 6136 by Senators Oke and Long

AN ACT Relating to drug offenses in background checks; and amending RCW 43.43.830.  
Referred to Committee on Human Services and Corrections.

SB 6137 by Senators Oke, Goings, Rasmussen, Franklin and Fraser

AN ACT Relating to possession of tobacco by minors; amending RCW 70.155.080; creating a new section; and prescribing penalties.  
Referred to Committee on Commerce and Labor.

SB 6138 by Senators Oke, B. Sheldon and T. Sheldon

AN ACT Relating to the imposition of taxes by counties for emergency communication systems and facilities; and adding a new section to chapter 82.14 RCW.  
Referred to Committee on Ways and Means.

SB 6139 by Senators Oke, Swecker, T. Sheldon, Goings, Rasmussen and Benton

AN ACT Relating to amphetamine; amending RCW 69.50.401; reenacting and amending RCW 9.94A.320; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6140 by Senators Morton, Rasmussen, Winsley, Goings and Schow

AN ACT Relating to water rights; and amending RCW 90.03.383 and 90.03.290.  
Referred to Committee on Agriculture and Environment.

SB 6141 by Senators Morton, Rasmussen, Winsley, Goings and Schow

AN ACT Relating to water rights; and amending RCW 90.14.140 and 90.44.080.  
Referred to Committee on Agriculture and Environment.

SB 6142 by Senators Kline, Roach, Patterson, Fairley, Swecker, T. Sheldon, Goings, Rasmussen, Oke and Benton

AN ACT Relating to administrative license suspension for first-time violators of laws against driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug; amending RCW 46.20.308, 46.20.3101, and 46.20.355; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6143 by Senators Schow, McAuliffe, Horn and Fraser (by request of Department of Labor and Industries)

AN ACT Relating to enforcement of the elevator and other conveyances law; amending RCW 70.87.010, 70.87.030, 70.87.090, and 70.87.120; and prescribing penalties.

Referred to Committee on Commerce and Labor.

SB 6144 by Senators Schow, Heavey and Horn (by request of Department of Labor and Industries)

AN ACT Relating to the statute of limitations for the repayment or recoupment of industrial insurance benefits induced by claimant fraud; and amending RCW 51.32.240.

Referred to Committee on Commerce and Labor.

SB 6145 by Senators Roach, Kline and Strannigan (by request of Department of Labor and Industries)

AN ACT Relating to designating special assistant attorneys general for the crime victims' compensation program; and amending RCW 7.68.050.

Referred to Committee on Law and Justice.

SB 6146 by Senators McAuliffe, Bauer, Goings, Franklin, Fairley, Kline, Snyder, Patterson, Rasmussen and Prentice

AN ACT Relating to replacement of school levy funding; amending RCW 84.52.0531 and 43.135.025; adding a new section to chapter 28A.500 RCW; adding a new section to chapter 84.52 RCW; and creating new sections.

Referred to Committee on Education.

SB 6147 by Senators Morton and Swecker

AN ACT Relating to the control of predators to assist in threatened and endangered salmon recovery; creating new sections; and declaring an emergency.

Referred to Committee on Natural Resources and Parks.

SB 6148 by Senators Schow, Snyder, Horn, Fraser and Rasmussen

AN ACT Relating to termination of the center for international trade in forest products; and amending RCW 43.131.333 and 43.131.334.

Referred to Committee on Commerce and Labor.

SB 6149 by Senator Swecker

AN ACT Relating to the regional fisheries enhancement group advisory board; and amending RCW 75.50.115.

Referred to Committee on Natural Resources and Parks.

SB 6150 by Senator Swecker

AN ACT Relating to evaluating selective fishing methods; and amending RCW 75.28.770.

Referred to Committee on Natural Resources and Parks.

SB 6151 by Senator Swecker

AN ACT Relating to library funding; amending RCW 27.12.050, 27.12.150, 27.12.222, 27.12.390, 27.12.420, 41.16.060, 52.04.081, 84.52.010, 84.55.100, and 84.55.110; creating new sections; repealing RCW 84.52.063; and declaring an emergency.

Referred to Committee on Government Operations.



SB 6152 by Senator Swecker (by request of Parks and Recreation Commission)

AN ACT Relating to state park lands; and amending RCW 43.51.210 and 43.51.215.  
Referred to Committee on Natural Resources and Parks.

SB 6153 by Senators Fairley, Thibaudeau, Kohl and Winsley

AN ACT Relating to actions for injury or death of a child; and amending RCW 4.24.010.  
Referred to Committee on Law and Justice.

SB 6154 by Senators Fairley, Kohl and Winsley

AN ACT Relating to drug-assisted sex offenses; amending RCW 9A.44.050 and 9A.44.100; and adding a new section to chapter 9A.44 RCW.  
Referred to Committee on Law and Justice.

SB 6155 by Senators Roach and Fairley

AN ACT Relating to the supervision of municipal court probation services; and amending RCW 35.20.230.  
Referred to Committee on Law and Justice.

SB 6156 by Senators Swecker, Fraser and Spanel (by request of Department of Natural Resources)

AN ACT Relating to studying methods for calculating water-dependent lease rates on state-owned aquatic lands; amending RCW 79.90.480; creating a new section; and making an appropriation.  
Referred to Committee on Natural Resources and Parks.

SB 6157 by Senator Swecker

AN ACT Relating to contempt of court; amending RCW 7.21.030; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6158 by Senators Morton and Rasmussen

AN ACT Relating to eliminating duplicate authority for the Washington state wheat commission; and repealing RCW 15.63.010, 15.63.020, 15.63.030, 15.63.040, 15.63.050, 15.63.060, 15.63.070, 15.63.080, 15.63.090, 15.63.100, 15.63.110, 15.63.120, 15.63.130, 15.63.140, 15.63.150, 15.63.160, 15.63.170, 15.63.180, 15.63.190, 15.63.200, 15.63.210, 15.63.220, 15.63.230, 15.63.240, 15.63.900, 15.63.910, and 15.63.920.  
Referred to Committee on Agriculture and Environment.

SB 6159 by Senators Morton and Rasmussen

AN ACT Relating to eliminating authority for the Washington land bank; and repealing RCW 31.30.010, 31.30.020, 31.30.030, 31.30.040, 31.30.050, 31.30.060, 31.30.070, 31.30.080, 31.30.090, 31.30.100, 31.30.110, 31.30.120, 31.30.130, 31.30.150, 31.30.160, 31.30.170, 31.30.180, 31.30.190, 31.30.200, 31.30.210, 31.30.220, 31.30.230, 31.30.240, 31.30.250, 31.30.260, 31.30.270, and 31.30.900.  
Referred to Committee on Agriculture and Environment.

SB 6160 by Senators Morton and Rasmussen

AN ACT Relating to eliminating authority for reclamation districts over one million acres; and repealing RCW 89.30.001, 89.30.004, 89.30.007, 89.30.010, 89.30.013, 89.30.016, 89.30.019, 89.30.022, 89.30.025, 89.30.028, 89.30.031, 89.30.034, 89.30.037, 89.30.040, 89.30.043, 89.30.046, 89.30.049, 89.30.052, 89.30.055, 89.30.058, 89.30.061, 89.30.064, 89.30.067, 89.30.070, 89.30.073, 89.30.076, 89.30.079, 89.30.082, 89.30.085, 89.30.088, 89.30.091, 89.30.094, 89.30.097,

89.30.100, 89.30.103, 89.30.106, 89.30.109, 89.30.112, 89.30.115, 89.30.118, 89.30.121, 89.30.124, 89.30.127, 89.30.130, 89.30.133, 89.30.136, 89.30.139, 89.30.142, 89.30.145, 89.30.148, 89.30.151, 89.30.154, 89.30.157, 89.30.160, 89.30.163, 89.30.166, 89.30.169, 89.30.172, 89.30.175, 89.30.178, 89.30.181, 89.30.184, 89.30.187, 89.30.190, 89.30.193, 89.30.196, 89.30.199, 89.30.202, 89.30.205, 89.30.208, 89.30.211, 89.30.214, 89.30.217, 89.30.220, 89.30.223, 89.30.226, 89.30.229, 89.30.232, 89.30.235, 89.30.238, 89.30.241, 89.30.244, 89.30.247, 89.30.250, 89.30.253, 89.30.256, 89.30.259, 89.30.262, 89.30.265, 89.30.268, 89.30.271, 89.30.274, 89.30.277, 89.30.280, 89.30.283, 89.30.286, 89.30.289, 89.30.292, 89.30.295, 89.30.298, 89.30.301, 89.30.304, 89.30.307, 89.30.310, 89.30.313, 89.30.316, 89.30.319, 89.30.322, 89.30.325, 89.30.328, 89.30.331, 89.30.334, 89.30.337, 89.30.340, 89.30.343, 89.30.346, 89.30.349, 89.30.352, 89.30.355, 89.30.358, 89.30.361, 89.30.364, 89.30.367, 89.30.370, 89.30.373, 89.30.376, 89.30.379, 89.30.382, 89.30.385, 89.30.388, 89.30.391, 89.30.394, 89.30.397, 89.30.400, 89.30.403, 89.30.412, 89.30.427, 89.30.430, 89.30.433, 89.30.436, 89.30.439, 89.30.442, 89.30.445, 89.30.448, 89.30.451, 89.30.454, 89.30.457, 89.30.460, 89.30.463, 89.30.466, 89.30.469, 89.30.472, 89.30.475, 89.30.478, 89.30.481, 89.30.484, 89.30.487, 89.30.490, 89.30.493, 89.30.496, 89.30.499, 89.30.502, 89.30.505, 89.30.508, 89.30.511, 89.30.514, 89.30.517, 89.30.520, 89.30.523, 89.30.526, 89.30.529, 89.30.532, 89.30.535, 89.30.538, 89.30.541, 89.30.544, 89.30.547, 89.30.550, 89.30.553, 89.30.556, 89.30.565, 89.30.568, 89.30.571, 89.30.574, 89.30.577, 89.30.580, 89.30.583, 89.30.586, 89.30.589, 89.30.592, 89.30.595, 89.30.598, 89.30.601, 89.30.604, 89.30.607, 89.30.610, 89.30.613, 89.30.616, 89.30.619, 89.30.622, 89.30.625, 89.30.628, 89.30.631, 89.30.634, 89.30.637, 89.30.640, 89.30.643, 89.30.646, 89.30.649, 89.30.652, 89.30.655, 89.30.658, 89.30.661, 89.30.664, 89.30.667, 89.30.670, 89.30.673, 89.30.676, 89.30.679, 89.30.682, 89.30.685, 89.30.688, 89.30.691, 89.30.694, 89.30.697, 89.30.700, 89.30.703, 89.30.706, 89.30.709, 89.30.712, 89.30.715, 89.30.718, 89.30.721, 89.30.724, 89.30.727, 89.30.730, 89.30.733, 89.30.736, 89.30.739, 89.30.742, 89.30.745, 89.30.748, 89.30.751, 89.30.754, 89.30.757, 89.30.760, 89.30.763, 89.30.766, 89.30.769, 89.30.772, 89.30.775, 89.30.778, 89.30.781, 89.30.784, 89.30.787, 89.30.790, 89.30.793, 89.30.796, 89.30.799, 89.30.802, 89.30.805, 89.30.808, 89.30.811, 89.30.814, 89.30.817, 89.30.820, 89.30.823, 89.30.826, 89.30.829, 89.30.832, and 89.30.835.

Referred to Committee on Agriculture and Environment.

SB 6161 by Senators Swecker, Newhouse, Rasmussen and Anderson

AN ACT Relating to dairy nutrient management; amending RCW 90.64.010, 90.64.030, 90.64.050, 90.64.060, 90.64.070, 90.64.080, 90.64.120, and 43.21B.300; adding new sections to chapter 90.64 RCW; adding a new section to chapter 15.44 RCW; creating a new section; and repealing RCW 90.64.005 and 90.64.090.

Referred to Committee on Agriculture and Environment.

SB 6162 by Senators Prentice and Goings

AN ACT Relating to certification of resident managers of mobile home parks; adding a new chapter to Title 18 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6163 by Senators Prentice, Goings and Winsley

AN ACT Relating to registration of mobile home parks; adding a new chapter to Title 18 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6164 by Senators Prentice and Goings

AN ACT Relating to mobile home park rent justification; adding a new chapter to Title 59 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6165 by Senators Rossi, Roach, Rasmussen, Goings, T. Sheldon, McCaslin, Strannigan, Zarelli, Long, Deccio, Oke, Kline, Wood, Schow, Swecker, Stevens, Haugen, Johnson, Benton and Winsley

AN ACT Relating to vehicles equipped with ignition interlock devices; amending RCW 46.20.740 and 46.55.113; reenacting and amending RCW 46.61.5055; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6166 by Senators Rossi, Roach, Fairley, Goings, T. Sheldon, McCaslin, Strannigan, Zarelli, Long, Deccio, Oke, Rasmussen, Wood, Kline, Schow, Patterson, Swecker, Stevens, Haugen, McAuliffe, Kohl, Johnson and Benton

AN ACT Relating to penalties for driving under the influence; amending RCW 46.61.5058, 46.61.520, 10.05.010, 10.05.160, 46.01.260, 46.20.285, 46.20.308, 46.20.3101, and 46.20.391; reenacting and amending RCW 46.61.5055; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6167 by Senators Deccio and Wojahn (by request of Department of Social and Health Services)

AN ACT Relating to protection from public disclosure of proprietary information of health care bidders and contractors; reenacting and amending RCW 42.17.310; and adding a new section to chapter 74.09 RCW.

Referred to Committee on Health and Long-Term Care.

SB 6168 by Senators Prentice, Rasmussen, Hale, Sellar, T. Sheldon, Wood, McAuliffe, Kohl, Anderson, Benton and Winsley (by request of Governor Locke)

AN ACT Relating to developing and funding housing for temporary workers; amending RCW 43.22.480 and 43.70.340; adding a new section to chapter 19.27 RCW; adding new sections to chapter 70.114A RCW; adding a new section to chapter 49.17 RCW; adding new sections to chapter 43.70 RCW; and repealing RCW 70.114A.080.

Referred to Committee on Agriculture and Environment.

SB 6169 by Senators Winsley and Prentice

AN ACT Relating to lenders use of third-party real estate appraisals to conform with federal requirements; and amending RCW 18.140.020.

Referred to Committee on Commerce and Labor.

SB 6170 by Senators Morton and Brown

AN ACT Relating to the reclamation, closure, or decommissioning of a uranium or thorium mill or tailings facility; and amending RCW 70.121.030.

Referred to Committee on Agriculture and Environment.

SB 6171 by Senators Strannigan, Fraser, West and Spanel (by request of Public Works Board)

AN ACT Relating to authorizing loans for projects recommended by the public works board; creating a new section; and declaring an emergency.

Referred to Committee on Ways and Means.

SB 6172 by Senator McCaslin

AN ACT Relating to service of petitions for judicial review of agency actions; and amending RCW 34.05.542.

Referred to Committee on Government Operations.

SB 6173 by Senators McCaslin, Fairley, Bauer, Swecker, T. Sheldon and Benton

AN ACT Relating to the veterans' preference in employment examinations; and amending RCW 41.04.010.

Referred to Committee on Government Operations.

SB 6174 by Senator McCaslin

AN ACT Relating to special purpose district commissioner per diem compensation; amending RCW 35.61.150, 52.14.010, 53.12.260, 54.12.080, 57.12.010, 68.52.220, 70.44.050, 85.05.410, 85.06.380, 85.08.320, 85.24.080, 86.09.283, 87.03.460, and 36.57A.050; and adding a new section to chapter 85.38 RCW.  
Referred to Committee on Government Operations.

SB 6175 by Senators McCaslin, Strannigan, Haugen, Sellar, Brown and Loveland (by request of State Treasurer Murphy)

AN ACT Relating to financing contracts; amending RCW 39.94.010, 39.94.020, 39.94.030, 39.94.040, 39.36.060, 52.16.061, 52.16.080, and 53.36.030; adding a new section to chapter 39.94 RCW; and creating a new section.  
Referred to Committee on Government Operations.

SB 6176 by Senators Roach and Kohl (by request of Sentencing Guidelines Commission)

AN ACT Relating to making technical corrections to sentencing laws enacted in 1997; amending RCW 9.94A.360; reenacting and amending RCW 9.94A.040, 9.94A.310, 9.94A.320, 9.94A.030, and 9A.44.130; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6177 by Senators Fairley, Loveland, B. Sheldon, Hargrove, McAuliffe, Kline, Fraser, Kohl, Franklin, Haugen, Spanel, Thibaudeau, Bauer, Goings, Jacobsen, Snyder and Patterson

AN ACT Relating to signature gatherers; adding a new section to chapter 29.79 RCW; and prescribing penalties.  
Referred to Committee on Government Operations.

SB 6178 by Senator Swecker

AN ACT Relating to dishonored checks; amending RCW 9A.56.060; adding new sections to chapter 30.16 RCW; and prescribing penalties.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6179 by Senators Wood, Kohl, Prince, Bauer, Patterson, McAuliffe, Rasmussen and Hale

AN ACT Relating to the Washington award for vocational excellence; amending RCW 28C.04.545; and declaring an emergency.  
Referred to Committee on Higher Education.

SB 6180 by Senators Swecker, Fraser, Schow, Rasmussen, Strannigan and Oke

AN ACT Relating to solid fuel burning devices; amending RCW 70.94.473; adding a new section to chapter 70.94 RCW; and providing an expiration date.  
Referred to Committee on Agriculture and Environment.

SB 6181 by Senators Johnson and Roach

AN ACT Relating to probate, trust, and estate law; amending RCW 11.02.005, 11.07.010, 11.54.070, 11.68.110, 11.68.114, 11.114.030, 83.100.020, and 83.110.010; amending 1997 c 252 s 87 (uncodified); amending 1997 c 252 s 89 (uncodified); adding a new chapter to Title 11 RCW; creating new sections; providing an effective date; and declaring an emergency.  
Referred to Committee on Law and Justice.

SB 6182 by Senators Johnson and Roach

AN ACT Relating to facilitating interstate operations for Washington professional corporations; and amending RCW 18.100.060, 18.100.065, 18.100.090, 18.100.100, and 25.15.045.  
Referred to Committee on Law and Justice.

SB 6183 by Senators Johnson and Roach

AN ACT Relating to shares and distributions under the Washington business corporation act; and amending RCW 23B.06.010, 23B.06.020, and 23B.06.240.

Referred to Committee on Law and Justice.

SB 6184 by Senators McCaslin, Haugen, Hochstatter and T. Sheldon

AN ACT Relating to master planned resorts; amending RCW 36.70A.360; and creating a new section.

Referred to Committee on Government Operations.

SB 6185 by Senators Morton and Rasmussen (by request of Department of Agriculture)

AN ACT Relating to apiaries; amending RCW 15.60.005, 15.60.007, 15.60.010, 15.60.030, 15.60.050, 15.60.040, 15.60.042, 15.60.043, 15.60.150, and 15.60.170; adding new sections to chapter 15.60 RCW; creating a new section; recodifying RCW 15.60.005, 15.60.007, 15.60.010, 15.60.025, 15.60.015, 15.60.020, 15.60.030, 15.60.140, 15.60.050, 15.60.040, 15.60.042, 15.60.043, 15.60.100, 15.60.110, 15.60.150, 15.60.170, 15.60.180, 15.60.190, 15.60.210, 15.60.220, 15.60.230, and 15.60.900; repealing RCW 15.60.120; and declaring an emergency.

Referred to Committee on Agriculture and Environment.

SB 6186 by Senators Swecker and Rasmussen (by request of Department of Agriculture)

AN ACT Relating to livestock identification; amending RCW 16.57.010, 16.57.015, 16.57.020, 16.57.030, 16.57.040, 16.57.050, 16.57.080, 16.57.090, 16.57.100, 16.57.120, 16.57.130, 16.57.140, 16.57.150, 16.57.160, 16.57.165, 16.57.170, 16.57.180, 16.57.200, 16.57.210, 16.57.220, 16.57.230, 16.57.240, 16.57.260, 16.57.270, 16.57.275, 16.57.280, 16.57.290, 16.57.300, 16.57.310, 16.57.320, 16.57.330, 16.57.340, 16.57.360, 16.57.370, 16.57.400, 16.57.410, 16.58.020, 16.58.030, 16.58.040, 16.58.050, 16.58.060, 16.58.070, 16.58.080, 16.58.095, 16.58.100, 16.58.110, 16.58.130, 16.58.140, 16.58.150, 16.58.170, 16.65.010, 16.65.015, 16.65.020, 16.65.030, 16.65.037, 16.65.040, 16.65.042, 16.65.080, 16.65.090, 16.65.100, 16.65.140, 16.65.170, 16.65.190, 16.65.200, 16.65.235, 16.65.260, 16.65.280, 16.65.340, 16.65.350, 16.65.380, 16.65.390, 16.65.420, and 16.65.422; amending 1997 c 356 s 12 (uncodified); adding new sections to chapter 16.57 RCW; adding a new section to chapter 42.17 RCW; creating a new section; repealing RCW 16.65.110 and 16.57.380; repealing 1997 c 356 s 3; repealing 1997 c 356 s 5; repealing 1997 c 356 s 7; repealing 1997 c 356 s 9; repealing 1997 c 356 s 11; prescribing penalties; and providing effective dates.

Referred to Committee on Agriculture and Environment.

SJM 8016 by Senators Jacobsen, Oke, Spanel and Kline

Petitioning Congress to appropriate resources for full implementation of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Referred to Committee on Natural Resources and Parks.

SJM 8017 by Senators Oke, Rasmussen and Winsley

Naming the Admiral James S. Russell Bridge.

Referred to Committee on Transportation.

SCR 8421 by Senators McDonald, Sellar, Snyder and Loveland

Notifying the Governor that the Legislature is organized.

HOLD.

SCR 8422 by Senators McDonald, Sellar, Snyder and Loveland

Reintroducing bills from the 1997 session.

HOLD.

#### MOTIONS

On motion of Senator Johnson, the rules were suspended, Senate Concurrent Resolution No. 8421 was advanced to second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Senate Concurrent Resolution No. 8421 was advanced to third reading, the second reading considered the third and the concurrent resolution was adopted.

SENATE CONCURRENT RESOLUTION NO. 8421 was adopted by voice vote.

#### MOTIONS

On motion of Senator Johnson, the rules were suspended, Senate Concurrent Resolution No. 8422 was advanced to second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Senate Concurrent Resolution No. 8422 was advanced to third reading, the second reading considered the third and the concurrent resolution was adopted.

SENATE CONCURRENT RESOLUTION NO. 8422 was adopted by voice vote.

#### APPOINTMENT OF SPECIAL COMMITTEE

In accordance with Senate Concurrent Resolution No. 8421, the President appointed Senators West and Spanel to join a like committee from the House of Representatives to notify the Governor that the Legislature is organized and ready to conduct business.

#### MOTION

On motion of Senator Johnson, the appointments were confirmed.  
The committee retired to the office of the Governor.

#### COMMITTEE FROM THE HOUSE

A committee from the House of Representatives consisting of Representatives Wensman, DeBolt, Dickerson and Anderson appeared before the bar of the Senate and notified the Senate that the House is organized and ready to transact business.

The report was received and the committee returned to the House of Representatives.

#### REPORT OF COMMITTEE

The Senate Committee composed of Senators West and Spanel appeared before the bar of the Senate and reported that the Governor had been notified under the provisions of Senate Concurrent Resolution No. 8421 that the Senate is organized and ready to transact business. The committee also introduced Emily Locke, one-year old daughter of the Governor, and her mother, Mona Lee Locke who accompanied the committee back to the Senate Chamber. Emily had presented each member of the committee with a black pen.

The report was received and the committee was discharged.

#### REPORT OF COMMITTEE

The Senate Committee composed of Senators Tim Sheldon, Patterson, Horn and Stevens appeared before the bar of the Senate and reported that the House of Representatives had been notified that the Senate is organized and ready to transact business.

The report was received and the committee was discharged.

MOTION

On motion of Senator Johnson, the Senate reverted to the fourth order of business.

MESSAGES FROM THE HOUSE

January 12, 1998

MR. PRESIDENT:

The House has adopted SENATE CONCURRENT RESOLUTION NO. 8421, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

January 12, 1998

MR. PRESIDENT:

The House has adopted SENATE CONCURRENT RESOLUTION NO. 8422, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

January 12, 1998

MR. PRESIDENT:

The House has adopted HOUSE CONCURRENT RESOLUTION NO. 4426, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Johnson, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILL

HCR 4426 by Representatives Lisk, Appelwick, Scott, Bush and Dunn

Requesting a Joint Session for the purpose of receiving a message from the Speaker of the United States House of Representatives, Newt Gingrich, and to receive the State of the State message from Governor Gary Locke.

MOTIONS

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4426 was advanced to second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4426 was advanced to third reading, the second reading considered the third and the concurrent resolution was adopted.

HOUSE CONCURRENT RESOLUTION NO. 4426 was adopted by voice vote.

MOTION

On motion of Senator Johnson, the Senate returned to the third order of business.

MESSAGE FROM THE SECRETARY OF STATE

The Honorable Brad Owen  
President of the Senate  
Legislature of the State of Washington  
Olympia, Washington 98504

MR. PRESIDENT:

We respectfully transmit for your consideration the following bills which were vetoed by the Governor, together with the official veto message setting forth his objections to the bills as required by Article III, section 12, of the Washington State Constitution:

SUBSTITUTE SENATE BILL NO. 5011;  
SUBSTITUTE SENATE BILL NO. 5030;  
SUBSTITUTE SENATE BILL NO. 5079;  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5082;  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5105;  
SECOND SUBSTITUTE SENATE BILL NO. 5120;  
SUBSTITUTE SENATE BILL NO. 5157;  
SUBSTITUTE SENATE BILL NO. 5188;  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5274;  
SUBSTITUTE SENATE BILL NO. 5325;  
SENATE BILL NO. 5460;  
SENATE BILL NO. 5484;  
SENATE BILL NO. 5554;  
SENATE BILL NO. 5559;  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5574;  
SUBSTITUTE SENATE BILL NO. 5668;  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5671;  
SENATE BILL NO. 5688;  
SUBSTITUTE SENATE BILL NO. 5718;  
SUBSTITUTE SENATE BILL NO. 5721;  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5739;  
SUBSTITUTE SENATE BILL NO. 5781;  
SUBSTITUTE SENATE BILL NO. 5803;  
ENGROSSED SENATE BILL NO. 6039;

IN TESTIMONY WHEREOF, I have hereunto set my hand  
and affixed the Seal of the state of Washington, this 17th  
day of September, 1997.

(Seal)

RALPH MUNRO

Secretary of State

**VETOED BILLS**

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5011

May 7, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5011 entitled:  
"AN ACT Relating to the financial and reporting requirements of health care service contractors and health maintenance organizations;"



I fully support the proposal in Substitute Senate Bill No. 5011, which raises minimum net worth requirements for health maintenance organizations, health care service contractors and limited health care service contractors operating in Washington State. The intent of this bill, which was requested by the Insurance Commissioner with the support of the industry, is to protect Washington State policyholders by ensuring the solvency of certain health carriers.

However, this bill is identical to Engrossed Substitute House Bill 1064, which I signed into law on April 25, 1997.

For this reason, I have vetoed Substitute Senate Bill No. 5011 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5030

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval Substitute Senate Bill No. 5030 entitled:

"AN ACT Relating to the appropriation of water from lakes and reservoirs for single-family residential noncommercial garden and landscape irrigation;"

Substitute Senate Bill No. 5030 would have directed the Department of Ecology to determine if water is available to provide shoreland owners around Lake Washington with a water right for residential noncommercial garden and landscape irrigation. The Department of Ecology determined in 1979 that additional diversions of water from the Lake Washington drainage system would deplete instream flows and lake levels required to support appropriate uses. There does not appear to be reasonable evidence that any additional water would be available today for these purposes, particularly in light of increased pressures associated with potential Endangered Species Act listings for salmon in the Puget Sound basin.

For these reasons, I have vetoed Substitute Senate Bill No. 5030 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5079

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval Substitute Senate Bill No. 5079, entitled:

"AN ACT Relating to permit processing;"

Substitute Senate Bill No. 5079 deals with the private preparation of draft wastewater discharge permits. I commend the intent of this bill to find ways to increase private sector participation in order to make the permit process more timely. However, while the Department of Ecology would still review and approve or deny permits, the time allowed for this review is not sufficient to ensure the thorough review necessary to protect the environment or to allow adequate time for input from the public.

For these reasons I have vetoed Substitute Senate Bill No. 5079 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR

VETO MESSAGE ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5082

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5082 entitled:

"AN ACT Relating to mental health and chemical dependency treatment for minors;"

Engrossed Substitute Senate Bill No. 5082 addresses a very important matter, the role of parents in directing mental health and chemical dependency treatment of their teenage minor children. I have vetoed this measure because it leaves unresolved a number of important issues.

A focus of the bill is parent initiated inpatient mental health and chemical dependency treatment. At the outset of parent initiated inpatient treatment of a minor 13 years of age or older, this bill would substitute a series of professional psychiatric evaluations directed by the Department of Social and Health Services (DSHS) for the early judicial commitment hearing required in law as currently interpreted. This bill would permit approximately 100 days to pass prior to the minor having access to the courts, an unduly long period of time.

This bill is primarily a response to the case, State v. CPC Fairfax Hospital, 129 Wn.2d 439 (1996). In that ruling, four justices underscored the importance of due process in involuntary commitments. This bill, in delaying judicial review for a lengthy period, may not satisfy due process.

The issue of reimbursement for treatment must be handled more completely than is provided by this bill. At some early point in the process of admission of Medicaid eligible minors, the issue of reimbursements for treatment will inevitably arise. The bill would require all determinations (subsequent to the initial one) of whether treatment should continue to be based on a standard of "medically appropriate". It is unclear whether the state would be reimbursed for inpatient treatments that do not meet a standard describing a mental disorder, or even a standard of medical necessity. In the case of private insurers, perhaps some will choose to reimburse at a lower standard than "medically necessary". Others may not. This uncertainty around the financing and reimbursement of potentially costly treatment indicates the need for more careful attention to this matter.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5082 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR

VETO MESSAGE ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5105

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5105 entitled:

"AN ACT Relating to administrative rule making;"

This bill would amend the Administrative Procedure Act (APA) as it relates to significant legislative rules that are the same as, or differ from, federal requirements. It would require that such rules expire automatically, unless specific statutory authority is obtained by July 1, 1999 allowing them to overlap or duplicate federal or state laws, or differ from federal law on the same subject matter.

If the Legislature should fail to act, for whatever reason, this bill could result in abdication of state policy to federal rule makers in crucial areas of public health, safety, environmental protection, and general public welfare. Often, federal requirements are stated as minimum standards or are designed to allow states to customize programs, through rules, to meet unique geographic or other needs. Also, any mechanism that could invalidate a rule by legislative inaction raises constitutional separation of powers questions.

My Executive Order No. 97-02 directs agencies to review their rules, and to amend or repeal those rules if they do not coordinate with rules of other governmental jurisdictions. I believe this effort can best be addressed by executive leadership.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5105 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SECOND SUBSTITUTE SENATE BILL NO. 5120

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Second Substitute Senate Bill No. 5120 entitled:

"AN ACT Relating to fish enhancement with remote site incubators;"

Second Substitute Senate Bill No. 5120 establishes a program to promote Remote Site Incubators (RSI's) for salmonid recovery. Although RSI's can play a role in salmonid recovery, I have specific concerns that this program is premature because our state's wild salmonid program is not yet in place.

I urge the Department of Fish and Wildlife (DFW) to look at RSI's in view of the Wild Salmonid Policy and potential Endangered Species Act listings. I encourage DFW to work with the tribes and the legislature to develop guidelines which will allow the use of RSI's while protecting the state's vital wild salmon stocks.

For these reasons, I have vetoed Second Substitute Senate Bill No. 5120 in its entirety.

I am hereby returning, without my approval, Second Substitute Senate Bill No. 5120.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5157

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5157 entitled:

"AN ACT Relating to sales and use tax exemptions for victims of inclement weather that led to a declaration of a disaster area;"

Substitute Senate Bill No. 5157 would have established a sales and use tax exemption for labor, services and materials used in repairing buildings, and replacement of private automobiles damaged by natural disasters occurring between November 1, 1995 and June 30, 1997.

I agree that it is important to assist victims of natural disasters, but I do not believe this bill is the way to do it. Many people would be unable to take advantage of the exemption since they have already repaired or replaced damaged buildings and automobiles. In order to be effective and fair, this bill would have needed to be in place prior to the natural disasters.

This bill represents a well-intentioned effort to help the victims of weather-related natural disasters. However, the defects of the bill more than offset its good intentions. The program it establishes would be readily subject to fraudulent abuse, and would require extensive and burdensome record keeping by private businesses.

For these reasons, I have vetoed Substitute Senate Bill No. 5157 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5188

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5188 entitled:

"AN ACT Relating to offenders;"

Substitute Senate Bill No. 5188 would require the full disclosure of 1) the medical information of death row inmates to any person, at any time, for any reason; and 2) the medical information of inmates who use their health status in appeals and petitions for release. Any person would be able to obtain the medical records of these inmates without stating the purpose and intended use of the information.

I support the death penalty, and have sought the death penalty as a deputy prosecutor. I strongly support that portion of the legislation that requires the disclosure of an inmate's medical records, if the inmate raises his or her medical condition as part of a court proceeding. However, I strongly disagree with the requirement of this bill that all death row inmates' medical records be disclosed to anybody, at any time, for any reason. Medical information is very personal, and should be subject to disclosure only for compelling reasons.

Because of the way Substitute Senate Bill No. 5188 was drafted, I have only the choice of vetoing or approving the entire bill. I have chosen to veto the bill, and hereby request the legislature to pass legislation next session that is less broad. The portion of the bill that would require disclosure of all death row inmates' medical records stems primarily from the Mitchell Rupe case, where it was rumored that Mr. Rupe sought an organ transplant while on death row. This legislation attempts to address that situation, but goes too far.

If the legislature wants to allow greater disclosure of death row inmates' medical information under certain circumstances, it should pass legislation that is specific about the authorized recipients and the intended purpose that together establish a compelling public interest.

For these reasons, I have vetoed Substitute Senate Bill No. 5188 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5274

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5274 entitled:

"AN ACT Relating to disclosure of students' social security numbers;"

The federal Family Educational Rights and Privacy Act (FERPA) provides strong safeguards of individual privacy:

- Schools may not require a student or parent to provide a student's social security number;
- Schools may not penalize a student or parent for not providing a social security number; and
- Schools may not release a student's social security number without consent.

I have no objection to putting these important safeguards in state as well as federal law. However, Engrossed Substitute Senate Bill No. 5274 goes beyond the federal safeguards by prohibiting schools from *requesting* social security numbers (with limited exceptions).

This legislation would prohibit using social security numbers for:

- Student identification numbers;
- Positive identification of two or more students with the same name;
- Following student movement between schools; and
- Tracking the college experience and employment of high school graduates.

In December of 1995 the Superintendent of Public Instruction adopted an official policy on Privacy and Confidentiality. In 1996 the Superintendent also distributed a suggested privacy and confidentiality policy for all school districts. I believe these policies, in conjunction with federal requirements, protect the privacy of Washington citizens.

I too have deep concerns about public and private entities requesting social security numbers. I welcome the legislature engaging in a comprehensive review of the use of social security numbers within our society and would join in efforts to restrict to whom social security numbers can be disseminated.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5274 in its entirety.

I am hereby returning, without my approval, Engrossed Substitute Senate Bill No. 5274.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5325

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5325 entitled:

"AN ACT Relating to transfer of state forest lands back to counties;"

Substitute Senate Bill No. 5325 would allow all counties but King to file applications with the Board of Natural Resources for the transfer of Forest Board Transfer lands to the requesting counties. Upon receiving the application, the Board would be required to transfer the lands. The bill specifies the conditions regarding how such lands are to be managed by those counties receiving them.

In authorizing a shift in management from the Department of Natural Resources (DNR) to the requesting counties, this bill would represent a fundamental policy change at the expense of non-county beneficiaries of state trust lands.

It has been a long-standing policy of the DNR to consolidate state forest lands to obtain economies of scale. By allowing counties to take over these lands, Substitute Senate Bill No. 5325 would make it more expensive to manage the remaining state trust lands and would result in less revenue for other trust beneficiaries including the common schools. In addition, the bill would significantly reduce the DNR's fire fighting capability, imposing extra costs on local governments and risks to local communities.

This bill would not permit the inclusion of the lands transferred to counties in the recently signed Habitat Conservation Plan (HCP), without the agreement of the counties. To remove major portions of land from the state trust management system would place additional harvest restrictions on the remaining lands and reduce revenues for their beneficiaries.

For these reasons, I have vetoed Substitute Senate Bill No. 5325 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SENATE BILL NO. 5460

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5460 entitled:

"AN ACT Relating to the use of public funds;"

Senate Bill No. 5460 attempts to address a valid question: To what extent should private organizations funded in part from fees derived from public funds be permitted to engage in campaigns for or against candidates or ballot issues?

This is a more complicated issue than is recognized by the bill. There is a great range of organizations funded in part by dues, fees or assessments paid from public funds. These include private, voluntary associations of government entities; organizations that include governments and businesses as members; and health maintenance organizations funded with fees paid

for public-employee members. Some of these organizations are directly involved in government and public issues. Others may serve the private needs of individuals but may be affected by political issues.

This bill would prohibit any of these organizations from engaging in campaigns for or against ballot issues or candidates, if more than 25% of their income is derived from fees or assessments paid with public funds. That is more restrictive than the law that applies to elected officials or public agencies, which provides an exception for the "normal and regular" duties of public office.

Senate Bill No. 5460 does not distinguish between the public and private nature of affected organizations, or distinguish appropriate functions from inappropriate election activity.

For these reasons, I have vetoed Senate Bill No. 5460 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SENATE BILL NO. 5484

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5484 entitled:

"AN ACT Relating to water recreation facilities;"

Senate Bill No. 5484 would greatly increase the number of swimming pools or other water recreation facilities owned by the homeowner associations and mobile home parks that are exempt from health and safety rules, and create a serious health and safety risk to residents of Washington. While I am sensitive to the economic impacts regulation has on small homeowner associations and mobile home parks, the increased risk of illness, injury or death that would be created by this bill cannot be justified.

I am directing the Department of Health to review the Water Recreation Program regulations and to work with local health jurisdictions to assure that program rules, fees and charges are equitable both to protect the health and safety of the public and to limit the financial burden on the facilities affected.

For this reason, I have vetoed Senate Bill No. 5484 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SENATE BILL NO. 5554

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5554 entitled:

"AN ACT Relating to deeds of trusts;"

Senate Bill No. 5554 would have amended the deed of trust act to modify certain notice and other provisions related to foreclosure sales. Although many of the provisions of the bill would have helped to clarify the law and have my support, I have concerns about the possible implications of other provisions.

During the drafting of this bill, adequate opportunity for consideration and comment was not provided to the relevant Washington State Bar Association committees and to attorneys with active practices involving the complex law of deeds of trust and foreclosure. Several concerns have been raised about the possible unintended consequences of this bill. The law of deeds of trust and foreclosure is fundamental, and cannot be changed without very careful consideration.

I urge the primary drafters of Senate Bill No. 5554 to work together with the state bar association and interested practitioners to develop legislation that has the full consideration and involvement of the range of interested parties.

For these reasons, I have vetoed Senate Bill No. 5554 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SENATE BILL NO. 5559

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5559 entitled:

"AN ACT Relating to exempting unassisted self-service motor vehicle wash, wax, and vacuum services rendered through coin-operated devices from sales and use taxes;"

Senate Bill No. 5559 would provide a sales and use tax exemption for coin-operated self-service motor vehicle wash and wax facilities. No other coin-operated vending machines in Washington are granted an exemption from the sales and use tax (except for pay telephones on the justification that they are a necessity). It would not be good precedent to begin creating new tax exemptions for coin-operated vending machines.

For this reason, I have vetoed Senate Bill No. 5559 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5574

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5574 entitled:

"AN ACT Relating to property tax reform;"

Engrossed Substitute Senate Bill 5574 would significantly increase the information that is required to be printed on tax statements and ballot measures, and would change how interest is charged for the late payment of property taxes.

Among other things, this bill would benefit the one percent of the state's property owners who are delinquent in paying their property taxes, and do nothing to solve the problem of higher property taxes. As written this will make it impossible for political subdivisions to submit many levy or bond issues. The bill also requires certain information to be printed on ballots, before that information can be known.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5574 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5668

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5668 entitled:  
"AN ACT Relating to temporary worker building codes;"

Substitute Senate Bill No. 5668 would direct the Department of Health to adopt, by rule, the temporary worker building code developed by the state building code council. The intent of this new code was to encourage the development of temporary worker housing by reducing the standards of the regular building code while still meeting the basic health and safety needs of workers.

It is with difficulty that I have come to the decision to veto Substitute Senate Bill No. 5668. Existing living conditions for farm workers and their families are deplorable. From April through November, there are thousands of people working the harvest in the state of Washington who live without basic housing and sanitary facilities, in conditions that our society should, and does, find unacceptable. It is my firm conviction that we must resolve the need for adequate housing for the thousands of workers who are the backbone of the agricultural economy of this state.

Substitute Senate Bill No. 5668 represents a commendable effort to address this issue and to improve the living conditions of farm workers. I appreciate the hard work and good intentions of the people and the state agencies responsible for developing this proposal for temporary worker housing. However, our state can do better in meeting the basic requirements for adequate housing.

While this legislation addresses the issues related to construction of temporary housing structures, it fails to address the basic living conditions of the workers and children who would reside in these structures. There is no certainty in the requirements for insulation to protect from the heat and cold; standards for electricity; and simple provisions for occupancy, such as refrigeration for the milk and medicine for the children who will live in these structures.

Finally, Substitute Senate Bill No. 5668 does not have the support or acceptance of the people it is intended to help. Farm workers and Spanish speaking people across the state have voiced their opposition to this legislation and to a building code they consider sub-standard. Without their support, leadership and commitment, I am convinced that there will be no solution to the housing problem for farm workers.

This veto should not be interpreted as the end of the process, but rather a call to continue from this point to improve this proposal so that we may bring forward a better solution to farm worker housing. This problem cannot be solved in one piece; there is a need for adequate affordable community housing for workers who are year-round residents, and a need for on-site housing for peak agricultural seasons. Farm workers, growers, farming communities and state agencies must come together on a more comprehensive housing proposal that results in good, quality housing for our agricultural workers.

For these reasons, I have vetoed Substitute Senate Bill No. 5668 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5671

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5671 entitled:  
"AN ACT Relating to issuances by administrative agencies;"

Engrossed Substitute Senate Bill No. 5671 would amend the Administrative Procedure Act (APA) by restructuring the definition of "rule" to cover any generally applicable document issued by an agency, such as a letter, guideline, memorandum, or policy statement, unless the document is advisory only. The bill is an attempt to address a serious regulatory issue -- whether or not certain documents issued by agencies, that may be perceived as binding on the public, should be adopted as rules.

I share the concern over this issue and understand the aggravation of business owners who may be subject to sanctions for violation of standards that have not undergone formal rule making. That is unfair and not acceptable.

While I agree with these concerns, I believe that government should work to address the problem without making even more rules. Additional rule making does not always make sense from the standpoint of cost and the sheer number of decisions



that need to be made in some programs on very short notice. To put all of these decisions into rules would be costly, time-consuming, and could jeopardize the health and safety of citizens.

My Executive Order 97-02, relating to regulatory improvement, addresses this concern by directing agencies to review their policy and interpretive statements or similar documents to determine if they should be adopted as rules. Agencies will consult with the Attorney General's office in this review and will modify their practices, if necessary, either administratively or through future legislation. Agencies are also directed to work with the business community and other constituent groups to identify and resolve specific problems. I firmly believe that it is wiser to address these concerns by concentrating on identifiable problem areas within each agency before embracing broader statutory change that may have unintended consequences.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5671 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SENATE BILL NO. 5688

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5688 entitled:

"AN ACT Relating to business and occupation tax reimbursements and advances received by property management companies for the payment of wages to on-site employees;"

Senate Bill No. 5688 would exempt from the Business and Occupation (B&O) tax, payments received by property management companies for the payment of wages to on-site personnel.

Property management firms provide a service to property owners. Currently, these services are subject to the state's B&O tax. Under our state's tax system this is an appropriate application of the B&O tax.

This is one of many tax-cut bills that have been presented to me, the cumulative effect of which is far more than the state can afford. Senate Bill No. 5688 would represent a revenue loss of \$1,285,000 for the 1997-99 Biennium. This revenue could be devoted to meeting some of the challenges the state is facing in the provision of educational opportunities and health services. These are important issues that affect everyone in the state, businesses included.

For these reasons, I have vetoed Senate Bill No. 5688 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5718

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5718 entitled:

"AN ACT Relating to restricting the release and use of certain personal information from state motor vehicle and driver records;"

Substitute Senate Bill No. 5718 would restructure the state's motor vehicle and driver records disclosure laws so that they conform to the federal Driver's Privacy Protection Act of 1994. This measure does contain a few improvements over our existing disclosure laws. The bill does not, however, go far enough in protecting personal information of citizens that is held by the state.

This legislation would provide broad access to personal information by businesses and other organizations for uses other than those for which the information was originally collected. It specifically authorizes the disclosure of Social Security numbers, telephone numbers, medical and disability information, and other data about individuals that could be used for inappropriate and illegal purposes.

I understand that Washington, like other states, is required to have policies and practices that are in substantial compliance with the federal law and that this bill is designed to meet those requirements. I am convinced, however, that our state can temporarily comply with federal standards through adoption of rules and policies that are also not inconsistent with current state law. I have, therefore, instructed the Department of Licensing to modify its information disclosure policies to conform with the federal Driver's Privacy Protection Act until a review of this issue is completed, and legislation with greater safeguards for personal privacy can be enacted.

For these reasons, I have vetoed Substitute Senate Bill No. 5718 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5721

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5721 entitled:

"AN ACT Relating to bare-boat charters;"

Substitute Senate Bill No. 5721 would create a new retail sales and use tax exemption on the purchase price of vessels placed in "bare-boat" charter service. This would allow small number of people to buy vessels free of sales and use tax, ostensibly for a rental business, and then use them personally for a substantial portion of the year. The only limitation would be that the vessels be used for charter more than personally. It is also possible that people would be able to buy yachts tax-free for business use, but also get a federal tax advantage by classifying the yacht as a personal asset.

Neither the state's economy nor consumers would benefit from this type of tax policy.

For these reasons, I have vetoed Substitute Senate Bill No. 5721 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5739

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5739 entitled:

"AN ACT Relating to employee wearing apparel;"

This bill would require employers to furnish or compensate employees for apparel that they require employees to wear during working hours if the apparel is distinctive, has a logo, or is an uncommon color. However, if employees are required to wear apparel of a common color that conforms to a general dress code or style, employees would have to pay for that apparel.

While I recognize that employers have the right to require presentable business attire, I also believe that the question of who pays for mandatory workplace attire does not need to be addressed in statute. This issue can be dealt with more appropriately within the existing rule-making authority of the Department of Labor and Industries. I hereby direct the Department to review its rules on workplace attire to expand beyond the current rule but not to the extent of this legislation.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5739 in its entirety.

I am hereby returning, without my approval, Engrossed Substitute Senate Bill No. 5739.

Respectfully submitted,  
GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5781

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5781 entitled:

"AN ACT Relating to voter approval of city assumption of a water or sewer district;"

The intent of Substitute Senate Bill No. 5781 is to require a vote of approval by the citizens of a special purpose district, prior to a city proceeding with assumed jurisdiction of a sewer or water district. While the amendatory language provides for this opportunity, it is not clear as to which citizens of the water or sewer territory would be entitled to vote on such a ballot proposition. Furthermore, this legislation fails to establish the procedure for carrying out the election, and, as such, is at odds with established election processes.

Other language contained in this legislation is ambiguous and vague, and conflicts with existing statutes. The possibility of various interpretations of what the language means would be troublesome and frustrating to citizens interested in sewer and water district assumptions. Citizens would be better served by introducing a new bill in the 1998 legislative session that is acceptable to all interested parties. I have directed my staff to work with interested parties in an effort to develop workable legislation for the 1998 legislative session.

For these reasons, I have vetoed Substitute Senate Bill No. 5781 in its entirety.

Respectfully submitted,  
GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5803

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5803 entitled:

"AN ACT Relating to the distribution of rules notices;"

Substitute Senate Bill No. 5803 would encourage agencies to distribute regulatory information electronically to businesses and citizens who would like to receive this information in that format.

This bill is identical to Substitute House Bill No. 1323, which I have already approved. There is no need to enact an identical law.

For this reason, I have vetoed Substitute Senate Bill No. 5803 in its entirety.

Respectfully submitted,  
GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
VETO MESSAGE ON ENGROSSED SENATE BILL NO. 6039

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Senate Bill No. 6039 entitled:

"AN ACT Relating to any fine or regulatory assessment imposed in an enforcement action under the insurance code;"

Engrossed Senate Bill No. 6039 provides that any fine or regulatory assessment imposed in an enforcement action under the insurance code must be collected by the Department of Revenue on behalf of the state.

This legislation is the product of a controversy that arose when the Insurance Commissioner levied a fine against an insurance carrier. Later the Commissioner suspended part of the fine, if the carrier agreed to pay costs for activities related to the settlement and for enhanced regulatory activities. The reimbursements were to go into the Commissioner's Regulatory Account. The legislature questioned whether the Commissioner was authorized to act in this manner.

I believe that by passing this bill, the legislature sent a message to the Insurance Commissioner about how fines or assessments should be handled. I believe the Insurance Commissioner got that message. I would much prefer that the legislature look at all fines and other such assessments throughout state government and enact a uniform system rather than pass legislation concerning one elected official only.

For these reasons, I have vetoed Engrossed Senate Bill No. 6039 in its entirety.

I am hereby returning, without my approval, Engrossed Senate Bill No. 6039.

Respectfully submitted,

GARY LOCKE, Governor

#### FURTHER MESSAGE FROM THE SECRETARY OF STATE

The Honorable Brad Owen  
President of the Senate  
Legislature of the State of Washington  
Olympia, Washington 98504

Mr. President:

We respectfully transmit for your consideration the following bills which have been partially vetoed by the Governor, together with the official veto message of the Governor setting forth his objections to the sections or items of each of the bills as required by Article III, section 12, of the Washington State Constitution.

SUBSTITUTE SENATE BILL NO. 5028;  
SENATE BILL NO. 5034;  
SECOND SUBSTITUTE SENATE BILL NO. 5127;  
SUBSTITUTE SENATE BILL NO. 5173;  
SUBSTITUTE SENATE BILL NO. 5175;  
SECOND SUBSTITUTE SENATE BILL NO. 5179;  
SUBSTITUTE SENATE BILL NO. 5227;  
SUBSTITUTE SENATE BILL NO. 5276;  
SUBSTITUTE SENATE BILL NO. 5336;  
SUBSTITUTE SENATE BILL NO. 5445;  
SUBSTITUTE SENATE BILL NO. 5511;  
SENATE BILL NO. 5571;  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5710;  
SUBSTITUTE SENATE BILL NO. 5737;  
SECOND SUBSTITUTE SENATE BILL NO. 5740;  
SUBSTITUTE SENATE BILL NO. 5770;  
SUBSTITUTE SENATE BILL NO. 5783;  
SUBSTITUTE SENATE BILL NO. 5867;  
ENGROSSED SENATE BILL NO. 5954;  
SECOND SUBSTITUTE SENATE BILL NO. 6002;

ENGROSSED SUBSTITUTE SENATE BILL NO. 6061;  
SUBSTITUTE SENATE BILL NO. 6063;  
ENGROSSED SENATE BILL NO. 6094.

IN TESTIMONY WHEREOF, I have hereunto set my hand,  
and affixed the Seal of the state of Washington, this 17th  
day of September, 1997.

(Seal)

RALPH MUNRO

Secretary of State

**PARTIALLY VETOED BILLS**

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5028

May 16, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 12, 13, 22, and 23, Substitute Senate Bill No. 5028 entitled:  
"AN ACT Relating to county treasury management;"

This legislation is a technical bill that cleans up antiquated statutes, amends statutes to reflect existing practices, and simplifies the administration of county treasurers' duties.

I fully support the intent and practice described in sections 12, 13, 22, and 23 of this bill, however, they are duplicative of sections of Substitute House Bill No. 1003, which I have already signed into law.

For these reasons, I have vetoed sections 12, 13, 22, and 23 Substitute Senate Bill No. 5028.

With the exception of sections 12, 13, 22, and 23, Substitute Senate Bill No. 5028 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SENATE BILL NO. 5034

May 16, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1 and 2, Senate Bill No. 5034 entitled:  
"AN ACT Relating to gambling;"

This legislation combines several provisions relating to authorized gambling activities for bona fide nonprofit or charitable organizations and to authorized gambling activities for commercial stimulant licensees.

Section 1 would reduce the minimum number of members that a charitable organization must have in order to conduct authorized gambling activities from 15 to seven. This limitation is on the number of active members in the organization and not on the number of board members. I am concerned that if this change is made, it will encourage small groups of people to form nonprofit organizations for the primary purpose of engaging in charitable gaming activities, in violation of the gambling code.

Section 2 would authorize charitable or nonprofit organizations to operate joint bingo games in which the prizes are pooled during their normal days of operation. Despite agreements that have been reached between the association representing charitable gaming licensees and the Washington State Gambling Commission regarding limitations that could be placed on joint bingo operations to ensure better control, I am concerned that this change in the law would make high stakes gambling even more accessible to the public than it already is. Although I sympathize with the difficulty sometimes encountered by charitable

organizations in raising funds for very important causes, this concern does not justify an expansion of authorized gambling in this state.

For these reasons, I have vetoed sections 1 and 2 of Senate Bill No. 5034. With the exception of sections 1 and 2, Senate Bill No. 5034 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SECOND SUBSTITUTE SENATE BILL NO. 5127

May 13, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 9, Second Substitute Senate Bill No. 5127 entitled:

"AN ACT Relating to funding trauma care services;"

Second Substitute Senate Bill No. 5127 establishes a grant program for designated trauma services under the Department of Health. Section 9 of the bill would direct legislative committees to review executive agency rules and to conduct work sessions and hearings outside of the regular legislative sessions to verify that funds are being used properly and efficiently. This is an inappropriate use of legislative committees. Reviews such as this, if necessary, should be done by the Joint Legislative Audit and Review Committee.

For these reasons, I have vetoed section 9 of Second Substitute Senate Bill No. 5127.

With the exception of section 9, I am approving Second Substitute Senate Bill No. 5127.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5173

May 12, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 39, 48, 58, 59, and 60, Substitute Senate Bill No. 5173 entitled:

"AN ACT Relating to improving the liquor license schematic of the state of Washington;"

This bill consolidates and simplifies the structure of the liquor licensing system in Washington as provided in the state liquor code.

Sections 39, 58, 59, and 60 of this bill duplicate other sections of the bill. Section 48 would create a double amendment of RCW 66.28.040 as a result of the earlier enactment this year of Senate Bill No. 5338 (Chapter 39, Laws of 1997).

Several technical corrections to this legislation appear to be necessary. However, I am signing this bill because it is a major positive step forward in clarifying the law, and should be put into place this year. Also, I will ask the Liquor Control Board to develop a bill to make necessary technical corrections for introduction in the 1998 legislative session.

For these reasons, I have vetoed sections 39, 48, 58, 59, and 60 of Substitute Senate Bill No. 5173.

With the exception of sections 39, 48, 58, 59, and 60, Substitute Senate Bill No. 5173 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5175

May 15, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 2, Substitute Senate Bill No. 5175 entitled:

"AN ACT Relating to business and occupation tax on the handling of hay, alfalfa, and seed;"

Substitute Senate Bill No. 5175 provides that cubing of hay or alfalfa is a processing activity not a manufacturing activity for tax purposes, wherever it is performed. The bill also lowers the business and occupations (B&O) tax rate to 0.11% for hay and alfalfa cubing and seed conditioning.

I have vetoed section 2 which pertains to the B&O tax rate reductions for the sales of a broad variety of conditioned seeds, not for commercial use and for the in-state sales of cubed hay and alfalfa. I support the lower tax rate on conditioned seeds for agricultural use but not the expanded uses found in section 2. I also support the tax reduction for cubed hay and alfalfa sold outside our state. By vetoing section 2, I have returned the bill to the original intent of the Department of Revenue request legislation.

For these reasons, I have vetoed section 2 of Substitute Senate Bill No. 5175.

With the exception of section 2, Substitute Senate Bill No. 5175 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SECOND SUBSTITUTE SENATE BILL NO. 5179

May 7, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 7 and 8, Second Substitute Senate Bill No. 5179 entitled:

"AN ACT Relating to nursing facility reimbursement;"

Second Substitute Senate Bill No. 5179 seeks to address concerns of owners of state nursing facilities by making corrections to the nursing facility reimbursement system. The legislature has passed this bill to ease the way for owners of nursing homes to make repairs and other improvements to their facilities, for the benefit of those who reside in those homes.

There are, however, two sections of this bill that have special provisions for two particular homes, for which there are no extenuating circumstances. Sections 7 and 8 both apply very narrow criteria to grant rate enhancements to selected facilities above the rate they would normally receive through the payment system.

Special treatment within the state's rate structure could invite legal challenges from homes that do not benefit from this bill. These provisions also invite increased federal scrutiny of the state Medicaid plan, and could possibly jeopardize approval of the plan. Federal law requires that the state reimbursement system must ensure that payments are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities. It would be difficult to argue that the state's payment system complies with this requirement if the law has special provisions for selected nursing homes, without extenuating circumstances.

For these reasons, I have vetoed sections 7 and 8 of Second Substitute Senate Bill No. 5179.

With the exception of sections 7 and 8, Second Substitute Senate Bill No. 5179 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5227

May 13, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 21, Substitute Senate Bill No. 5227 entitled:

"AN ACT Relating to nonprofit hospital sales;"

Section 21 of Substitute Senate Bill No. 5227 is an emergency clause requiring the immediate implementation of the bill. Although this legislation is important, it is not a matter necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions. Without section 21, the bill will be effective July 27, 1997.

For this reason, I have vetoed section 21 of Substitute Senate Bill No. 5227.

With the exception of section 21, I am approving Substitute Senate Bill No. 5227.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5276

May 14, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4 and 5, Substitute Senate Bill No. 5276 entitled:

"AN ACT Relating to water withdrawals and diversions;"

Substitute Senate Bill No. 5276 provides mitigation policy direction for the state as it relates to water rights, transfers, changes and amendments. Sections 1 through 3 of the bill provide innovative mitigation policy direction to help the state address increased demand on our finite water resources while protecting the environment, and I support those sections.

Sections 4 and 5 of Substitute Senate Bill No. 5276 contain provisions that would require the termination of water rights if the right holder were to stop using a septic system or other wastewater treatment facility that was recharging the water supply. It would create an impractical expectation that the water right would be terminated if sewers eventually replace the septic systems or other wastewater treatment facilities involved. These sections also create a disincentive to convert from septic systems to sewers, contrary to state policy.

For these reasons, I have vetoed sections 4 and 5 of Substitute Senate Bill No. 5276.

With the exception of sections 4 and 5, Substitute Senate Bill No. 5276 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5336

May 14, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 5, 18, 19, 20, 21, and 24, Substitute Senate Bill No. 5336 entitled:

"AN ACT Relating to clarifying and harmonizing provisions affecting cities and towns;"

Substitute Senate Bill No. 5336 is primarily a technical bill relating to the internal operations of cities and towns. It deletes some archaic statutes and references, aligns some other statutes to current practice, and makes others more usable.



Section 1 of this bill would provide that the reasonable costs involved in the collection of debts through the use of a collection agency by a governmental entity are reasonable costs that may be added to, and included in the debt to be paid by the debtor. I support this concept, however, I find the language in Substitute Senate Bill 5827, dealing with this same subject, preferable because it offers more precision regarding what can be considered reasonable costs.

Section 5 would correct a reference regarding civil infractions for violation of concealed weapons laws. This reference was also corrected in Senate Bill No. 5326 which I have already signed into law, therefore this section is duplicative.

Sections 18 through 21 of this bill would allow cities, code cities, and towns to unilaterally annex territory located in a county, beyond the urban growth area, if the area to be annexed is owned by the city or town and the annexation is for a municipal purpose. The authority that would be granted by these sections goes well beyond the changes to annexation laws recommended by the Land Use Study Commission.

These sections could create a very large loophole in our growth management laws. "Municipal purpose." is not clearly defined in the bill. Without a definition of "municipal purpose", the annexation authority could be exercised much too broadly. Nothing in the bill requires a city to maintain a use of the annexed property that would be appropriate outside of an urban growth area, after an annexation is completed. Also, over-broad annexation authority would erode the financial base of some of our counties.

Section 24 is an emergency clause. Although this bill is important, it is not a matter for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For these reasons, I have vetoed sections 1, 5, 18, 19, 20, 21 and 24 of Substitute Senate Bill No. 5336.

With the exception of sections 1, 5, 18, 19, 20, 21 and 24, Substitute Senate Bill No. 5336 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5445

May 6, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 9 and 10, Substitute Senate Bill No. 5445 entitled:

"AN ACT Relating to making technical corrections to statutes administered by the department of health;"

Section 9 of Substitute Senate Bill No. 5445 would have stayed imposition of civil fines on adult family homes for the improper delegation of nursing tasks until July 1, 1999, while a study is being done. The Department of Social and Health Services should not be prevented from imposing fines when there have been egregious violations of the law. The department should use its discretion in cases where the law or the propriety of a task delegation may be unclear.

Section 10 of Substitute Senate Bill No. 5445 would have established a new "class five" category of boards and commissions, that would include only certain health profession commissions. Class five commissions would be eligible to receive compensation up to \$250 per day.

Currently, there are several levels of boards and commissions with the highest compensation level being \$100 per day. These are groups that have duties of overriding sensitivity and importance to the public welfare and the operation of state government, and whose members meet more than 100 hours per year. It would be unfair and inappropriate to increase the compensation for health profession commissions without considering adjusting the compensation for other boards and commissions as well.

For these reasons, I have vetoed sections 9 and 10 of Substitute Senate Bill No. 5445.

With the exception of sections 9 and 10, I am approving Substitute Senate Bill No. 5445.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5511

May 7, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Substitute Senate Bill No. 5511 entitled:

"AN ACT Relating to child abuse and neglect information;"

Section 3 of Substitute Senate Bill No. 5511 would have required the Department of Social and Health Services to report annually to the legislature on the number of reports of child abuse or neglect determined to be unfounded, and the percentage of unfounded reports compared to the total number of reports received by the Department, and the number of files or reports from which unfounded information was purged.

As part of my quality improvement efforts, I have undertaken to review our statutes for all reporting requirements and to rid state government of unnecessary reports and paperwork. It would be contrary to that effort to pass into law yet another unnecessary report.

For this reason, I have vetoed section 3 of Substitute Senate Bill No. 5511.

With the exception of section 3, I am approving Substitute Senate Bill No. 5511.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SENATE BILL NO. 5571

May 12, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 4, Senate Bill No. 5571 entitled:

"AN ACT Relating to reporting payments under unemployment insurance and industrial insurance;"

This bill requires the Department of Labor and Industries and the Employment Security Department to jointly develop a plan for implementing a unified form for reporting both industrial insurance premiums and unemployment insurance contributions by January 1, 1998, and to report that plan to the legislature.

Section 4 of Senate Bill No. 5571 would require the Employment Security Department to add new information to employer notification forms. This addition is not related to the primary intent of this bill, which is to address non-compliance with reporting requirements. There are many complicated issues regarding the unemployment tax structure. Rather than deal with unemployment insurance on a piecemeal basis, those issues should be considered separately, and properly dealt with in the context of the entire unemployment tax structure.

For the reason stated above, I have vetoed section 4 of Senate Bill No. 5571.

With the exception of section 4, Senate Bill No. 5571 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5710

May 15, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2, 3, 4, 6, 8, 14, 20, 36 through 39, 46, 58, 59, 69 and 70, Engrossed Second Substitute Senate Bill No. 5710 entitled:

"AN ACT Relating to reform of social and health services;"

This legislation addresses a number of issues related to services for children and families. I support a number of the proposed measures included in this bill, including the further development of an alternative response system for families in which abuse and neglect is a matter of concern, but not yet a serious danger to the health and safety of the children.

Within the portions of Engrossed Second Substitute Senate Bill No. 5710 that I have signed, the bill provides the authority to create the position of "Social Worker V" in the Division of Children and Family Services ("DCFS"); further develops an alternative response system of services for families where there has been an indication of child abuse or neglect, but where the risk of danger to the children is regarded as low; provides for a voluntary placement agreement, instead of a termination of parental rights, for families of developmentally disabled children receiving intensive support services; requires the Department of Social and Health Services ("DSHS") to segregate sexually aggressive youth from other populations under the authority of Juvenile Rehabilitation Administration and DCFS; and, extends a tax credit for the construction of facilities for youth in crisis.

Sections 2, 3, 4, and 6

I support giving DSHS the flexibility to create a Social Worker V position and to undertake planning for the deployment of those workers. Sections 2, 3, 4 and 6 do not allow for the flexibility to implement these positions within already scarce resources.

Section 8

This section, relating to the placement of a child under the care of DCFS, was enacted as part of ESSB 5491, which I have already signed.

Sections 14 and 20

I am vetoing sections 14 and 20 which require a transfer of certain developmentally disabled children from DCFS to the Division of Developmental Disabilities ("DDD"). At the same time, I am directing DSHS to begin planning now for the transfer. DSHS will prepare for this transfer to take place as soon as April 1, 1998. When this transfer occurs, the quality of services provided to the developmentally disabled youngsters through DDD and to the child victims of abuse and neglect served by DCFS should both improve.

The transfer will require the provision of sufficient funds to permit DDD to develop the expertise to handle complicated out-of-home placements, and the authority to transfer funds between DSHS divisions to permit an adequate level of care for the children who will be served by DDD. I request the legislature to clearly grant DSHS the necessary budget transfer authority as soon as possible in the next legislative session, so that the transfer may occur.

Sections 36 through 39

These sections attempt to correct erroneous citations in our statutes. However, a wrong citation is stated. It is better to leave in place the current interpretations than to add to the confusion. A part of the necessary corrections were made in ESSB 5491.

Section 46

This section requires child protective services and child welfare services to be provided by different employees. I have vetoed section 46 because it does not allow DSHS the flexibility to make use of a team approach to some of their cases and would also present a problem in small, rural areas where there are a limited number of staff to perform these duties.

Sections 58 and 59

These sections relate to harboring and contributing to the delinquency of a minor. They reiterate the existing law and make no meaningful changes.

Sections 69 and 70

These sections provide effective dates of April 1, 1998 for sections 14 through 19, and July 1, 1997 for sections 7 and 20. By vetoing sections 69 and 70, and with sections 14 and 20 vetoed, sections 7 and 15 through 19 will become effective 90 days after the session. These sections are rendered unnecessary by the other section vetoes.

For these reasons I have vetoed sections 2, 3, 4, 6, 8, 14, 20, 36 through 39, 46, 58, 59, 69 and 70 of Engrossed Second Substitute Senate Bill No. 5710.

With the exception of sections 2, 3, 4, 6, 8, 14, 20, 36 through 39, 46, 58, 59, 69 and 70 Engrossed Second Substitute Senate Bill No. 5710 is approved.

Respectfully submitted,

GARY LOCKE, Governor

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1 and 3, Substitute Senate Bill No. 5737 entitled:  
"AN ACT Relating to reducing the carbonated beverage tax;"

Section 1 of Substitute Senate Bill No. 5737 would have reduced the carbonated beverage syrup tax from one dollar per gallon to fifty cents per gallon. The funding reduction this would create in the Violence Reduction and Drug Education (VRDE) account would have been replaced by a General-Fund-State appropriation during the 1997-99 Biennium.

Section 1 would reduce the state's revenues by \$7.7 million in the 1997-99 biennium. In light of the other very substantial tax cuts that I have already signed into law, it is clear that the state cannot afford section 1 of Substitute Senate Bill No. 5737.

Section 3 of Substitute Senate Bill No. 5737 applies only to section 1, and is therefore rendered unnecessary by the veto of section 1.

The people of the state indicated their support for funding the VRDE account through the carbonated beverage syrup tax when they approved Referendum 43 in November 1994. Clearly, the dedication of those tax revenues to the VRDE account, at the rates set in Referendum 43, reflects the will of the voters of Washington. Reducing the tax and replacing it with an appropriation would jeopardize the long-term prospects of the important programs funded through the account.

For these reasons, I have vetoed sections 1 and 3 of Substitute Senate Bill No. 5737. With the exception of sections 1 and 3, Substitute Senate Bill No. 5737 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SECOND SUBSTITUTE SENATE BILL NO. 5740

May 15, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4, 7 and 8, Second Substitute Senate Bill No. 5740 entitled:  
"AN ACT Relating to the rural area marketing plan;"

I strongly support of the goal of increasing employment in distressed areas of our state. However, I am not convinced that the mechanisms provided in sections 4, 7 and 8 are the best ways to achieve that goal.

Section 4 of the bill would delete the fifteen percent increase in average employment threshold required to qualify for the distressed areas B&O tax credit. As written in section 4, each additional position added by an employer would qualify for the tax credit. While each new job in a distressed area has value, many businesses would reap a windfall from this provision when they add employees that they would have added without the tax incentive. Some threshold that limits the tax benefit to significant expansions is necessary to make this kind of exemption fair.

Section 7 of the bill would give the director of the Department of Community, Trade, and Economic Development the authority to intervene in the day-to-day business of other state agencies. As a practical matter this approach would inevitably lead to conflict and confusion. A successful regulatory reform effort targeted in distressed areas of the state will require a more thoughtful and coordinated approach. My administration is committed to this type of reform and will work with the businesses of our state to improve this process.

Section 8 of the bill would require the creation of another state management position to oversee the implementation of this act. I have vetoed this section because I believe the Coordinator of the Governor's Rural Community Assistance Team should be the focal point for economic development initiatives in rural areas of the state. Section 8 would only serve to increase bureaucracy and reduce accountability.

For these reasons, I have vetoed sections 4, 7 and 8 of Second Substitute Senate Bill No. 5740.

With the exception of sections 4, 7 and 8, Second Substitute Senate Bill No. 5740 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5770

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Substitute Senate Bill No. 5770 entitled:

"AN ACT Relating to the confidentiality of child welfare records;"

Substitute Senate Bill No. 5770 modifies the confidentiality laws covering child welfare records to require greater disclosure of information. It is similar to my original executive request legislation, which was intended to aid in the investigation of child deaths in Washington.

Section 1 of Substitute Senate Bill No. 5770, the intent section, makes strong statements beyond the scope of the bill, and beyond my original intent. I am concerned that it may lead to unintended invasions of privacy in deeply personal and sensitive matters.

For this reason, I have vetoed section 1 of Substitute Senate Bill No. 5770.

With the exception of section 1, I am approving Substitute Senate Bill No. 5770.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5783

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 2, and 4, Substitute Senate Bill No. 5783 entitled:

"AN ACT Relating to public water systems;"

I have vetoed most of Substitute Senate Bill No. 5783, which affects water rights for public water systems. I do, however, recognize the need for and importance of providing adequate water supplies to support responsible growth. It is unfortunate that a compromise was not reached between the bill proponents and state agencies that addressed such an important issue in a balanced manner that also protected instream resources. I encourage the water purveyors and local government to return to the negotiating table and work with state agencies to resolve these issues in a balanced fashion.

Sections 2 and 4 would work together to provide an unfair advantage to public water systems by creating great uncertainty in trying to determine what water is available for other water rights, new applications, and the protection of instream resources. This would make it increasingly difficult to effectively and efficiently manage the public waters of the state. Section 1 directs the Department of Ecology to administer water rights laws consistent with sections 2, 3, and 4.

For these reasons, I have vetoed sections 1, 2, and 4 of Substitute Senate Bill No. 5783.

I have approved section 3, which amends the existing statute that fixes and grants extensions to the construction schedules for application of water to a beneficial use. These changes provide certainty for the water purveyors as to which conditions the Department of Ecology is required to consider. The term and amount of financing are major issues for water utilities and this language provides them assurance in their efforts to construct major capital facilities. Consideration for conservation and efficiency underscores and supports stretching existing water supplies. Finally, section 3 makes a positive step toward coordinating public water system supply with Growth Management Act provisions and population projections.

With the exception of sections 1, 2, and 4, Substitute Senate Bill No. 5783 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 5867

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 12 and 25, Substitute Senate Bill No. 5867 entitled:

"AN ACT Relating to hotel and motel taxes in certain cities and towns;"

Substitute Senate Bill No. 5867 would repeal separate hotel/motel tax authorizations for particular municipalities, but not alter the authority for hotel/motel taxes by public facility districts. The bill attempts to simplify the imposition, collection and distribution of hotel/motel tax revenues by: (1) clarifying the uses to which the taxes can be applied; (2) making more uniform the rates municipalities may levy; and (3) establishing local advisory committees to recommend uses for local hotel/motel taxes. All of these are worthwhile goals.

Section 12 conflicts with legislation previously approved by the 1997 legislature and therefore I have vetoed it. Section 25 provides a delayed effective date which is unneeded.

For this reason, I have vetoed sections 12 and 25 of Substitute Senate Bill No. 5867.

With the exception of sections 12 and 25, Substitute Senate Bill No. 5867 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON ENGROSSED SENATE BILL NO. 5954

May 7, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 2, Engrossed Senate Bill No. 5954 entitled:

"AN ACT Relating to claims against the University of Washington;"

This legislation moves the University of Washington's self-insurance fund from the custody of the state treasurer to the university, and makes the university the investment manager for the fund rather than the state investment board. These changes simplify the administrative procedures for using the fund by eliminating the involvement of multiple agencies.

Engrossed Senate Bill No.5954 includes an emergency clause in section 2. Although this bill is important, it is not a matter for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For this reason, I have vetoed section 2 of Engrossed Senate Bill No. 5954.

With the exception of section 2, Engrossed Senate Bill No. 5954 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SECOND SUBSTITUTE SENATE BILL NO. 6002

May 13, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Second Substitute Senate Bill No. 6002 entitled:  
"AN ACT Relating to supervision of mentally ill offenders;"

This legislation establishes a pilot program to provide specialized access and follow up care to mentally ill offenders after they are released from confinement. Under this program, the offenders will get help finding employment, housing and treatment services. I believe this type of program will serve the public well by insuring that mentally ill offenders get the help they need to successfully reintegrate into the community.

Section 3 would require that the state "shall indemnify and hold harmless the regional support network, private provider, and any mental health provider, housing facility or other mental health provider from all claims or suits arising in any manner from acts committed by an enrolled offender during his or her period of enrollment." As drafted, section 3 would expose the state to an undue risk of liability. To address concerns that program enrollees may present special liability risks for service providers, the Department of Social and Health Services shall consider all reasonable and appropriate means to help limit service provider exposure to liability.

For this reason, I have vetoed section 3 of Second Substitute Senate Bill No. 6002.

With the exception of section 3, I am approving Second Substitute Senate Bill No. 6002.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON ENGROSSED SUBSTITUTE SENATE BILL NO. 6061

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 106(3); 106(4); 106(5); 106(6); 106(7); 214, lines 27 through 33, page 19; 217(1)(a); 217(7); 226(8); 409; 507 and 508, Engrossed Substitute Senate Bill No. 6061 entitled:

"AN ACT Relating to transportation funding and appropriations;"

Engrossed Substitute Senate Bill No. 6061 provides a supplemental budget for the 1995-97 transportation budget, and a state transportation budget for the 1997-99 Biennium. I am vetoing the following sections:

**Section 106(3), (4), (5), (6) and (7), pages 5-8, (Joint Legislative Audit and Review Committee)**

Section 106 gives the Joint Legislative Audit and Review Committee (JLARC) a \$1.5 million appropriation to conduct a performance audit of the Department of Transportation, the Washington State Patrol, and the Department of Licensing. In addition, a temporary Performance Audit Advisory Committee is created with the Director of the Office of Financial Management serving as the Chair.

While there is no question about the commitment of all parties, including myself, to conduct a creditable and timely performance audit of transportation programs, I have vetoed subsections (3) through (7) in order to provide maximum flexibility to the Advisory Committee to manage the audit as effectively as possible within the available dollars. This veto will permit an audit schedule that will produce substantive results for consideration by the Legislature the 1998 Session. The audit activities outlined in the vetoed provisos can serve as guidance, rather than limits, for the Committee as they start their deliberations. The veto of these subsections does not preclude the Advisory Committee from addressing the same issues, but it does allow the Committee to adjust the scope and emphasis of the audit activities as information is developed by the consultants and committee staff.

**Section 214, page 19, line 27 through 33, (Department of Licensing)**

This section provides \$2.5 million to improve driver's license document security only if Substitute House Bill No. 1501, Substitute Senate Bill No. 5718, or driver's license security provisions that are substantially similar to the security provisions in either bill are enacted by June 30, 1997. Prior to approving Substitute Senate Bill No. 5718, the Legislature removed provisions relating to digitized photos and anti-counterfeiting and tampering improvements to the driver document. Therefore, I have vetoed this section to avoid any confusion about legislative intent.

**Section 217(1)(a), page 21, (Department of Transportation -- Improvements - Program I) and Section 409, page 40, (FY 99 Transfer From the GF to the Transportation Fund)**

Section 409 transfers \$50 million from the General Fund-State into the Transportation Fund in Fiscal Year 1999, thereby reducing the Initiative 601 expenditure limit by over \$150 million over the next four years. I have vetoed section 409 because this transfer would reduce the availability of General Fund-State resources for education and other high-priority issues in this and future biennia.

I have also vetoed section 217(1)(a), which specifies that \$75 million from the Transportation Fund and \$25 million from the Motor Vehicle Fund are appropriated for mobility projects and studies as selected by the Transportation Commission. Because I have vetoed the \$50 million General Fund-State transfer, only \$50 million is now available for these purposes. Therefore, I will ask the Transportation Commission to provide a project list that fits within the remaining funds using the same criteria specified in section 217(1)(a). I will also ask the Legislature, in the supplemental budget for Fiscal Year 1998, to expedite appropriation of the remaining funds.

**Section 217(7), page 22, (Department of Transportation -- Improvements-Program I)**

This subsection would prohibit the Department of Transportation from spending state or federal funds for the Washington Coastal Corridor Study. This is an ongoing effort in cooperation with the Federal Highway Administration and the State of Oregon that is expected to make a significant contribution to economic development in local communities along the corridor. I have vetoed this subsection so that the study can continue as planned.

**Section 226(8), page 31, (Department of Transportation - Marine - Program X)**

Section 226(8) directs the Department of Transportation to deploy the three new Mark II Jumbo Class ferry vessels on specific routes. These type of decisions are not appropriate in a budget bill and should be addressed by the Transportation Commission who oversee the daily operations of the Washington State Ferry System.

**Sections 507 and 508, page 45, (Transportation Budget Submittals)**

These two sections direct agencies that spend transportation funds to submit their budget requests and strategic plans to the Office of Financial Management (OFM) and the Legislative Transportation Committee at the same time. All agency budget requests are public documents, and OFM routinely sends a copy of all agency budget requests to the Legislature for review soon after they are received, making these sections unnecessary.

With the exception of sections 106(3); 106(4); 106(5); 106(6); 106(7); 214, lines 27 through 33, page 19; 217(1)(a); 217(7); 226(8); 409; 507 and 508, Engrossed Substitute Senate Bill 6061 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON SUBSTITUTE SENATE BILL NO. 6063

April 26, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 121, 391(4) and 717, Substitute Senate Bill No. 6063 entitled:

"AN ACT Relating to the capital budget;"

The 1997-99 capital budget enacted by the legislature includes the investments in education facilities that will be necessary to serve the growing enrollments expected in public schools, our community colleges, and the four-year higher education institutions. This commitment must be maintained in future years, and represents the highest priority element of the state construction program. The capital budget I am approving is the appropriate next step in providing the educational facilities our citizens deserve, and sets in motion a long-term spending plan that will be adequate and affordable.

Although I am generally pleased with the budget as enacted, I do have some concerns and have vetoed the following sections:

**Section 121, page 12, Emergency projects declared and specifically enacted by the legislature (Department of Community, Trade, and Economic Development)**

The specific projects to be funded from this appropriation are not identified, so no work can be accomplished with these funds. I have vetoed this section to allow these appropriations to be redirected to projects and programs that are ready to proceed.

**Section 391(4), page 75, Aquatic lands enhancement grants (Department of Natural Resources)**



Subsection 4 of section 391 presents an undue restriction to the completion of the Rocky Reach Trailway project near Wenatchee. The State Parks and Recreation Commission has been developing this trail in cooperation with the Department of Transportation and adjoining property owners to complete a highly valued connection between two state parks. Trail development should continue as proposed. I am instructing the Commission to work closely with adjoining property owners to address any concerns they may have.

Section 717, page 144, Well regulation fees (Department of Ecology)

The proviso language in section 717 requires that when the Department of Ecology delegates to a county or local health district certain responsibilities related to well regulations, the county or health district would receive 75 percent of the well regulation fees paid. I have vetoed this section because the change in the fee sharing formula would reduce Department of Ecology revenues below the level necessary to administer the program. I encourage the Department to negotiate the cost of delegated responsibilities with the counties and local districts to develop a solution to this issue.

For these reasons, I have vetoed sections 121, 391(4) and 717 of Substitute Senate Bill No. 6063.

With the exception of sections 121, 391(4) and 717, Substitute Senate Bill No. 6063 is approved.

Respectfully submitted,

GARY LOCKE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO MESSAGE ON ENGROSSED SENATE BILL NO. 6094

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 4, 5, 6, 8, 15, 17, 18, 19, 44, 45, and 52, Engrossed Senate Bill No. 6094 entitled:

"AN ACT Relating to growth management;"

This bill, enacting the recommendations of the Land Use Study Commission, was introduced at my request. However, the bill was amended significantly in the legislative process. Therefore, I have listened to the input of a broad range of interests and conducted a thorough review of all of the provisions of the bill as passed by the Legislature.

I have maintained throughout the 1997 legislative session that the consensus recommendations of the Land Use Study Commission, comprising representatives of business, agricultural, local and state government, neighborhood activists and environmentalists, should provide the framework for the debate over how best to improve the state's Growth Management Act. I thank the members of the commission for their diligent work, developing a variety of issue papers, conducting hours of public hearings, and developing a well-reasoned and well-crafted legislative proposal.

As I reviewed this bill as passed by the legislature, I always kept in mind the framework for the analysis provided by the Commission. I believe that this bill will go a long way toward resolving many of the specific concerns people have had with the way the Growth Management Act has worked since it was first enacted. Among other things, this bill provides greater deference to the decisions of local elected officials throughout the state, improves public participation in the growth management process, and gives the Growth Management Hearings Boards the added direction they need in resolving some very difficult land use issues. I have signed every section of this bill that includes the language proposed by the Land Use Study Commission, as well as some other sections. However, I was unable to sign the bill in its entirety and have vetoed the following sections.

Section 1 changes the intent section recommended by the Land Use Study Commission. The language of the recommended intent section represented a fine balance of the interests represented on the Commission and should not have been altered, thereby implying an intent that was not agreed to by the Commission.

Section 4 provides that a county, after conferring with its cities, may develop alternative methods of achieving the planning goals of the Growth Management Act. This GMA-flex option was briefly discussed by the Land Use Study Commission and dismissed without recommendation because it is an issue that represents a major change in direction and needs much more discussion and refinement before it is a viable alternative.

Section 5 states that the goal of the state is to achieve no overall net loss of wetland functions. This section also provides that in adopting critical areas development regulations, counties and cities should balance all of the goals of the GMA and that the legislature intends that no goal takes precedence, but that counties and cities may prioritize the goals in accordance

with local history, conditions, circumstances, and choice. This issue was not addressed by the Land Use Study Commission and seems to me to be inconsistent with the tenor of the Commission's recommendations.

Section 6 allows for exemptions from critical area development regulations for emergency activities and activities with minor impacts on critical areas. This idea was not considered by the Land Use Study Commission. This change in policy would have to be fully explored before I could be comfortable signing it into law.

Section 8 provides that in certain counties, developments in rural areas shall not require urban services and shall be principally designed to serve and provide jobs for the local rural population. This section creates confusion because it states a rule that currently applies in all counties planning under the Growth Management Act, but implies that the rule applies only to specific counties. Section 7 of this bill provides all the direction needed by counties to plan for the rural element, including guidelines for rural development.

Section 7 provides that the rural element shall permit rural development providing for a variety of rural densities, uses, essential public facilities, and rural governmental services to serve the permitted densities and uses in the rural element. There are three exceptions in which businesses in the rural element are not required to be principally designed to serve the existing and projected rural population. These exceptions are: (1) infill of existing development; (2) small-scale recreational or tourist uses; and (3) development of cottage industries and small-scale businesses. Therefore, section 8 is unnecessary, confusing, and potentially more restrictive in certain counties than are the recommendations of the Land Use Study Commission embodied in section 7.

Section 15 provides that all appeals of Growth Management Hearings Board decisions shall be filed directly in the Court of Appeals. This is not a recommendation of the Land Use Study Commission and I am not certain that it would be in the best interest of the parties who appear before the boards. Most parties believe that Superior Court review of board decisions is appropriate and is working well.

Section 17 establishes a new and higher standard for findings of invalidity - the "arbitrary and capricious" standard. I believe this would strip too much authority from the Growth Management Hearings Boards and severely weaken the important state role in the Growth Management Act.

Section 18 adds language to the Land Use Study Commission recommendation which clarifies the current expedited review provision relating to orders of invalidity. The new language creates a burden on those who challenge land use decisions that in many instances would be impossible to meet, because the plan or regulation has not been in effect long enough to have caused actual harm. In some instances there is no prudent policy justification for waiting until actual harm can be proven before allowing the invalidation of a comprehensive plan or development regulation.

Section 19 would allow the Superior Court, when reviewing an order of invalidity, to: affirm, set aside, enjoin, or remand orders of the Growth Management Hearings Boards; or enter a declaratory judgment of compliance or noncompliance, which may include an order of invalidity setting out the particular part or parts of the plan or regulation that are invalid. This was not a recommendation of the Land Use Study Commission and was not the subject of any other bills introduced this session. The concept received no public scrutiny or debate. This provision could have the unintended effect of providing for review of a comprehensive plan without the court having the benefit of the entire record.

I recognize that there is not enough money provided in the operating budget (ESHB 2259) to accomplish the full purpose of section 25. However, by approving section 25 of this bill and section 103(4) of the operating budget, I am indicating my commitment to beginning the work of reviewing and evaluating the effectiveness of the growth management act in achieving the desired densities in urban growth areas. To accomplish this, I will work with the legislature to identify additional resources, a cost recovery program, or other means to assure sufficient funding to allow the first evaluations to be completed by the September 1, 2002 deadline.

By approving sections 29 and 30, I have approved the use of the Public Works Trust Fund and the Centennial Clean Water Fund to address critical or emergent public health and existing environmental problems related to infrastructure in jurisdictions that are not currently in compliance with the Growth Management Act. I am very concerned that this legislation not be used as a method to provide unrestricted access to these accounts for local governments that are not in compliance with the law. For this reason, I have directed the Department of Health, the Department of Ecology, the Department of Community, Trade and Economic Development, and the Public Works Board to interpret this new authority conservatively.

Section 44 would add new members to the Land Use Study Commission. I am concerned that the Commission may already be unable to meet its time schedule for completing its ambitious work plan. The selection and appointment of new members to the Commission is likely to cause delay in the Commission's process. Furthermore, I believe the Commission is currently well-balanced in its composition. I would like to see that same balance maintained for the last year of the Commission's work. However, I do encourage interested legislators to attend the meetings of the Commission and to provide input when appropriate.

Section 45 amends the charge given to the Land Use Study Commission by adding the following requirements: (1) Review long-term approaches for resolving disputes that arise under the Growth Management Act, the Shoreline Management Act, and other environmental laws, including identifying needed changes to the structure of the boards that hear environmental appeals; (2) If the LUSC determines that there is no longer a need for the Growth Management Hearings Boards, recommend a plan for sunseting the boards; and (3) Evaluate the effect of the changes to the standard of review and make recommendations raising the standard of review, limiting the authority of the boards to make determinations of invalidity, or making other changes.

The ambitious Land Use Study Commission work plan for 1997-98 already includes much of the work proposed in section 45. However, I am concerned that the language of this section has the unintended effect of predetermining a result or, at least, a range of results. I encourage the Land Use Study Commission to review as many of these issues as it can reasonably fit within its crowded work plan and narrow time constraints.

Section 52 makes a technical change to effectuate the purpose of section 15, which I have vetoed.

For the reasons stated above, I have vetoed sections 1, 4, 5, 6, 8, 15, 17, 18, 19, 44, 45, and 52 of Engrossed Senate Bill No. 6094.

With the exception of sections 1, 4, 5, 6, 8, 15, 17, 18, 19, 44, 45, and 52, Engrossed Senate Bill No. 6094 is approved.

Respectfully submitted,

GARY LOCKE, Governor

#### MOTION

On motion of Senator Johnson, the Messages from the Secretary of State regarding the bills that the Governor vetoed and partially vetoed in the 1997 Session were held on the desk.

#### MESSAGE FROM THE SECRETARY OF STATE

The Honorable President of the Senate  
Legislature of the State of Washington  
Olympia, Washington 98504

MR. PRESIDENT:

We herewith respectfully transmit for your consideration a copy of Initiative to the Legislature Number 200, originally filed with this office on March 26, 1997. On January 2, 1998, the sponsor of the proposed initiative filed 27,349 petition sheets in support of the measure. We have completed our preliminary canvass of these petition sheets and have determined that they contain 280,511 signatures.

Accordingly, pursuant to the provisions of Article II, section 1 of the State Constitution, we are provisionally certifying Initiative to the Legislature Number 200 to you at this time. We expect to complete verification of signatures no later than February 11, 1998, and we will provide the Legislature with a final certification as soon as possible thereafter.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the Seal of the state of Washington, this 12th  
day of January, 1998.

(Seal)

RALPH MUNRO

Secretary of State

#### INITIATIVE 200

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 200 to the Legislature is a true and correct copy as it was received by this office.

**PROPOSED WASHINGTON STATE CIVIL RIGHTS INITIATIVE**  
***Proposed Ballot Title***

Shall government entities be prohibited from discriminating against or granting preferential treatment to individuals or groups based on race, sex, color, ethnicity, or national origin?

**Proposed Ballot Summary**

This initiative prohibits government from discriminating against or granting preferential treatment to individuals or groups based on race, sex, color, ethnicity, or national origin in public employment, public education, or public contracting. Government includes all public entities, including the state, cities, counties, public schools, public colleges, public universities, and other governmental instrumentalities. This initiative does not repeal or modify any law or governmental action that does not discriminate or grant preferential treatment.

Co-Sponsors & Co-Chairs

Representative Scott Smith Tim Eyman  
19311 - 110th Ave Ct E 7721 Corliss Ave N  
Graham, WA 98338-8140 Seattle, WA 98103-4934  
(206) 846-8947 (206) 528-1685

"AN ACT Relating to prohibiting government entities from discriminating or granting preferential treatment based on race, sex, color, ethnicity, or national origin; and adding new sections to chapter 49.60 RCW.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** (1) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(2) This section applies only to action taken after the effective date of this section.

(3) This section does not affect any law or governmental action that does not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin.

(4) This section does not affect any otherwise lawful classification that:

(a) Is based on sex and is necessary for sexual privacy or medical or psychological treatment; or

(b) Is necessary for undercover law enforcement or for film, video, audio, or theatrical casting; or

(c) Provides for separate athletic teams for each sex.

(5) This section does not invalidate any court order or consent decree that is in force as of the effective date of this section.

(6) This section does not prohibit action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.

(7) For the purposes of this section, "state" includes, but is not necessarily limited to, the state itself, any city, county, public college or university, community college, school district, special district, or other political subdivision or governmental instrumentality of or within the state.

(8) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Washington anti-discrimination law.

(9) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

NEW SECTION. **Sec. 2.** This act shall be known and cited as the Washington State Civil Rights Act.

NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act are each added to chapter 49.60 RCW.

MOTION

On motion of Senator Johnson, the message on Initiative to the Legislature No. 200 was held on the desk.

MESSAGE FROM THE SECRETARY OF STATE

The Honorable Brad Owen  
President of the Senate  
Legislature of the State of Washington  
Olympia, Washington 98504

MR. PRESIDENT:

I have attached a full, true and correct copy of a certificate of Richard J. Thompson, Director, Office of Financial Management, pursuant to Section 215, Chapter 220, Laws of 1997 (the "Stadium Act").

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the Seal of the state of Washington, this 12th  
day of January, 1998.

(Seal)

RALPH MUNRO

Secretary of State

CERTIFICATE OF RICHARD J. THOMPSON, DIRECTOR,  
OFFICE OF FINANCIAL MANAGEMENT  
PURSUANT TO SECTION 215, CHAPTER 220, LAWS OF 1997

I, RICHARD J. THOMPSON, hereby certify that:

1. I am the duly appointed, qualified and acting Director of the Office of Financial Management of the state of Washington (the "State").

2. This Certificate is made and delivered pursuant to Section 215, Chapter 220, Washington Laws of 1997 (the "Stadium Act") solely for the purpose provided in said Section 215 of the Stadium Act and for no other purpose. Terms used but not defined herein shall have the meaning set forth in Section 101 of the Stadium Act.

3. The certifications contained in this Certificate are made to the best of my knowledge and belief, based solely upon the information contained in the following documents:

- (a) The certifications of Paul G. Allen set forth in his certificate dated November 20, 1997, a copy of which is attached as Exhibit A to this Certificate;
- (b) The certifications of Richard E. Leigh, Jr., secretary of Football Northwest LLC, set forth in his certificate dated November 20, 1997, a copy of which is attached as Exhibit B to this Certificate;
- (c) The certifications of Richard E. Leigh, Jr., secretary of Football Northwest Management, Inc., set forth in his certificate dated November 20, 1997, a copy of which is attached as Exhibit C to this Certificate;
- (d) Ordinance No. 12807 (the "Ordinance"), enacted by the King County Council on July 21, 1997, and approved by the King County Executive on July 22, 1997, a certified copy of which is attached as Exhibit D to this Certificate; and
- (e) That certain Agreement and Letter of Intent relating to the development of a stadium and exhibition center dated June 30, 1997, (the "Letter of Intent") between King County, Washington (the "County") and Football Northwest LLC as successor in interest to Football Northwest, a general partnership, a copy of which is attached as Exhibit E to this Certificate.

4. Football Northwest LLC is a professional football team that will use the stadium and exhibition center to be developed pursuant to the Stadium Act and, as such, is also a team affiliate. Football Northwest LLC is indirectly majority-owned and controlled by Paul G. Allen, who is a resident of the state and has been a resident of the state continuously since at least January 1, 1993.

5. The county has entered into the Letter of Intent with Football Northwest LLC as the team affiliate, as contemplated pursuant to Section 102(1) of the Stadium Act.

6. Pursuant to the Ordinance, the county has created a public stadium authority under the Stadium Act to acquire property, construct, own, remodel, maintain, equip, reequip, repair and operate a stadium and exhibition center, as contemplated pursuant to Section 102 of the Stadium Act.

7. Pursuant to the Ordinance, the county has enacted the taxes authorized in RCW 36.38.010(5) and Section 302 of the Stadium Act.

8. Pursuant to the Ordinance, the county has pledged to maintain and continue the taxes authorized in RCW 36.38.010(5), RCW 67.28.180, and Section 302 of the Stadium Act until the bonds authorized in Section 210 of the Stadium Act are fully redeemed, both principal and interest.

9. Duplicate original copies of this Certificate shall be delivered to the Governor, the Secretary of State, the State Treasurer, the Director of the State Department of Revenue, the Director of the State Lottery Commission, the Speaker of the State House of Representatives, the Minority Leader of the State House of Representatives, the Majority Leader of the State Senate, and the Minority Leader of the State Senate, the King County Executive, the Chair of the King County Council, the Chair of the Washington State Public Stadium Authority, Football Northwest LLC, and Football Northwest Management Inc.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature as of the 3rd day of December, 1997.

RICHARD J. THOMPSON  
Director, Office of Financial Management  
State of Washington

The Certificate of Paul G. Allen, Exhibit A; the Certificate of Richard E. Leigh, Jr., Secretary of Football Northwest LLC, Exhibit B; the Certificate of Richard E. Leigh, Jr., Secretary of Football Northwest Management Inc., Exhibit C; the Ordinance, Exhibit D; the Agreement and Letter of Intent, Exhibit E; and the amendments are on file in the Office of the Secretary of Senate.

#### CHANGES TO STANDING COMMITTEE ASSIGNMENTS

The President announced that Senator Thibaudeau would replace Senator Heavey on the Committee on Law and Justice and that Senator Tim Sheldon would be assigned to the Committee on Energy and Utilities and to the Committee on Government Operations.

#### STANDING COMMITTEE ASSIGNMENTS

The President announced the following Proposed 1998 Senate Standing Committee Assignments:

#### MEMBERSHIP OF SENATE STANDING COMMITTEES 1998

**Agriculture and Environment (7) -- Morton, Chair; Swecker, Vice Chair;** Fraser, McAuliffe, Newhouse, Oke, \*Rasmussen.

**Commerce and Labor (7) -- Schow, Chair; Horn, Vice Chair;** Anderson, Franklin, Fraser, \*Heavey, Newhouse.

**Education (7) -- Hochstatter, Chair; Finkbeiner, Vice Chair;** Goings, Johnson, \*McAuliffe, Rasmussen, Zarelli.

**Energy and Utilities (7) -- Finkbeiner, Chair; Hochstatter, Vice Chair;** \*Brown, Jacobsen, Rossi, Sheldon, T., Strannigan.

**Financial Institutions, Insurance and Housing (7) -- Winsley, Chair; Benton, Vice Chair;** Finkbeiner, Hale, Heavey, Kline, \*Prentice.

**Government Operations (7) -- McCaslin, Chair; Hale, Vice Chair;** Anderson, Haugen, Horn, \*Patterson, Sheldon, T.

**Health and Long-Term Care (7) -- Deccio, Chair; Wood, Vice Chair;** Benton, Fairley, Franklin, Strannigan, \*Wojahn.

**Higher Education (9) -- Wood, Chair; Winsley, Vice Chair;** Bauer, Hale, \*Kohl, Patterson, Prince, Sheldon, B., West.

**Human Services and Corrections (7) -- Long, Chair; Zarelli, Vice Chair;** Franklin, \*Hargrove, Kohl, Schow, Stevens.

**Law and Justice (11) -- Roach, Chair; Johnson, Vice Chair;** \*Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau, Zarelli.

**Natural Resources and Parks (11) -- Oke, Chair; Rossi, Vice Chair;** Hargrove, \*Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens, Swecker.

**Rules (19) \*\*Owen, Chair; Newhouse, Vice Chair;** Bauer, Benton, Hale, Horn, Johnson, Loveland, McAuliffe, McDonald, Sellar, Sheldon, B., Snyder, Stevens, Strannigan, Swecker, Thibaudeau, Wojahn, Zarelli.

**Transportation (15) -- Prince, Chair; Benton, Vice Chair; Wood, Vice Chair;** Goings, \*Haugen, Heavey, Horn, Jacobsen, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Sellar.

**Ways and Means (21) -- West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair;** Bauer, Brown, \*Fraser (Capital), Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Sheldon, B., Snyder, \*Spanel (Appropriation), Swecker, Thibaudeau, Winsley, Zarelli.

\* - Ranking Minority Member

\*\* - Lt. Gov. Owen is a voting member

MOTION

On motion of Senator Johnson, the Proposed Standing Committee assignments were confirmed.

MOTION

At 12:49 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Tuesday, January 13, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

JOURNAL OF THE SENATE

FIRST DAY, JANUARY 12, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**SECOND DAY**

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MORNING SESSION  
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Senate Chamber, Olympia, Tuesday, January 13, 1998

The Senate was called to order at 10:00 a.m. by President Owen. No roll call was taken.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

MESSAGE FROM THE UNIVERSITY OF WASHINGTON

UNIVERSITY OF WASHINGTON  
ALCOHOL AND DRUG INSTITUTE

January 8, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
P. O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. O'Connell,

Attached is a report entitled 'Effectiveness Standards for the Treatment of Chemical Dependency in Juvenile Offenders: A Review of the Literature.' This report is being submitted to the Governor and Legislature in compliance with House Bill No. 3900, Sections 26-28 which led to RCW 13.40.165. This bill pertains to the implementation of the Chemical Dependency Disposition Alternative (CDDA) for juvenile offenders.

The CDDA legislation provides an opportunity for the Juvenile Rehabilitation Administration (JRA), in conjunction with the Division of Alcohol and Substance Abuse (DASA) and local juvenile courts, to strengthen existing chemical dependency programs for youth involved with the juvenile justice system. This will be accomplished by providing CDDA youth with additional elements of treatment that research has demonstrated to be effective in reducing substance use. An emphasis will be placed on enhancing linkages with community based services in order to provide a comprehensive continuum of care.

The Alcohol and Drug Abuse Institute at the University of Washington is responsible for evaluating the CDDA program. A process evaluation of the implementation of the CDDA legislation will be conducted. Effectiveness of the treatment programs for CDDA youth will be assessed by measuring changes in the youth which research has shown to be related to the development and maintenance of adolescent substance use problems (such as school performance and emotional distress). Furthermore, the CDDA program provides the opportunity to evaluate the short term (6 month) and long term (18 month) effectiveness of this sentencing alternative in reducing substance use and recidivism in juvenile justice involved youth.

If you have any questions regarding this document, please feel free to contact me at 206-616-6813 or Mark Wirschem of the Juvenile Rehabilitation Administration at 360-902-8105.

Sincerely,

MEGAN RUTHERFORD, Ph. D.

The Report from the University of Washington Alcohol and Drug Institute is on file in the Office of the Secretary of the Senate.

MESSAGE FROM THE HOUSE

January 12, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 1072,  
SUBSTITUTE HOUSE BILL NO. 1077,  
HOUSE BILL NO. 1082,  
SUBSTITUTE HOUSE BILL NO. 1083,  
HOUSE BILL NO. 1097,  
HOUSE BILL NO. 1117,



HOUSE BILL NO. 1129,  
HOUSE BILL NO. 1165,  
HOUSE BILL NO. 1181,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1221,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1223,  
SUBSTITUTE HOUSE BILL NO. 1245,  
ENGROSSED HOUSE BILL NO. 1254,  
SUBSTITUTE HOUSE BILL NO. 1260,  
HOUSE BILL NO. 1297,  
HOUSE BILL NO. 1309,  
SUBSTITUTE HOUSE BILL NO. 1380,  
SUBSTITUTE HOUSE BILL NO. 1441,  
SECOND SUBSTITUTE HOUSE BILL NO. 1522,  
SUBSTITUTE HOUSE BILL NO. 1587,  
HOUSE BILL NO. 1648,  
SUBSTITUTE HOUSE BILL NO. 1655,  
SUBSTITUTE HOUSE BILL NO. 1672,  
HOUSE BILL NO. 1716,  
SUBSTITUTE HOUSE BILL NO. 1973, and the same are herewith transmitted.

TIM MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING

SB 6187 by Senators Stevens, Oke, Schow, Benton and Zarelli

AN ACT Relating to alcohol; amending RCW 46.20.117, 46.20.120, 46.20.311, and 46.20.391; and prescribing penalties.

HOLD.

SB 6188 by Senators Oke, Benton, Strannigan, Bauer and Winsley

AN ACT Relating to registration of sex offenders; and reenacting and amending RCW 9A.44.130, 9.94A.310, and 9.94A.320.

Referred to Committee on Law and Justice.

SB 6189 by Senators Oke and Haugen

AN ACT Relating to crimes with sexual motivation; amending RCW 9.94A.360 and 9A.44.140; reenacting and amending RCW 9A.44.130; adding a new section to chapter 9A.44 RCW; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6190 by Senators Oke, Goings, Bauer, Haugen, Wood and Fraser

AN ACT Relating to special parking privileges for disabled persons; amending RCW 46.16.381 and 46.61.581; reenacting and amending RCW 46.63.020; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6191 by Senators Johnson, Roach and Fairley

AN ACT Relating to deeds of trust; amending RCW 61.24.010, 61.24.020, 61.24.030, 61.24.040, 61.24.050, 61.24.060, 61.24.070, 61.24.080, 61.24.090, 61.24.100, 61.24.110, 61.24.130, 7.28.300, and 7.60.020; and adding new sections to chapter 61.24 RCW.

Referred to Committee on Law and Justice.

SB 6192 by Senators Sellar, Snyder and Winsley (by request of State Investment Board)

AN ACT Relating to the operation of the state investment board; and amending RCW 43.33A.140, 41.50.085, 43.84.061, and 43.84.150.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6193 by Senators Stevens, Schow, Hargrove and Zarelli

AN ACT Relating to petition for divorce; amending RCW 26.09.030, 4.24.130, 10.99.040, 11.07.010, 11.12.051, 13.64.060, 26.09.004, 26.09.010, 26.09.015, 26.09.020, 26.09.050, 26.09.060, 26.09.070, 26.09.080, 26.09.090, 26.09.100, 26.09.110, 26.09.138, 26.09.175, 26.09.194, 26.09.210, 26.09.240, 26.09.280, 26.16.205, 26.19.071, 26.27.020, 26.27.070, 26.50.160, 36.18.020, 41.28.205, 41.28.207, 41.44.240, 41.32.530, 41.32.785, 41.40.188, 41.40.660, 51.32.050, 70.58.005, 74.20.220, and 75.30.250; reenacting and amending RCW 9A.44.010 and 26.09.150; adding new sections to chapter 26.09 RCW; and repealing RCW 26.09.900 and 26.09.901.

Referred to Committee on Law and Justice.

SB 6194 by Senators Goings, Roach, Rasmussen, Winsley and Oke

AN ACT Relating to drug paraphernalia; amending RCW 69.50.412; reenacting and amending RCW 69.50.435; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6195 by Senators Long and Hargrove (by request of Department of Social and Health Services)

AN ACT Relating to technical corrections to statutory references; and amending RCW 13.34.090 and 43.43.700.  
Referred to Committee on Human Services and Corrections.

SB 6196 by Senators Hargrove and Long (by request of Department of Social and Health Services)

AN ACT Relating to technical clarifying changes to developmentally disabled children's out-of-home placement; and amending RCW 13.34.130, 74.13.350, 13.34.270, and 74.13.021.

Referred to Committee on Human Services and Corrections.

SB 6197 by Senators West, Hale and Roach

AN ACT Relating to business and occupation tax exemptions for wholesale transactions involving motor vehicles at auction; amending RCW 82.04.317; and declaring an emergency.

Referred to Committee on Ways and Means.

SB 6198 by Senators Fraser, Swecker, Spanel, Haugen and Rasmussen

AN ACT Relating to fish hatchery operational policy; and adding a new chapter to Title 75 RCW.

Referred to Committee on Natural Resources and Parks.

SB 6199 by Senators Fraser, Swecker, Spanel, Rasmussen, Haugen, Jacobsen and Winsley

AN ACT Relating to aquatic protection and enhancement; and amending RCW 84.34.020 and 84.34.055.

Referred to Committee on Agriculture and Environment.

SB 6200 by Senators Fraser, Swecker, Rasmussen, Spanel, Haugen, Jacobsen and Winsley

AN ACT Relating to aquatic habitat protection and enhancement; and amending RCW 84.34.020.

Referred to Committee on Agriculture and Environment.

SB 6201 by Senators Long, Hargrove and Winsley (by request of Department of Social and Health Services)

AN ACT Relating to amendments concerning the child abuse prevention and treatment act and the adoption and safe families act; amending RCW 13.34.020, 13.34.130, 13.34.180, 13.34.190, 74.13.280, 74.15.130, and 26.44.100; reenacting and amending RCW 13.34.145, 26.44.020, and 74.13.031; adding a new section to chapter 13.34 RCW; adding a new section to chapter 26.44 RCW; and providing an effective date.

Referred to Committee on Human Services and Corrections.

SB 6202 by Senators Winsley and Prentice (by request of Department of Financial Institutions)

AN ACT Relating to the securities act of Washington; amending RCW 21.20.005, 21.20.020, 21.20.040, 21.20.050, 21.20.060, 21.20.070, 21.20.080, 21.20.090, 21.20.100, 21.20.110, 21.20.140, 21.20.310, 21.20.320, 21.20.330, 21.20.340, 21.20.370, 21.20.410, 21.20.430, and 21.20.540; adding new sections to chapter 21.20 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6203 by Senators Morton, Fraser, Snyder and Swecker

AN ACT Relating to solid waste permitting; amending RCW 70.95.020, 70.95.030, 70.95.170, and 70.95.190; and adding new sections to chapter 70.95 RCW.

Referred to Committee on Agriculture and Environment.

SB 6204 by Senator Morton

AN ACT Relating to livestock identification; amending RCW 16.57.010, 16.57.020, 16.57.080, 16.57.290, 16.57.300, 16.57.310, 16.57.320, 16.57.330, 16.57.340, 16.57.407, and 16.57.410; adding new sections to chapter 16.57 RCW; and repealing RCW 16.57.015, 16.57.160, 16.57.165, 16.57.170, 16.57.180, 16.57.200, 16.57.210, 16.57.220, 16.57.230, 16.57.240, 16.57.260, 16.57.360, 16.57.380, and 16.57.400.

Referred to Committee on Agriculture and Environment.

SB 6205 by Senators McCaslin, Haugen, Patterson, Benton, Bauer, Winsley and Oke

AN ACT Relating to waiver of interest on residential property taxes that are delinquent because of hardship due to the death of the taxpayer's spouse; and amending RCW 84.56.020.

Referred to Committee on Government Operations.

SB 6206 by Senators Haugen, Morton, Bauer, McCaslin, Spanel, Goings, Rasmussen, Swecker, Snyder and Prince

AN ACT Relating to avoiding farmland conversion; and adding a new chapter to Title 89 RCW.

Referred to Committee on Agriculture and Environment.

SB 6207 by Senators Kohl, Long, Hargrove, Fairley, Zarelli, Kline, Goings, Schow, Thibaudeau, Haugen, Franklin, Fraser, Loveland, McAuliffe, Jacobsen, B. Sheldon, Snyder, Benton, Roach, Winsley and Oke

AN ACT Relating to correctional facilities and institutions; adding a new section to chapter 13.40 RCW; and adding a new section to chapter 72.09 RCW.

Referred to Committee on Human Services and Corrections.

SB 6208 by Senators Hargrove, Long, Franklin, Winsley and Oke

AN ACT Relating to at-risk youth; amending RCW 71.34.010, 71.34.020, 71.34.025, 71.34.030, 70.96A.095, 70.96A.097, 13.32A.250, and 28A.225.030; reenacting and amending RCW 70.96A.020; adding new sections to chapter 71.34 RCW; adding new sections to chapter 70.96A RCW; creating new sections; and providing an expiration date.

Referred to Committee on Human Services and Corrections.

SB 6209 by Senators Prince and Loveland

AN ACT Relating to current use taxation; amending RCW 84.34.065; reenacting and amending RCW 84.40.030; adding a new section to chapter 84.34 RCW; and creating a new section.  
Referred to Committee on Government Operations.

SB 6210 by Senators Prince, Loveland, Morton and Rasmussen

AN ACT Relating to sales tax exemptions for parts for and repairs to machinery and implements for use in conducting a farming activity transported immediately outside the state; and amending RCW 82.08.0268.  
Referred to Committee on Agriculture and Environment.

SB 6211 by Senators Prince, Haugen, Hochstatter and Morton

AN ACT Relating to retirement from employment as a chaplain in a state institution or agency; and amending RCW 41.04.360.  
Referred to Committee on Ways and Means.

SB 6212 by Senators McCaslin, Snyder, B. Sheldon, Roach, T. Sheldon, Goings, Bauer, Zarelli, West, Haugen and Oke

AN ACT Relating to the uniform act on fresh pursuit; and amending RCW 10.89.010 and 10.89.050.  
Referred to Committee on Law and Justice.

SB 6213 by Senators McCaslin, Snyder, B. Sheldon, Roach, T. Sheldon, Bauer and West

AN ACT Relating to jurisdiction of district courts in civil cases; and amending RCW 3.66.100.  
Referred to Committee on Law and Justice.

SB 6214 by Senators Long, Hargrove, McDonald, Deccio, Franklin, Stevens, Strannigan, Wood, Schow, Swecker, Hale, Sellar, Thibaudeau, Haugen, Winsley and Oke

AN ACT Relating to mental illness; amending RCW 71.05.010, 71.05.020, 71.05.030, 71.05.035, 71.05.130, 71.05.150, 71.05.200, 71.05.210, 71.05.250, 71.05.280, 71.05.330, 71.05.340, 71.05.370, 71.05.390, 71.05.530, 71.05.560, 10.77.005, 10.77.010, 10.77.020, 10.77.030, 10.77.040, 10.77.060, 10.77.070, 10.77.080, 10.77.090, 10.77.110, 10.77.140, 10.77.150, 10.77.180, 10.77.190, 10.77.200, 10.77.210, 10.77.240, and 10.97.030; adding new sections to chapter 71.05 RCW; adding new sections to chapter 10.77 RCW; creating new sections; recodifying RCW 10.77.005; repealing RCW 71.05.015, 71.05.080, and 71.05.490; making an appropriation; providing effective dates; and declaring an emergency.  
Referred to Committee on Human Services and Corrections.

SB 6215 by Senators Long, Franklin, Zarelli, Stevens, Kohl, Winsley and Oke

AN ACT Relating to custodial sexual misconduct; amending RCW 43.43.830 and 70.125.030; reenacting and amending RCW 9.94A.320; adding a new section to chapter 9A.44 RCW; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6216 by Senators Horn and Patterson (by request of Department of Social and Health Services)

AN ACT Relating to recovery of vendor overpayments; adding a new section to chapter 43.20B RCW; and creating a new section.  
Referred to Committee on Human Services and Corrections.

SB 6217 by Senators Franklin, Long, Hargrove, Goings, Rasmussen, B. Sheldon, Fraser, Schow and Winsley

AN ACT Relating to guardians ad litem; amending RCW 2.56.030, 11.88.090, 13.34.100, 13.34.102, 13.34.105, 26.12.175, and 26.12.177; adding new sections to chapter 11.88 RCW; adding new sections to chapter 13.34 RCW; adding new sections to chapter 26.12 RCW; and providing effective dates.  
Referred to Committee on Human Services and Corrections.

SB 6218 by Senators West, Bauer, Stevens, Oke, Wojahn, Spanel and Loveland (by request of Joint Legislative Audit and Review Committee)

AN ACT Relating to the review and termination of the center for international trade in forest products and the office of public defense under the Washington sunset act; amending RCW 43.131.389 and 43.131.390; and repealing RCW 43.131.333 and 43.131.334.  
Referred to Committee on Commerce and Labor.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1072 by House Committee on Law Justice (originally sponsored by Representatives Sterk, Sheahan, Hickel and Delvin)

Regulating interception of communications.

Referred to Committee on Law and Justice.

SHB 1077 by House Committee on Law and Justice (originally sponsored by Representatives Sterk, D. Sommers, Boldt and Sheahan)

Specifying the official forms of establishing proof of identity.

Referred to Committee on Law and Justice.

HB 1082 by Representatives McDonald and Sheahan

Extending authority to cite for contempt of court.

Referred to Committee on Law and Justice.

SHB 1083 by House Committee on Law and Justice (originally sponsored by Representatives McDonald, Sheahan and Mielke)

Authorizing use of department of licensing records in criminal prosecutions.

Referred to Committee on Law and Justice.

HB 1097 by Representatives Costa, Sheahan, Scott and Hatfield

Revising requirements for publication of notice in dependency cases.

Referred to Committee on Law and Justice.

HB 1117 by Representatives Benson, Sheahan, Costa, D. Sommers, McDonald, Gombosky, Mulliken, Robertson, O'Brien, D. Schmidt, Backlund, Sterk, Wood, Sheldon, Quall, Anderson, Boldt and DeBolt

Providing penalties for supplying liquor to or consuming liquor by minors.

Referred to Committee on Law and Justice.

HB 1129 by Representatives Thompson, Sheahan, Sterk, Sump, Mielke, Delvin, DeBolt, Mulliken, Conway, Chandler, O'Brien, Kessler, Dunn, Costa, Anderson and Bush

Increasing penalties for attempting to elude a pursuing police vehicle to a class B felony.

Referred to Committee on Law and Justice.

HB 1165 by Representatives Backlund, O'Brien, Skinner, Cairnes, Dyer, Dunn, Lambert, Sherstad, Sterk, Delvin and Mielke

Creating the crimes of homicide by watercraft and assault by watercraft.

Referred to Committee on Law and Justice.

HB 1181 by Representatives Sterk, O'Brien and Crouse

Taking judicial notice of radar evidence.

Referred to Committee on Law and Justice.

ESHB 1221 by House Committee on Law and Justice (originally sponsored by Representatives Ballasiotes, Sheahan, Robertson, Chandler, Cody, Crouse, K. Schmidt, Costa, Scott, Buck, Kessler, Schoesler, Chopp, Johnson, Honeyford, O'Brien, Wensman, Sheldon, McDonald, Zellinsky, Thompson, H. Sommers and Mason)

Impounding vehicles driven by a person with a suspended or revoked license.

Referred to Committee on Law and Justice.

ESHB 1223 by House Committee on Law and Justice (originally sponsored by Representatives Carrell, Zellinsky, Talcott, Hickel, Thompson and Conway)

Addressing the public nuisance activities of tenants.

Referred to Committee on Law and Justice.

SHB 1245 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, K. Schmidt, Sterk, Ballasiotes, Zellinsky, Skinner, Cairnes, Delvin, Smith, Robertson, O'Brien, Backlund, Fisher, Scott, McMorris, Radcliff, Mulliken, Boldt, Hatfield, L. Thomas, Costa, Hankins, McDonald, Wensman, Benson and Kessler)

Strengthening penalties for using drivers' licenses and identicards to commit fraud.

Referred to Committee on Law and Justice.

EHB 1254 by Representatives Sterk, D. Sommers, Carrell, Mulliken, Delvin, Chandler, O'Brien and Bush

Prohibiting destruction of driving records for alcohol or drug-related offenses.

Referred to Committee on Law and Justice.

SHB 1260 by House Committee on Law and Justice (originally sponsored by Representatives Skinner, Dyer, Cody, Backlund, Murray, Anderson, O'Brien, Mason and Quall)

Providing that communications between certified counselors and their clients are privileged.

Referred to Committee on Human Services and Corrections.

HB 1297 by Representatives DeBolt, Sheahan, Ballasiotes, Costa, Benson, McMorris, Thompson, Lambert, Radcliff, K. Schmidt, Mitchell, Sherstad, Robertson, Pennington, Hickel, Kastama, Sullivan, Sump, Sheldon, Delvin, Cooke, Morris, Wensman, Mason and Mielke

Including the existence of a no contact order as an aggravating circumstance in first degree murder.

Referred to Committee on Law and Justice.

HB 1309 by Representatives Mielke, Mulliken, Sterk, McMorris, Pennington, Bush, Doumit, McDonald, Boldt, Thompson, Costa and Dunn

Creating the crime of disarming a law enforcement officer.

Referred to Committee on Law and Justice.

SHB 1380 by House Committee on Law and Justice (originally sponsored by Representatives Lambert, Wolfe, Sheahan, Mitchell, Dunshee, Mason and Scott)

Changing the allocation of child support health care expenses between parents.

Referred to Committee on Law and Justice.

SHB 1441 by House Committee on Law and Justice (originally sponsored by Representatives McDonald, Pennington, Ballasiotes, Mielke, Hatfield, Lambert, Doumit, Costa, Bush, Dickerson, O'Brien, Keiser, Kastama and Smith)

Penalizing voyeurism.

Referred to Committee on Law and Justice.

2SHB 1522 by House Committee on Appropriations (originally sponsored by Representatives Carrell, Sheahan, Conway, Mielke, Sherstad, Talcott, Zellinsky, Benson, Johnson, DeBolt, Mitchell, Lambert, Cooke, Clements, Kastama, Sheldon, Linville, Pennington, Honeyford, Delvin, Radcliff, Costa, Robertson, Mulliken, Smith, McMorris, Scott, Bush, Backlund, Ballasiotes, Sterk, Sump, Crouse, Wensman, Lisk, Dunn, Buck, Hickel, Reams, D. Schmidt, Mastin, Sullivan, Chandler, O'Brien, K. Schmidt, Skinner, Hankins, Dyer, Cairnes, Huff, McDonald, Alexander, Boldt, Wolfe, Keiser, Quall, Thompson and Van Luven)

Providing for enhanced sentencing for criminal street gang activity.

Referred to Committee on Law and Justice.

SHB 1587 by House Committee on Law and Justice (originally sponsored by Representatives Lantz, McDonald, Cody, Skinner, Mason, H. Sommers, Ogden, Sheahan, Bush, Blalock, Dickerson, Conway, O'Brien, Linville, Keiser, Costa, Kessler, Kenney, Regala and Cooper)

Penalizing parental voyeurism.

Referred to Committee on Law and Justice.

HB 1648 by Representatives Honeyford, Sheahan, Skinner, Clements, H. Sommers, Boldt, Delvin and Sullivan

Declaring buildings used for criminal street gang activity to be a nuisance.

Referred to Committee on Law and Justice.

SHB 1655 by House Committee on Law and Justice (originally sponsored by Representatives Hankins, Cooper, Fisher, Romero, Blalock, Constantine, Gardner, O'Brien, Scott, Zellinsky, Hatfield and Keiser)

Extending protection for bus drivers.

Referred to Committee on Law and Justice.

SHB 1672 by House Committee on Law and Justice (originally sponsored by Representatives Bush, Sheahan, Ballasiotes, Koster, O'Brien, Quall, McDonald, Costa, Carrell, Johnson, DeBolt, Sherstad, Clements, Talcott, Reams, Thompson, Backlund, Delvin, Honeyford, Smith, Mulliken, McMorris, Cody, Scott, Pennington, Kastama, Boldt, Dunn, Hickel, Sheldon, Buck, Benson, Keiser, Blalock, Lambert and Cooke)

Prohibiting the use of intoxication as a defense.

Referred to Committee on Law and Justice.

HB 1716 by Representative McMorris

Eliminating the authority of the department of licensing to keep records of pistol purchases or transfers.

Referred to Committee on Law and Justice.

SHB 1973 by House Committee on Law and Justice (originally sponsored by Representatives Wolfe, Lambert, Gombosky, Scott, Carrell, Keiser, Hatfield, Blalock, Gardner, Tokuda, Cole and Anderson)

Modifying a grandparent's visitation rights.

Referred to Committee on Law and Justice.

#### MOTION

On motion of Senator Johnson, Senate Bill No. 6187 was held on the desk.

#### SIGNED BY THE PRESIDENT

The President signed:

SENATE CONCURRENT RESOLUTION NO. 8421.

SENATE CONCURRENT RESOLUTION NO. 8422.

#### MOTIONS

At 10:08 a.m., on motion of Senator Johnson, the Senate was declared to be at ease for the purpose of a Joint Session to hear United States Speaker of the House, Newt Gingrich.

On motion of Senator Johnson, after the Joint Session, the Senate will recess until 4:00 p.m.

The Senators retired to the House of Representatives.

#### JOINT SESSION

The Sergeant-at-Arms announced the arrival of the Senate at the bar of the House.

The Speaker of the House of Representatives instructed the Sergeants at Arms of the House and Senate to escort the President of the Senate, Lieutenant Governor Brad Owen and President Pro Tempore Irv Newhouse to seats on the rostrum and invited the Senators to take seats within the Chamber.



The Speaker of the House of Representatives called the Joint Session to be in order.

The Clerk of the House called the roll of members of the House.

The Secretary of the Senate called the roll of members of the Senate.

The Speaker of the House of Representatives presented the gavel to the President of the Senate, Lieutenant Governor Brad Owen.

#### REMARKS BY THE PRESIDENT OF THE SENATE.

President Owen: "This Joint Session has been called to hear an address by the Speaker of the United States House of Representatives Newt Gingrich."

#### APPOINTMENT OF SPECIAL COMMITTEES

The President of the Senate appointed Senators Fraser, Hale and Horn and Representatives Wolfe, Quall and McCune as a special committee to escort the State Elected Officials from the State Reception Room to the House Chamber.

The President of the Senate appointed Senators Loveland and Sellar and Representatives O'Brien and Honeyford as a special committee to inform Governor Locke that the Joint Session has assembled and to escort him from his office to the House Chamber.

The President of the Senate appointed Senators Snyder and McDonald and Representatives Cooper and Lisk as a special committee to escort Speaker Gingrich and the members of the Washington State Congressional Delegation to the House Chamber.

The President of the Senate welcomed and introduced the State Elected Officials: Secretary of State Ralph Munro, State Treasurer Mike Murphy, State Attorney General Christine O. Gregoire, State Superintendent of Public Instruction Terry Bergeson, Commissioner of Public Lands Jennifer M. Belcher and State Auditor Brian Sonntag.

The President of the Senate introduced and welcomed former Governor John Spellman, who was seated in the gallery.

The President of the Senate welcomed Governor Gary Locke, and instructed the special committee to escort him to the rostrum.

The flags were escorted to the rostrum by the First Corps Command Color Guard.

The National Anthem was sung by Mark Bunda, a native of Hawaii, now residing in Olympia.

Rabbi Emeritus Richard Rosenthal of Temple Beth El of Tacoma offered the prayer.

The President of the Senate requested that the special committee escort Speaker Gingrich and the Washington State Congressional Delegation to the rostrum.

The President of the Senate introduced and welcomed the Speaker of the United State House of Representatives, Newt Gingrich, and the congressional delegation from Washington State: George Nethercutt, Jennifer Dunn and Linda Smith.

The President of the Senate returned the gavel to the Speaker of the House of Representatives, Clyde Ballard, for the introduction of the Speaker of the United States House of Representatives, Newt Gingrich.

#### INTRODUCTION OF SPEAKER GINGRICH

Speaker Ballard: "Today, we are honored to have with us, the Speaker of the United States House of Representatives, Newt Gingrich.

This is truly a historical occasion. It is the first time in the memory of even such a long-time Olympia veteran as former House Speaker John O'Brien, who first came to the Washington Legislature in 1939, that a sitting United States House Speaker ever visited the Washington State Legislature and addressed its members.

"Speaker Gingrich was a college history professor when he was elected to Congress in 1978 and he has represented Georgia's Sixth District ever since. In 1989, Newt Gingrich was elected Republican Whip and he became Speaker of the House, following the election of a Republican congressional majority in 1994. Simply having the Speaker of the United States House here with us is a tremendous honor, but I am especially pleased because Speaker Gingrich has proved to be a great friend and ally in giving the voices of our western states a stronger voice in Congress.

"This past summer Speaker Gingrich headed a field trip to Utah, Idaho, Montana and Wyoming, during which time he listened to the concerns of state and local officials, along with private citizens. I know that Speaker Gingrich truly paid attention to our unique issues, because I was able to spend the time with him, along with the State House Speakers from Alaska, Utah, Wyoming and the Lieutenant Governor of New Mexico. Not only did Speaker Gingrich make the effort to come to our region, he also brought with him other congressional leaders, as well as key committee members from other parts of the country. Already, we are seeing very positive results from this greater understanding of western issues and an increased responsiveness to the people in the communities of our region.

"Mr. Speaker, may I say that we appreciate your support and your interest and the time that you have given in this effort? May I also take this opportunity to remind you how much we would like to have you come to our region later this year and we will be working to try to put that together, so that we can show you more of the unique problems that we have in the state of Washington and the western states? "Speaker Gingrich is a strong and dynamic leader in Congress. His leadership was instrumental in bringing us to the brink of a balanced federal budget, providing a significant reduction in the federal tax burden, making welfare reform a reality, and enacting many other government reforms. There is no doubt that, as a strong leader, Speaker Gingrich occasionally offers a proposal or takes a stand that generates some enthusiastic debate both in Congress and throughout the nation. Yet, the most ardent adversaries acknowledge that Newt Gingrich is one of the most visionary and forward thinking political figures in modern times. To share some of that vision, I present to you, the Speaker of the United States House of Representatives, Newt Gingrich."

#### ADDRESS BY SPEAKER NEWT GINGRICH

Speaker Gingrich: "I am delighted to be here. Let me start by saying to all of you, we share a common future, that it is important to build better abilities to communicate, and we are working very hard, both with the governors and with the leaders of state legislatures, to learn how to share what works, what does not work, what the federal government is doing right, what it is doing wrong, and whether we have a common, general direction we are trying to go in. To recognize, in a country our size, that there is an enormous difference between Washington, D.C. and the state of Washington, just as there is an enormous difference between Washington, D.C. and Georgia.

"So, how do we have a common, general direction while maximizing our decentralization, maximizing local leadership and maximizing local initiatives? I want to share with you, for a few minutes if I could this morning, what we have done and where we were going. But frankly, it is exciting to me to see what you have done. You have implemented Welfare Reform in a very practical way. You have begun to take advantage of the opportunity to help people move out of poverty and into work, in what I think is a very, very important step in the right direction. You are working on Education Reform in a way that is very practical, and which is going to increase the chance of learning for all the children of this state. You recognize how much your state is connected to the world market, whether it is through Boeing or Microsoft or Weyerhaeuser or wheat farming; that, in fact, what happens in Jakarta does matter in Spokane and Seattle and Olympia and across the whole state.

"We are, in a sense, entering a new era together. In the Capitol in Washington, we tried to reach out. Let me say, first of all, I think the Western Governors' University is a very exciting project. I commend all of you who have voted to have your state participate in it. The notion that you are really now becoming pioneers for the whole country, in telecommunications, in the use of distance learning, and in making available to all citizens across an eight-state region an opportunity to share educational resources. That is a very important development, and it is ultimately going to allow you to lead, not just the United States but the entire world as people tie in and then learn from these experiences.

"I also have to say that the Western States Coalition that Speaker Ballard talked about, I found last summer to be very helpful. We brought a number of Eastern members out, and as you know, the West is different. It is bigger. It is more complex. In some parts of the West, water problems are dramatically different. We, in Georgia, never quite experience the same water

situation as in Eastern Washington. We are in a situation where we have a huge surplus of water most of the time. We do not understand Western water laws compared to Eastern law.

"To be in situations where we can look at the coming together of modern urban civilization, because in every Western state there are urban areas, and in fact, some of the Western states are more urbanized than some of the Eastern states in terms of the way people are, to look at that next to the environmental concerns, next to the agricultural, mining and forest concerns, to see it first hand, is important. I have already told the Speaker that I will be back, hopefully, in August for a visit to Washington State to look at the Columbia River Basin, to look at other concerns, and to get a better briefing on the issues that matter, and, also, to fly to Alaska and look at our largest state and what their unique concerns are.

"I commend those legislative and other leaders who began to develop a Western state coalition to talk through what we should do at the federal level to increase flexibility within a framework of still getting to a common, general direction. I think the information age, with Microsoft and many other developments here is going to give us some opportunities that are enormous. I think the world market gives us opportunities that are enormous. And as the state that houses our most successful exporter of manufactured goods, Boeing, you know how important the world market is. But I think they also offer us opportunities to work together.

"One of the things I hope to do is to introduce the spirit of Peter Drucker and Edwards Demming into the whole way we think about government. Peter Drucker is the leading management consultant of the Twentieth Century, and Edwards Demming developed the concept of quality and taught that concept to the Japanese. In fact, the prize for the best company in Japan is the Demming Prize. They are really talking about a way of thinking that is a powerful, information age modernization over the bureaucratic model we have all inherited at every level. From school board, to city council, to county commission, to state government, to federal government, we have a model of structures that needs to be thoroughly rethought.

"I will give you a simple example. I know this is true in Georgia; I will let you decide if it is true in Washington. My wife, Marianne, went to spend fifteen dollars last fall. She did not go to a place like Nordstroms, because she waited in line an hour and a half. She was not buying Beanie Babies or some fad that justifies that. She was getting her driver's license.

"I suggest to you that you have two clocks in your head. You have been acculturated to have these two clocks. One clock has a second hand and you use it every time you go into the private sector facility. When you go McDonald's, when you go to a department store, when you stand waiting to be served, there is a second hand which you watch prior to getting impatient. The second clock has fifteen minute increments and you use it when you walk into public buildings. You will inherently wait longer and be less impatient. Now, in both experiences you are paying money. In one case, it is taken from you in taxes and in the other case it is voluntary. You are a customer in both cases. But we have allowed, over the last 50 years, the private sector to modernize, to rethink what it is doing, to maximize its customer orientation, while allowing the public sector to find excuse after excuse to avoid rethinking its development.

"Part of what I hope we can do together is think through what a Twentieth Century information age, customer-oriented model of governance would look like? How would you design it? How would you staff it? How would you reward people who were effective, and retrain people who were ineffective? Or dismiss them if they refuse to learn? How can we think that process through so that people twenty years from now have the same expectation of efficiency, customer orientation and modern performance out of the public sector that they have out of the private sector--and that would lead to a revolution in the structure of our governments.

"I think it has to be done together because the truth is, and this a message I have for every state legislature as well county commissions, school boards and city councils, there are things we do in Washington D.C. which make it harder for you in Washington State to be effective. One of the things I would encourage you to do is to identify in literally every one of your legislative committees, and report back to us, those things we should change which are stopping you from modernizing the government of the state of Washington. I think I can speak for all three of the members here with me today — for Jennifer Dunn, who is now the highest-ranking elected woman legislator in the U.S. Congress as the vice-chair of our conference; for George Nethercutt, who is doing a tremendous job on the Appropriations Committee; for Linda Smith, who has been working very, very hard on reform issues--I think they would say the whole delegation is prepared to try to serve as a bridge to come back and say to us, 'The following thirty-seven laws are pretty dumb. The following six hundred regulations do not work. The following micro-management is making it impossible to reform.' I want to extend to you an open door, to say we would like to learn from you, at the grass roots, what you are experiencing that you think makes it harder for you to do the job for the people of the state of Washington.

"We have had an impact in the Congress. When we were sworn in in January of 1995, the Congressional Budget Office was projecting a \$320 billion deficit for the year 2002. They are now projecting a \$32 billion surplus. Now you are legislators. I would suggest to you that any legislative body which, in three years, can move a system from a \$320 billion deficit to a \$32 billion surplus has begun a process of fairly dramatic change. Some of that was the economy. But we also saved \$600 billion in entitlements, we passed Welfare Reform which, as you know, has had a dramatic impact. In New York State alone

there are 509,000 fewer people on welfare today than there were three years ago. They have moved from the public sector, where they were taking money from the taxpayer, to the private sector where they are paying taxes. It is been a major factor on what has happened with the budget turnaround.

"Because we are committed to a balanced budget, we have lowered interest rates by at least two percentage points over what they would have been otherwise. That has had a huge effect on farming, on purchasing cars and buying houses, on paying off student loans, and on all the different things people pay interest on, including what governments pay in interest.

"We think we have begun, but we have a lot to do, and a long way to go. I want to propose to you that there are four major goals, lots of things we need to do together. I could talk today about the ISTEA bill in transportation, because I know it is an important issue. I could talk about a wide range of issues that matter. But I want to focus on four today. Although, before I do, I do want to commend you for your rainy day fund. I was calculating based on the size of your budget; if we had a comparable rainy day fund, it would be about \$90 billion. I will let you imagine a Washington, D.C. that would allow \$90 billion to sit there without having approximately \$400 billion of new ideas! But I do commend you because it is the right direction and it is the way we should be moving.

"I want to suggest four goals to you. First, that we become a society that focuses on being drug-free and, therefore with dramatically less violence. Second, as you are already doing, we really emphasize education and learning. Third, we have now come to a point in our history where we should talk about rethinking retirement. And fourth, that we ought to talk openly about what is the total amount of taxes the citizens should owe their government in a peacetime environment. Let me briefly talk about each. Let me be candid and say these will only work in collaboration. They will only work if we work together.

"I think the number one goal we should establish is to break the back of the drug trade and the back of the drug culture. To insist that our children deserve to live in a drug-free society where they are not threatened with addiction and where they are not threatened physically. I believe, as a historian, we can do it. We have done it before. We did it in the 1920's. Other countries have done it. It is a matter of willpower, focus, resources and management.

"I came today to ask you and your governor to work together to tell us, from the state of Washington, what you need from the federal government as your highest priority to enable you to have a drug-free Washington state. What do we have to do to do our share of the job? And then ask you to do your share of the job and make a genuine commitment.

"I will just give you one specific statistic that I find staggering. If you are a woman, you are 27 times more likely to be killed if you are in a home with hard drugs than if you are in a drug-free home. Not 27 percent, but 27 times. That is 2700 percent more likely to be killed. And when we talk about violence in America, I do not think we can talk about the future without realizing how much of that is tied to drugs. We realize that in New York City alone, there are 32 drug-addicted babies born every week. The human and financial cost of not taking on drugs is horrendous.

"We are challenging General McCaffrey to produce a World War II-style victory plan. I think we need a decisive, sharp, two- or three-year effort to break the back of the drug culture, to make it too expensive to use drugs. And to recognize that the problem is not in Colombia. The problem is not in Mexico. The problem is in the streets, the neighborhoods and the schools of America, and in the professional sports of America and among some of the rock stars of America. If we are not buying it, they are not going to be shipping it. We have an obligation to start in America to win the war on drugs — to be the model country for everyone else, to not just lecture Mexicans and Colombians on what we wish they would do because we do not have the guts to do it here at home.

"If you will let us know, whether by resolution, by report, or by letter, what we need to do to help you win the war in the state of Washington, and if we can get every state legislature engaged and every state government engaged, I truly believe, in three or four years, we will be a drug-free country. And I can imagine nothing, nothing, that will do more for children's health than to be able to win the war on drugs and save them from that kind of a future.

"Second, I want to pledge to you our commitment to work with you on Education Reform. I want to draw one distinction between education and learning. I think we want the best education system in the world, and I think we want the best system of learning in the world. They are not necessarily the same. Here again, I want to thank Microsoft, where I will be spending part of the afternoon studying. We have an education system that is teacher-focused. A learning system is student-focused.

"We have the potential in the next decade to build a seven-day-a-week, 24-hour-a-day learning system available for a lifetime, which you can access from anywhere at anytime at your convenience and learn as much as you are capable of learning. We should make it a national goal to really encourage the development of that kind of learning system. To some extent, your Western State Governors' University is a step in that direction, but we are only scratching the surface. We have the potential for everyone to learn, and to do it at their convenience. Now, this is not a panacea. It is not a replacement for an education system. But it is an important enhancer, and it will allow us to leapfrog, not catch up, not match up with, but leapfrog the Japanese, Germans and others in providing the best system of learning in the world, which is essential if we were going to have the best

economic competition in the world. If you do not have good learning in the information age, you cannot produce the technology you need in order to have the best jobs in the world. This is vital to our entire future.

"In addition, we need the best education system. I favor scholarships, so that in really bad neighborhoods parents have the right to choose, but this is not going to solve the problem. Most children in America are going to learn in public schools for the rest of their lifetimes. I am a product of public schools. My wife is a product of public schools. Both of our daughters went to public school. I taught part-time when I was a college teacher. I also taught in the public high school. Most schools do pretty well, but every one of you knows that there are some schools in this state you would not send your children to, just as you know there are some schools in my state that I would not send my children to.

"Here is the test for us. We say in our Declaration of Independence that we are endowed by our Creator with certain inalienable rights, among which are life, liberty and the pursuit of happiness. We have to take that passionately and apply it to education reform. This means that every child of every ethnic background in every neighborhood has been endowed by God with the right to pursue happiness. In the information age, if you are not learning how to read and write, and you are not getting an education, you are more likely to go to prison than to go to college, and you are not being given the true opportunity to pursue happiness. I think that is how we ought to approach education reform.

"We ought to say first of all to a school system, let us start writing into the contract that if your school is in the bottom twenty percent in scoring, the contract does not apply any more, as of that date. Not 'Let us slowly modify tenure'. Not 'Let us have a study commission.' You would not leave your children in those schools. We have too many of our friends who are very big passionate supporters of the worst public schools, but their kids go to private school. We have too many teachers who pay the union dues and they want to make sure that we do not reform public schools; but their children go to private school. There are some big city systems where forty percent of the public school teachers send their children to private school, because they know better. We have an obligation to be passionate about this. Winston Churchill had a phrase for World War II. He would pass a note that said, 'Action this day.' This should be our attitude across the board to the system.

"I want to suggest three reforms that are very specific. Two of them we are not going to do at the federal level, one we have to. But I am here as a citizen sharing ideas; I am not here to say we are going to mandate. I do want to suggest as a general principle that we should have a passionate, deep commitment to every child in American learning how to read by end of the fourth grade. We should focus overwhelmingly on learning how to read and write in the fourth grade. I am going to be very direct: we should learn how to read and write in English, because that is the commercial language of the United States, and they are having their future crippled if they cannot read and write by the fourth grade.

"Second, I think that the federal government should modify the bilingual education law to make it local option. You at the state level and the school boards at the local level should have the right to decide for your children what is the most effective way to make sure that they are capable of reading and writing in English at the earliest possible time.

"Third, I would really like to suggest you consider, and I say this upon the state with some trepidation, but I would like you to consider mandating that, once a year, at every grade level, a day be spent looking at the Declaration of Independence and the Constitution. I say this for two reasons. First, as a historian, I actually think it is kind of good for Americans to learn how they became American. We are multi-ethnic, but we are one civilization. We are bound together by this thing of being American. We signed a contract with ourselves. We the people of the United States, we issued a declaration that says 'We hold these truths to be self-evident.' If our citizens do not grow up learning these things, how can we expect America to continue? Secondly, the Declaration says, "We are endowed by our Creator. Now, I want to see the ACLU lawsuit that explains why the teacher cannot explain what the Founding Fathers meant when they used the word 'Creator.' I think it would be a very edifying moment in American history.

"America is radically different than Europe. In the European model, power went from God to the King and was loaned to the citizens. This is why Brussels is worse than the IRS. In the European model, the citizen only has those rights loaned to them by the state. In the American model, from our opening date of our first document, we said power goes from God to the citizen, and you loan it back to the government. It is a very different model. I just think if we spent one day a year from first grade to twelfth grade studying that model, coming into contact with the great people who created this country, we would be a healthier country. We would be a country with a better sense of where our rights come from. We would be a country with a more serious sense of why being a citizen matters. So, I want to commend that to you.

"Our third goal is to look at retirement. A lot of that is federal, but I also have a proposal that I think you will find interesting at the state level. This is very simple. We are moving from sixty years of deficit spending. We were about to move to a generation of surpluses. This is not like 1969, the last surplus. We had lots of deficits, one year of surplus, and then lots of deficits. If we were disciplined in Washington, and if we avoid war, we will be in a position to have twenty or thirty years of surpluses.

"This gives us for the first time a chance to talk seriously about retirement, to recognize that Social Security is a very powerful and tremendous system developed in 1925 when there were no computers. But Social Security is neither personal nor

modern. In fact, in one study that Congressman Mark Sanford of South Carolina put out, he looked at his twenty year old son and said, 'You know, Einstein was asked, what is the most powerful thing in the universe and he said, compound interest.' If you simply take the FICA tax a twenty year old will pay today and invest their FICA tax over their lifetime, in an average market basket investment, not buying Microsoft when it is young, but an average market basket investment, they will make \$975,000 for their retirement. If you give them the current government payment, they will make \$175,000, so, we are condemning twenty years olds to lose \$800,000, by the way we have designed the system.

"I am proposing a National Commission on Retirement, made up of one-third baby boomers, one-third older than baby boomers, and one-third younger than baby boomers. I suggest to my colleagues in the House and Senate that they set up a citizens committee in their district tied in by the Internet to the National Commission. I think we ought to look at the totality, because I believe that by using a good part of the surpluses intelligently, we can make the transition to a personal, modern social security system, tied into the development of better pensions and tied into the development of better savings. We can leave our children and grandchildren a dramatically better retirement in a much wealthier country with a much higher savings rate with much lower interest rates and much more capital investment. That is a much healthier America in the future.

"I know it takes some courage for elected officials to raise the issue, but I just think we are at a magic moment of transition. I believe the grandparents, as long as they are secure in getting the current system, will want their grandchildren to have the best possible future. I believe we can have an honest, adult, dialogue about this without the kind of mudslinging and the kind of thirty second commercials that so badly weaken our political structures. So, I encourage you to look at it, to offer us advice, but I also encourage you to look at the state program. I do not know the details of your program, but I will tell you that Michigan has now adopted a new, personal pension system that vests within two years, where the new employees are controlling their own money in a way that is a very dramatic departure from the way we have done pensions in the last sixty years.

"Finally, I want to ask a very touchy question, and you are the first group of legislators I have done this with, so I will be very curious to see your reaction after I leave and you no longer have to be polite because I am around. I want to raise a serious question. In peacetime, in a free society, how much should your government be allowed to take from you?

"I was fascinated when I read Paul Johnson's new *History of the American People*. He is a former socialist in Britain turned conservative and he has written a wonderful history of the American people. He said that in 1775, we were probably the lowest-taxed people in the history of the world and we hated every penny. And he said we were so grateful that we were so low-taxed as to say, 'How come you need this?' The part about how much freedom, in part, is a function of how much time you have. How much money do you have, not how much does your government have to give to you--how much do you have? It turns out that when you study it that the American people said for forty years that they believe, in peacetime, the most their government should take from them is twenty-five percent. We currently--federal, state and local--take thirty-eight.

"What I would like to propose is that we set as a goal over the next ten to fifteen years to get to twenty-five percent taxation. The feds currently take about twenty-two percent. I propose we go down to fourteen percent. So we lose eight percent. State and local currently takes about sixteen percent. I propose state and local goes down to about eleven percent, so we will drop by more than you will have to drop. But, I think it is fair for you to come back to us and say, 'Fine, how about block-granting education money rather than having seven hundred little programs? How about dropping this kind of red tape?' I think it is a two-way dialogue.

"But, if we take Demming and Drucker and if we are prepared to prioritize, modernize, downsize and privatize, we can create, over the next ten to fifteen years, a country where people have more take-home pay, a better retirement system, a lifetime learning system, and an education system that either works or is changed rapidly when it starts to fail. People will be competitive in the world market, having the highest technology and the greatest entrepreneurship to produce the best goods, giving us the highest incomes with the greatest economic security and the capacity to lead the world.

"Yes, this is big. Yes, it is a lot, but, frankly, the Contract With America was pretty different when we started and I am very proud that at the key moment in the fall of 1994, we bought a two page ad in TV Guide that did not attack anybody, did not have any pictures. It just said, 'You hire us and we will try to do these ten things.' I think the time has come as citizens, across the board in both parties, to talk about for the next generation, 'What are the goals worth doing?' Let us work together to do it."

"I accept fully the responsibility today that I have come here and said, 'You come up with ideas on the drug war.' We have to listen to you and at least try to help. You come up with what we need to do to get out of your way in education. We have an obligation to listen and try to help. You tell us what we are doing wrong about pensions that make your job harder; let us know. And you tell us how you think we should change federal pension law. It would be very helpful and we would listen to you.

"And finally, if we are going to get there together, we have an obligation both to shrink the federal government and to shrink the burden the federal government imposes on you. I think for our citizens, the America I just described would be a vastly better place.

"Let me just close with this thought. Every time I come out here, I have to tell you, I just love coming to this state. I think part of it relates to the fact that I was here--some of you will be able to identify this--a few years ago on a stopover and went down to the fish market and bought a geoduck and took it to my mother-in-law, who promptly chopped it up and made stew out of it. Her nephews were very confused by what kind of products you all send around the world. I have to say, also, that I just brought back a very wonderful salmon that they identified with much more immediately and ate immediately.

"It is a fabulous state. You sort of have this sense--I always have this sense when I come here--what Lewis and Clark must have felt. As an easterner, when I fly in and look out at Mt. Rainier, when I look out at Puget Sound, when I see the weather, even on rare days like yesterday--again, for a Georgian, it was very exciting--I think we lose, sometimes, the romanticism of what this country is about. This country is a romance. This country has the most magical way of saying to the whole planet, 'I do not care what your background is; I do not care what your religion is; I do not care what your ethnicity is; if you have a big enough dream and you are willing to pursue it, come to America and try it out.' The result has put together the most exciting opportunities for people in the history of the world.

"This is a great country filled with good people and given a chance to achieve remarkable things. I believe we can work together in a partnership--not us dictating to you--but in a partnership. We can give our children and grandchildren an even greater America with an even greater future and through that, we can give the entire human race an opportunity to live in freedom and prosperity and safety.

"Thank you for honoring me by allowing me to come here today. Thank you."

The Speaker of the House of Representatives returned the gavel to the President of the Senate.

President Owen: "We would like to thank the Speaker for the tremendous visions and challenges that he has given to us and the opportunity to work with him and the Congress. We are very fortunate to have a person of his stature take the time to visit us in this state and we are most appreciative of that."

The President instructed the special committees to escort United States Speaker of the House of Representatives and the Washington State delegation from the House Chamber.

The President instructed the special committees to escort Governor Locke and the State Elected Officials from the House Chamber.

#### MOTION

On motion by Representative Lisk, the Joint Session of the Legislature was dissolved.

The President of the Senate returned the gavel to the Speaker of the House of Representatives.

The Speaker of the House instructed the Sergeants at Arms of the House and Senate to escort the President of the Senate, Brad Owen, and President Pro Tempore Irv Newhouse from the House Chamber.

The Speaker of the House instructed the Sergeants at Arms of the House and Senate to escort the Senators from the House Chamber.

The Senate was called to order at 4:00 p.m. by President Owen.

#### MOTION

At 4:00 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

At 4:15 p.m., the Senators retired to the House of Representatives for the purpose of a Joint Session to hear the State of the State Address by Governor Gary Locke.

#### JOINT SESSION

The Sergeant at Arms of the House announced the arrival of the Senate at the bar of the House.

The Speaker of the House of Representatives instructed the Sergeants at Arms of the House and Senate to escort the President of the Senate, Lieutenant Governor Brad Owen, President Pro Tempore Irv Newhouse, Majority Leader Dan McDonald and Minority Leader Sid Snyder to seats on the rostrum.

The Speaker of the House of Representatives invited the Senators to seats within the House Chamber.

The Speaker of the House of Representatives presented the gavel to President Owen.

The Clerk of the House called the roll of members of the House.

The Secretary of the Senate called the roll of members of the Senate.

The President of the Senate announced the purpose of the Joint Session was to receive the State of the State Address by Governor Gary Locke.

#### APPOINTMENT OF SPECIAL COMMITTEES

The President of the Senate appointed Senators Johnson, Kline, Roach and Heavey and Representatives Sommers, Radcliff, Dunshee and Regala to escort the Supreme Court Justices from the State Reception Room to the House Chamber.

The President of the Senate appointed Senators Morton, Wood and Goings and Representatives Thompson, Cairnes, Conway and Romero to escort the State elected officials from the State Reception Room to the House Chamber.

The President of the Senate appointed Senators Franklin and Strannigan and Representatives Benson and Eickmeyer as a special committee to inform Governor Locke that the Joint Session has assembled and to escort him from his office to the House Chamber.

The President of the Senate greeted and introduced the Supreme Court Justices: Chief Justice Barbara Durham, Associate Chief Justice James M. Dolliver, Justice Charles Z. Smith, Justice Richard P. Guy, Justice Charles W. Johnson, Justice Barbara A. Madsen, Justice Gerry L. Alexander, Justice Philip A. Talmadge and Justice Richard B. Sanders.

The President of the Senate greeted and introduced the State Elected Officials: Secretary of State Ralph Munro, State Treasurer Mike Murphy, State Attorney General Christine O. Gregoire, State Superintendent of Public Instruction Terry Bergeson, Commissioner of Public Lands Jennifer M. Belcher and State Auditor Brian Sonntag.

The President of the Senate greeted and introduced Congresswoman, Linda Smith, who was seated in the gallery.

The President of the Senate welcomed officers and career members of the Consular Association of Washington including: The Honorable Stephen Sieberson, President of the Consular Association and Consul of the Netherlands; The Honorable Michael Upton, Vice President of the Consular Association and Her Majesty's Consul of Britain; The Honorable Walter Weber, Treasurer of the Consular Association and Consul General Emeritus of Austria; The Honorable Thomas Boehm, Consul General of Canada; The Honorable Dr. Manfred Birmelin, Consul General of the Federal Republic of Germany; The Honorable Yoshio Nomoto, Consul General of Japan; the Honorable Sone Hoon, Consul General of the Republic of Korea; and The Honorable Edward Feng, Acting Director General of the Taipei Economic and Cultural Office in Seattle. The President also welcomed the Honorable Chris Strong, a member of the Legislative Council of the Victorian State Parliament in Australia, who was accompanied by Mrs. Strong.

The President of the Senate welcomed Governor Gary Locke and his wife Mona Lee Locke and asked the Sergeant-at-Arms to escort them to their place on the rostrum.

#### INTRODUCTION OF GOVERNOR GARY LOCKE BY PRESIDENT OWEN

President Owen: "Governor, I timed it today to make sure that we went beyond the applause given to Speaker Gingrich. It is a great pleasure and honor for the President to be able to introduce the Honorable Governor, Gary Locke. He is a



man of great vision. He is a man who is highly respected within the state of Washington and the nation. Most importantly, he is the father of Emily. Before I do that and make another blunder, it is an extreme honor for me to introduce Mrs. Mona Locke. Ladies and gentlemen, the Governor of the great state of Washington, the Honorable Governor, Gary Locke."

STATE OF THE STATE ADDRESS  
BY GOVERNOR GARY LOCKE

Governor Locke: "Mr. President, Mr. Speaker, Madam Chief Justice, distinguished Justices of the Supreme Court, statewide elected officials, members of the Washington State Legislature, other elected officials, members of the Consular Corps, and fellow citizens.

"Few Governors have been lucky enough to walk up to this podium to deliver a state of the state address in such good times as these. A sustained period of economic growth is creating more jobs than ever before, and bringing greater hope and opportunity to a growing population. Our unemployment rate is the lowest since 1966. We are delighted by new orders at Boeing, and by the growth of our high-tech and bio-tech industries. We're proud that the two key ideas of education reform--higher academic standards, and hold our schools accountable for results rather than following regulations--are finally taking root. We continue to be blessed by the abundance of our wheat fields and orchards. And our state is as beautiful as ever. The majesty and mystery of our coastline, our forests, and mountain ranges and our rivers remind us that our blessings are truly beyond counting. Even more encouraging, there is a growing sense that we are entering a time of moral renewal--a time when more and more Americans are coming home to the values of service to others, respect for our elders, and sacrifice for our children.

"But this is no time to rest on our laurels, or to assume that our economic good luck will last forever. This Fifty-fifth Legislature is the last of a fading century. The next Legislature, which will serve from 1999 through 2001, will have one foot in the old millennium, and one foot in the new, so this is truly a year to think about the legacy we have received, and to ask ourselves 'what legacy will we leave?' How will our children and grandchildren look back upon our work?

"In my office, this idea of legacy was brought home in a powerful and tragic way last week. Terry Husseman, a Deputy Director of the Department of Ecology, was outlining strategies to save salmon when--in the middle of a sentence--his life suddenly ended. Terry was a brilliant attorney who, with patience, wisdom and courage, helped launch the clean-up at Hanford, protect the public from toxic and nuclear waste, heal the relationship between state and tribal governments, and preserve our clean water. Like other state employees, his legacy was built day by day over the course of years of quiet devotion to the common good.

"We must honor his memory--and the memory of the countless thousands of other citizens and public servants who have given their lives in service to others--by living up to the standard of excellence they set for all of us--and we must start right now without delay.

"As the twenty-first century draws closer, our vision of what we want it to be becomes clearer. We want a century in which all our children get the very best education--

- \* A century in which economic prosperity benefits everyone, in every corner of our state;
- \* A century in which our rivers and streams are alive with fish;
- \* A century in which families are strong, neighbors look out for each other, and senior citizens are honored and cared for; and;
- \* A century in which a growing population protects and cherishes the cleanliness of our air and the open spaces that nourish our spirits.

"We cannot realize this vision if we let today's economic abundance make us complacent, selfish, or shortsighted. In spite of the rosy glow of today's economy, we have urgent problems that just can't wait--the problems of our working families, our schools, our roads, and our rivers. We cannot just coast into the twenty-first century. That's why, even though this is a short legislative session, I want to work with the Legislature, state employees, and the citizens of this state to tackle these problems. The test that all our work must pass is the test of time. Solutions that stand the test of time can only be crafted when everyone participates.

"The days when the response to every problem was a new government program are behind us. That strategy didn't work. When government promised more than it could ever deliver, the result was a disillusioned public, and problems that continued to get worse instead of better. Worse yet, relying on government alone to solve our problems diminished the importance of citizenship, and the value of personal responsibility. That's the trend we must reverse before this century ends and that's why the proposals I'm submitting to the Legislature are not government programs, but partnerships between citizens, schools, business, labor, and government at every level. Creating these partnerships--and restoring the central role of responsible citizenship--is both our most urgent challenge, and our most promising route to real solutions.

"The first and most important partnership must be to accelerate the improvement of our public schools. Last fall, we received the first test results that tell us how well our fourth-graders are measuring up to our rigorous new academic standards. LESS THAN HALF OF OUR FOURTH-GRADERS MET OUR STANDARD IN READING. Now, those kids are in fifth grade and it's not enough to tell their parents that our schools will do better with next year's first and second graders. Last year's fourth-graders need help now--and so do this year's second, third and fourth-graders.

"That's why I'm proposing that we create the Washington Reading Corps. Instead of just giving the schools more money and telling them to fix the problems, this investment is designed to give teachers and principals the resources they need to mobilize their communities. The goal of this program is to recruit twenty-five thousand volunteer tutors across the state, and to have teachers train them to tutor 82,000 second through fifth graders in reading. We know that tutoring works, and that children need individualized attention and we know that if children fail at reading in the early grades, it's unlikely they will ever catch up.

"We also have a promise to keep--the promise that we would move heaven and earth to help every student master our new, higher academic standards. That's why it's so important--and so urgent--that we bring together children who are learning to sound out words with volunteer tutors who will listen to them, and praise them when they do it right. That's how a lifetime of success gets started, and how a lifetime of frustration and failure is averted.

"Even though schools need more parent and community involvement to succeed, we must never forget that the foundation of our schools is the profession of teaching. That's why I am also proposing new and significant incentives for excellence in teaching. All teachers are not the same, so isn't it time to encourage our teachers to strive for excellence, and to reward them when they achieve it? Our best teachers will be able to earn more if this Legislature will agree to my proposal to reward them for meeting the rigorous test of national certification, which requires high levels of competency and classroom skill.

"I am also proposing a scholarship program to attract our best and brightest young people to the teaching profession. I want to provide scholarships to one hundred outstanding college students in return for their commitment to teach in our public schools. And it's time we made it easy for mid-career or retiring professionals to become teachers. To do that, I'm proposing a fast-track route into the classroom by giving people credit for what they already know, and making the courses necessary for teaching more convenient and accessible. Mid-career professionals and retirees shouldn't have to attend four years of college to become teachers.

"Isn't it also time to give parents, teachers, and citizens the power to create charter schools? Two years ago, many of us urged voters to reject a charter school ballot measure because it was flawed. Last year, bipartisan cooperation and citizen involvement fixed those flaws, and a charter school bill passed the House, but not the Senate. This year, I want to sign charter school legislation that promotes innovation and community involvement in public education. This last Legislature of the twentieth century must throw open the doors and windows of our public schools to the fresh air and new ideas that charter schools will provide.

"At the dawn of the twenty-first century, our new communication technologies can bring learning opportunities to both children and adults in even the remotest corners of our state. Later this month, a new electronic learning network will come to life, linking many schools and universities. Now, we must connect our schools to that network--and even more important--we must train our educators to make the best use of it.

"Our second partnership--a partnership between workers, their employers, and the state--is devoted to creating a better life for Washington's working families. In the last several years, we have given tax cuts to businesses to encourage them to expand, to modernize and to invest in new equipment. Those targeted tax cuts were necessary and effective, and we're proposing more of them, to help small businesses establish themselves and grow. But now our businesses ought to invest in their most precious asset--their employees.

"Working families--especially those at the lower end of the pay scale--have an equal right to benefit from our good economic times. Many businesses report that they invest thousand of dollars training people for very technical jobs, only to lose them when they start a family and can't afford child care. And many businesses are having such a hard time finding trained workers that they're recruiting people from out-of- state. I want Washington jobs to be for Washingtonian, so I'm proposing tax credits to family-friendly businesses that invest in child care or job training for their employees. I'm calling for expanding enrollments in our community and technical college, so that people can learn new skills and climb the career ladder.

"Isn't it time to help working families realize the American dream of owning a home? Despite low interest rates, many families just can't save enough money for a down payment, or have a hard time making monthly mortgage payments. That's why I've proposed a partnership with banks to help first-time home buyers. To benefit working families, I'm also asking for a \$35 cut in the tax we pay when we renew the license tabs on our cars.

"The working people of Washington's distressed rural communities especially need our help. While the unemployment rate in King County is 2.9 percent, the unemployment rate in Columbia County is over 15 percent. This is absolutely unacceptable. None of us was elected to preside over two Washingtons--one urban and prosperous, and the other rural and poor.

We were elected to lead one Washington, indivisible, with hope and economic opportunity for all, so I am asking this Legislature to expand tax incentives that encourage businesses to locate and grow outside the central I-5 corridor.

"This Legislature must also honor another partnership--the partnership between ourselves and our parents and grandparents. In the budget passed last year, we underestimated the demand for home care for our seniors, and that's something we simply must fix. I'm asking the Legislature to approve additional funding for the services that seniors need to live in their own homes rather than in nursing homes. This is the very least we can do to express our respect for our elders, our appreciation for the lifetime of hard work and sacrifice, and our gratitude for the values they taught us.

"There's something else we must do if our work this year is to stand the test of time--and that's to protect our ability to generate economic growth by investing in our transportation system. Gridlock on our freeways will cause gridlock in our economy if we don't act now. Already our ports are losing their competitive advantage, because once goods leave our docks, they get stuck in traffic. Too many working people spend far too many hours on the freeway rather than at home with their families. That's not the worst of it. The worst of it is that all across the state, the number of unsafe highways, bridges and intersections is growing.

"That's why I'm proposing a balanced funding package to repair, maintain and unclog our transportation system; We need two and a half billion dollars worth of critical improvements in the next five years. And we need to come up with that amount without hurting education or other vital services. I don't see any way to do that without a gas tax increase. I know it's politically unpopular, but it's the right thing to do. On this issue, once again, I am asking for partnership--a partnership of Democrats and Republicans--to create a lasting, long-term solution.

"The final partnership I want to talk about today is to save our salmon. For longer than human beings can remember, wild salmon have spawned in our rivers and streams, found their way to the sea, and then made that heroic, upstream journey home to start the cycle over again. Throughout the twentieth century, wild salmon runs have dwindled, in large part because of dams, culverts and other obstacles that prevent them from swimming upstream; because of polluted water, or because so much water has been diverted from streams that there's not enough left for the fish. These are problems that people have created, and problems that people can solve, but we cannot wait. In fact, we've already waited too long. And the result of our procrastination is that our salmon and steelhead are dying out.

"If we don't act now, the federal government and federal judges will take this issue out of our hands. And we will lose local control over our use of land and water. The water salmon depend on is also the water that we need for irrigation, industry, electricity, transportation, and domestic use. That's why, to jump-start the process of restoring and protecting our streams and rivers, we must forge new partnerships between landowner, irrigators, tribal governments, local and state governments and citizen volunteers. Saving our salmon is not optional. It is our sacred duty--to our ancestors, and to our children and their children--to act now, before our salmon are gone forever.

"All of the proposals I've described promote partnerships--between citizens and government, between workers and employers, and between Democrats and Republicans. All of these proposals challenge us to remember that every day of our lives is a precious gift--an unrepeatable opportunity to create the legacy for which we will be remembered. All of these proposals call us to realize our vision for the twenty-first century--a vision of great schools, growing opportunity, healthy rivers teeming with fish, clean air, strong families and honored elders, all bound together by a renewed sense of community and a powerful ethic of personal responsibility.

"These proposals don't add up to a Democratic agenda, or a Republican agenda, or a government agenda. This is a Washington State agenda. This is an agenda for all of us--for every citizen of every walk of life, of every color of the rainbow, and of every age. This is an agenda we can only achieve by working together to revitalize the spirit of unity, and the practice of good citizenship.

"As I have traveled around this state in the past year, I have seen hundreds of promising signs that a renaissance of active citizenship is beginning to take root. It is a part of that wave of moral renewal and rededication to the values that made this country great. Let me introduce you to a few of the people who exemplify this renaissance:

"Meet Joyce Derlacki and Betty and Burt Block, three of the senior citizen volunteers I met at Phantom Lake Elementary School in Bellevue. These citizens volunteer in the school to help Moises Ortiz and Prese Peseta and their classmates learn to read--and then the seniors stay after school and learn how to use computers.

"From Spokane, I want you to meet Lore Hannes, who tutors first-grade readers--and Dal Beeman, a Dad who works nights, and volunteers with kindergartners and first graders when he gets off work in the morning.

"From Vancouver, we have with us Jason Adams, a football star at Fort Vancouver High School who reads to second graders twice a week--and Alvaro Angel, a retired radio and TV broadcaster who tutors and mentors bilingual students.

"I'd also like you to meet some people who are heroes to our salmon:

"In Yakima, science teacher Kent Wilkinson and students Sami Dinsmore, Ryan Erlwine, Kaytla Eirich and Laura Bodine are restoring Wide Hollow Creek, and they've brought fish back to a creek that had been barren for this entire century.

"And from Skagit County, I'd like you to meet John Hocking, a developer who donated a 12-acre wetland to the city of Mt. Vernon--Arn Thoreen, a commercial fisherman who helped form the Skagit Watershed Council--Sammy Elix and Keith Hewitt, two of the Job Corps participants who worked to restore the wetland and the creek they feed--and Kurt Buchanan, their partner from the Department of Fish and Wildlife.

"When I visited this group at Bakerview Creek last summer, they showed me coho salmon fingerlings flourishing where none had for many years. Those tiny, fragile-fish prove the life-giving power of cooperative partnerships and active citizenship. Those fingerlings show that when citizens act together--and when government helps bring them together--our best values can solve our most difficult problems. Those fingerlings will mature and return to our rivers in the new millennium, and in that new millennium, our children, too, will come of age, and inherit the legacy that we are creating today.

"So, I want to end by asking everyone in this room to stand with these citizens who are showing us the way to a worthy legacy. I ask all of you--every citizen, and every public servant--to stand and together make a pledge. I ask that each of us pledge to put aside self-interest, join as partners, and transform our vision for the coming century into a legacy that will stand the test of time. I ask that each of us renew our commitment to active citizenship and the practice of personal responsibility and I ask that each of us strive, in the year ahead, to contribute to the renaissance of those simple, timeless values of service to others, respect for our elders, and sacrifice for our children.

"Thank you very much."

The President of the Senate thanked Governor Locke for his comments and instructed the special committee to escort Governor and Mrs. Locke from the House Chamber.

The President of the Senate instructed the special committee to escort the Supreme Court Justices from the House Chamber.

The President of the Senate instructed the special committee to escort the State Elected Officials from the House Chamber.

#### MOTION

On motion of Representative Lisk, the Joint Session was dissolved.

The President of the Senate returned the gavel to the Speaker of the House of Representatives.

The Speaker of the House instructed the Sergeants at Arms of the House and Senate to escort the President of the Senate, Lieutenant Governor Brad Owen, President Pro Tempore Irv Newhouse, Majority Leader Dan McDonald and Minority Leader Sid Snyder from the House Chamber.

The Speaker of the House instructed the Sergeants at Arms of the House and Senate to escort the Senators from the House Chamber.

The Senate was called to order at 5:38 p.m. by President Owen.

#### MOTION

At 5:38 p.m., on motion of Senator Morton, the Senate adjourned until 10:00 a.m., Wednesday, January 14, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

SECOND DAY, JANUARY 13, 1998

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NOTICE: **Formatting and page numbering in this document may be different from that in the original published version.**

**THIRD DAY**  
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MORNING SESSION  
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Senate Chamber, Olympia, Wednesday, January 14, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Deccio, Finkbeiner and Hargrove. On motion of Senator Hale, Senator Deccio was excused. On motion of Senator Franklin, Senator Hargrove was excused.

The Sergeant at Arms Color Guard, consisting of Pages Abigail Mehrstens and Mike Sansburn, presented the Colors. Reverend Joan Anthony, pastor of St. Benedict's Episcopal Church of Lacey, offered the prayer.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

MESSAGES FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

April 16, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Robert B. Fong, appointed April 16, 1997, for a term ending September 30, 1998, as a member of the Board of Trustees for Whatcom Community College District No. 21.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

April 16, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Susan Sellers, appointed April 16, 1997, for a term ending September 30, 2001, as a member of the Board of Trustees for Clark Community College District No. 14.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

May 5, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Susan P. Brady, appointed May 5, 1997, for a term ending December 31, 1998, as a member of the Public Disclosure Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Government Operations.

May 5, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Shirley Rector, appointed May 5, 1997, for a term ending August 2, 2002, as a member of the Lottery Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Commerce and Labor.

May 20, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Geraldine Ann Coleman, appointed May 20, 1997, for a term ending June 30, 1998, as a member of the Work Force Training and Education Coordinating Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

May 22, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

John P. Sullivan, reappointed May 22, 1997, for a term ending June 15, 2002, as a member of the Marine Employees' Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Transportation.

May 27, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Lee D. Lannoye, reappointed May 27, 1997, for a term ending June 30, 2001, as a member of the Housing Finance Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Financial Institutions, Insurance and Housing.

May 28, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Cesar A. Alzola, appointed May 28, 1997, for a term ending January 19, 2001, as a member of the Board of Pharmacy.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Health and Long-Term Care.

May 28, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Dr. Darrell Hamilton, reappointed May 28, 1997, for a term ending December 5, 2000, as a member of the Western State Hospital Advisory Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Health and Long-Term Care.

June 26, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Karen Miller, reappointed May 27, 1997, for a term ending June 30, 2001, as a member of the Housing Finance Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Financial Institutions, Insurance and Housing.

June 26, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Richard Spangler, Jr., reappointed June 26, 1997, for a term ending June 30, 2001, as a member of the Work Force Training and Education Coordinating Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

June 30, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Patricia L. Kruse Herbold, appointed for a term beginning July 1, 1997, and ending June 30, 2003, as a member of the Gambling Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Commerce and Labor.

July 2, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Heyward Watson, appointed July 2, 1997, for a term ending March 26, 2001, as a member of the Higher Education Facilities Authority.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

July 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Milton "Bud" Mercer, Jr., appointed July 10, 1997, for a term ending January 19, 2001, as a member of the Fish and Wildlife Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Natural Resources and Parks.

July 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

William P. Roehl, appointed July 10, 1997, for a term ending January 19, 2003, as a member of the Fish and Wildlife Commission.



Sincerely,

GARY LOCKE, Governor

Referred to Committee on Natural Resources and Parks.

July 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Kelly D. White, reappointed July 10, 1997, for a term ending January 19, 2003, as a member of the Fish and Wildlife Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Natural Resources and Parks.

August 5, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Connie Niva, reappointed August 5, 1997, for a term ending June 30, 2003, as a member of the Transportation Commission

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Transportation.

August 8, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Noel Nightingale, appointed August 8, 1997, for a term ending July 1, 2002, as a member of the Board of Trustees for the State School for the Blind.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Education.

August 11, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Jerry Farley, appointed August 11, 1997, for a term ending July 1, 2002, as a member of the Board of Trustees for the State School for the Blind.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Education.

August 12, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Ann Daley, appointed for a term beginning August 25, 1997, and ending June 30, 2002, as a member of the Pollution Control/Shorelines Hearings Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Agriculture and Environment.

August 12, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Anne Levinson, appointed for a term beginning September 8, 1997, and ending January 1, 2003, as Chair of the Utilities and Transportation Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Energy and Utilities.

September 9, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Nancy L. Isserlis, appointed September 9, 1997, for a term ending June 30, 2001, as a member of the Spokane Joint Center for Higher Education.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 9, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Rodney Kawakami, reappointed September 9, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Renton Technical College District No. 27.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 9, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Gerald P. Leahy, reappointed September 9, 1997, for a term ending September 30, 2001, as a member of the Spokane Joint Center for Higher Education.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 9, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Lonna K. Malone, reappointed September 9, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Columbia Basin Community College District No. 19.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 9, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Holly Echo-Hawk Middleton, reappointed September 9, 1997, for a term ending September 30, 2002, as a member of the Board of

Trustees for Clark Community College District No. 14.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 9, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Heidi Stanley, appointed September 9, 1997, for a term ending September 30, 2001, as a member of the Spokane Joint Center for Higher Education.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 9, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Dan C. Wilder, reappointed September 9, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Peninsula Community College District No. 1.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 9, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Roger Yockey, reappointed September 9, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Cascadia Community College District No. 30.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

David Della, reappointed September 10, 1997, for a term ending at the pleasure of the Governor, as Director of the Asian-Pacific American Affairs Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Government Operations.

September 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Shirley A. Smith, reappointed September 10, 1997, for a term ending at the pleasure of the Governor, as Director of the Department of Services for the Blind.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Government Operations.

September 11, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Felix H. Anderson, appointed for a term beginning October 1, 1997, and ending September 30, 2002, as a member of the Board of Trustees for Bellingham Technical College District No. 25.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 11, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Kristi Blake, appointed September 11, 1997, for a term ending June 30, 2001, as a member of the Higher Education Coordinating Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 11, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Larry L. Hanson, reappointed September 11, 1997, for a term ending June 30, 2001, as a member of the Higher Education Coordinating Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 11, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Edith L. Nelson, reappointed September 11, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Shoreline Community College District No. 7.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 15, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Wayne H. Ehlers, reappointed September 15, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Western Washington University.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

September 30, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Gary L. Christenson, reappointed September 30, 1997, for a term ending at the pleasure of the Governor, as Administrator of the Washington State Health Care Authority.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Health and Long-Term Care.

October 1, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

S. Nia Renei Cottrell, appointed September 10, 1997, for a term ending September 25, 2000, as a member of the Clemency and Pardons Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Law and Justice.

October 1, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Charlie Earl, appointed October 1, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Western Washington University.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

October 1, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Thomas W. Malone, appointed October 1, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Seattle, South Seattle and North Seattle Community Colleges District No. 6.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

October 1, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Larry Nickell, appointed October 1, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Big Bend Community College District No. 18.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

October 1, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

James Robinson, appointed October 1, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Olympic Community College District No. 3.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

October 20, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Tom Hilyard, appointed October 1, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Bates Technical College District No. 28.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

November 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Thomas Simpson, appointed November 10, 1997, for a term ending September 30, 1999, as a member of the Spokane Joint Center for Higher Education.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

November 17, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Phyllis Pulfer, appointed November 17, 1997, for a term ending June 17, 2001, as Chair of the Human Rights Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Law and Justice.

November 20, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Judy Yu, appointed November 20, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Central Washington University.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 1, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

James M. Sims, reappointed December 1, 1997, for a term ending at the pleasure of the Governor, as Director of the Pollution Liability Insurance Program.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Agriculture and Environment.

December 4, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Gwen Chaplin, reappointed September 15, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Central Washington University.

Sincerely,



GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Stanley L. K. Flemming, appointed December 10, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for The Evergreen State College.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Glenn E. Jennings, appointed December 10, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Everett Community College District No. 5.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

John M. King, appointed September 11, 1997, for a term ending at the pleasure of the Governor, as Director of the Department of Veterans Affairs.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Government Operations.

December 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

A. Michele Maher, appointed December 10, 1997, for a term ending June 30, 1999, as a member of the Transportation Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Transportation.

December 10, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Christopher J. Marr, appointed December 10, 1997, for a term ending June 30, 2002, as a member of the Transportation Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Transportation.

December 12, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Dr. Frank B. Brouillet, reappointed December 12, 1997, for a term ending June 30, 1999, as a member of the Higher Education Coordinating Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 12, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Gordon Budke, appointed December 12, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Eastern Washington University.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 12, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Sheila Guenther, appointed September 15, 1997, for a term ending August 2, 2003, as a member of the Lottery Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Commerce and Labor.

December 12, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Robert D. Fukai, appointed December 12, 1997, for a term ending September 30, 2003, as a member of the Board of Regents for Washington State University.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 12, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Marilee Roloff, appointed December 12, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for The Evergreen State College.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 15, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Bob Craves, appointed December 15, 1997, for a term ending at the pleasure of the Governor, as Chair of the Higher Education Coordinating Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 15, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Ann Ramsay-Jenkins, appointed December 15, 1997, for a term ending June 30, 2001, as a member of the Higher Education Coordinating Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 15, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

William Marler, appointed December 15, 1997, for a term ending September 30, 2003, as a member of the Board of Regents for Washington State University.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 16, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Elizabeth M. Calvin, reappointed November 26, 1997, for a term ending August 2, 2000, as a member of the Sentencing Guidelines Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Law and Justice.

December 18, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Jean Ann Batchelder, appointed September 10, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Lake Washington Technical College District No. 26.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 18, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

William H. Gates, appointed December 18, 1997, for a term ending September 30, 2000, as a member of the Board of Regents for the University of Washington.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 18, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Constance L. Proctor, appointed December 18, 1997, for a term ending September 30, 2003, as a member of the Board of Regents for the University of Washington.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 23, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Leonard Nord, appointed December 23, 1997, for a term ending January 4, 2003, as a member of the Personnel Resources Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Government Operations.

December 23, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Rudy Vasquez, appointed September 15, 1997, for a term ending June 17, 2002, as a member of the Human Rights Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Law and Justice.

December 24, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

M. J. Hrdlicka, appointed November 25, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Edmonds Community College District No. 23.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

December 24, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Katharine Akers Sheehan, appointed December 12, 1997, for a term ending June 12, 2001, as a member of the Columbia River Gorge Bi-State Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Natural Resources and Parks.

#### INTRODUCTION AND FIRST READING

SB 6219 by Senators McDonald, McCaslin, Patterson, West and Hale (by request of Office of Financial Management)

AN ACT Relating to reports to the legislature; making technical corrections to the Revised Code of Washington; amending RCW 2.14.040, 9.95.212, 13.40.430, 17.10.070, 17.26.015, 18.16.050, 18.50.150, 19.118.080, 19.27A.020, 19.94.185, 27.04.110, 28A.300.300, 28A.415.260, 28A.630.825, 28B.10.887, 28B.125.010, 28B.20.130, 28B.20.382, 28B.25.020, 28B.30.150, 28B.30.537, 28B.50.259, 28B.65.050, 28B.80.280, 28B.80.360, 28B.80.612, 29.04.200, 36.32.340, 36.47.020, 36.47.070, 36.70A.385, 36.79.060, 38.52.535, 39.29.068, 39.84.090, 39.96.070, 41.04.630, 41.05.190, 41.05.220, 41.05.280, 41.06.285, 41.50.780, 41.52.040, 41.52.070, 42.16.017, 43.01.240, 43.06.115, 43.121.130, 43.147.070, 43.163.090, 43.163.120, 43.168.130, 43.175.020, 43.19.19052, 43.19.19362, 43.19.554, 43.19A.030, 43.20.235, 43.20A.725, 43.21J.030, 43.31.411, 43.31.526, 43.33.130, 43.41.240, 43.51.400, 43.51.944, 43.52.360, 43.52.560, 43.52.565, 43.63A.550, 43.70.066, 43.70.240, 43.70.330, 43.70.530, 43.70.545, 43.70.555, 43.70.600, 43.72.860, 43.99F.040, 43.200.180, 43.200.190, 43.200.200, 43.210.050, 43.330.090, 43.07.290, 44.40.070, 44.40.150, 46.20.520, 46.61.165, 46.81A.020, 47.01.250, 47.01.900, 47.04.180, 47.05.021, 47.14.050, 47.24.010, 48.41.070, 49.30.005, 50.44.035, 50.60.901, 50.62.040, 50.72.070, 51.36.080, 59.22.090, 69.43.010, 69.50.201, 69.50.525, 70.105.160, 70.112.050, 70.119A.160, 70.129.160, 70.148.020, 70.148.050, 70.162.050, 70.168.030, 70.170.060, 70.175.100, 70.180.110, 70.180.120, 70.190.050, 70.190.100, 70.190.110, 70.195.010, 70.24.400, 70.41.320, 70.93.250, 70.94.162, 70.94.656, 70.95.263, 70.95.810, 70.95C.030, 70.95C.250, 70.96A.420, 70.96A.500, 71.24.410, 72.09.040, 72.09.560, 72.23.025, 72.65.210, 74.04.025, 74.09.415, 74.09.520, 74.13.045, 74.13.055, 74.13.260, 74.14A.050, 74.20.340, 74.41.070, 75.24.060, 75.28.770, 75.30.480, 75.50.100, 75.52.110, 75.54.010, 77.12.690, 77.12.710, 77.32.060, 78.56.160, 79.01.295, 80.01.090, 81.04.520, 81.53.281, 81.80.450, 82.33A.010, 82.60.110, 84.33.200, 84.41.130, 90.22.060, 90.48.480, and 90.56.100; reenacting and amending RCW 41.06.070, 43.43.934, 67.70.050, 71.24.035, 81.104.110, and 90.42.010; repealing RCW 13.04.460, 19.02.885, 19.27.078, 26.23.0401, 28B.04.070, 28B.06.050, 28B.10.692, 28B.30.636, 28B.50.900, 28B.106.900, 41.50.100, 43.03.260, 43.05.900, 43.43.560, 43.43.752, 43.59.130, 43.63A.215, 43.63A.220, 43.72.850, 43.88.065, 43.121.090, 43.163.900, 46.23.030, 47.01.220, 47.12.249, 47.26.163, 47.60.470, 47.60.544, 47.82.050, 48.87.090, 48.88.060, 49.46.150, 50.65.331, 51.32.116, 59.28.110, 66.08.028, 67.32.120, 69.51.070, 70.95C.090, 70.95E.070, 70.98.210, 70.114A.090, 70.120.180, 70.120.220, 70.123.060, 70.128.180, 70.149.110, 70.180.900, 72.02.170, 75.08.460, 75.50.050, 75.50.120, 77.04.111, 80.36.380, 80.36.860, 82.01.110, 82.61.070, 82.63.080, 90.48.369, and 90.58.330; repealing 1994 sp.s. c 7 s 517 (uncodified); repealing 1994 c 40 s 5 (uncodified); repealing 1996 c 152 s 3 (uncodified); and providing expiration dates.

Referred to Committee on Government Operations.

SB 6220 by Senators Horn, Heavey, Schow, Fraser, Anderson, Franklin, Newhouse, Winsley and Patterson

AN ACT Relating to the ability of employees in the airline industry to trade shifts voluntarily without creating overtime liability; reenacting and amending RCW 49.46.130; and creating new sections.

Referred to Committee on Commerce and Labor.

SB 6221 by Senators Goings, Rasmussen, Winsley, Franklin, Roach, Oke, McCaslin, Schow, Swecker and Benton

AN ACT Relating to storm water control facilities; and amending RCW 36.89.080.

Referred to Committee on Energy and Utilities.

SB 6222 by Senators Brown, West and Patterson

AN ACT Relating to traffic safety; amending RCW 43.59.010, 28A.220.050, 46.20.095, 46.82.430, 46.83.040, 82.08.020, and 46.20.305; adding new sections to chapter 43.59 RCW; and creating a new section.  
Referred to Committee on Transportation.

SB 6223 by Senators McCaslin, Winsley, West, Haugen and Sellar (by request of Board of Tax Appeals)

AN ACT Relating to filing with the state tax board; and amending RCW 82.03.130, 82.03.190, and 84.08.130.  
Referred to Committee on Government Operations.

SB 6224 by Senators Winsley, West, McCaslin, Strannigan, Wood, Goings, Jacobsen, B. Sheldon, Snyder, Patterson, Horn, Haugen, Hochstatter, Prentice, Sellar, Bauer, Oke, Benton, McAuliffe, Rasmussen and Hale

AN ACT Relating to the homestead exemption; and amending RCW 6.13.030.  
Referred to Committee on Law and Justice.

SB 6225 by Senators Bauer and Oke

AN ACT Relating to possession of firearms by minors; and amending RCW 9.41.042.  
Referred to Committee on Natural Resources and Parks.

SB 6226 by Senators Haugen, Morton, Winsley, Goings, Prince, Rasmussen, Prentice and Wood

AN ACT Relating to paying for services provided to general aviation by exempting fuels used for aviation from sales and use taxation and increasing the aircraft fuel tax rate from three to six percent; amending RCW 82.42.025, 82.42.090, and 43.84.092; reenacting and amending RCW 82.08.0255 and 82.12.0256; creating a new section; and providing an effective date.  
Referred to Committee on Transportation.

SB 6227 by Senators Haugen, Morton, Winsley, Goings, Rasmussen, Prince and Wood

AN ACT Relating to aircraft registration fees and taxes; and amending RCW 47.68.250 and 82.48.080.  
Referred to Committee on Transportation.

SB 6228 by Senators Haugen, Morton, Rasmussen, Prentice, Prince and Wood

AN ACT Relating to aircraft dealers' license fees; and amending RCW 14.20.050 and 14.20.060.  
Referred to Committee on Transportation.

SB 6229 by Senators Haugen, Morton, Goings, Winsley, Prince, Rasmussen, Prentice and Wood

AN ACT Relating to compliance with aircraft registration laws; and amending RCW 47.68.250.  
Referred to Committee on Transportation.

SB 6230 by Senators Haugen, Prince, Patterson, Long, Bauer, Winsley, Spanel, Hale, T. Sheldon, Wood, Newhouse and Rasmussen

AN ACT Relating to creation of a department of cultural resources; amending RCW 27.34.020, 43.17.020, 27.34.070, 27.34.080, 27.34.230, 43.46.015, 43.46.040, 43.46.045, 43.46.050, 43.46.055, 43.46.060, and 43.46.070; reenacting and amending RCW 43.17.010; adding new sections to chapter 43.46 RCW; adding a new section to chapter 41.06 RCW; creating a new section; recodifying RCW 27.34.010, 27.34.020, 27.34.060, 27.34.070, 27.34.075, 27.34.080, 27.34.200, 27.34.210, 27.34.220, 27.34.230, 27.34.240, 27.34.250, 27.34.260, 27.34.270, 27.34.280, 27.34.310, 27.34.320, 27.34.330, 27.34.340, 27.34.350, 27.34.900, 27.34.906, 27.34.910, 27.34.915, 27.34.916, 27.53.010, 27.53.020, 27.53.040, 27.53.045, 27.53.060, 27.53.070, 27.53.080, 27.53.090, 27.53.100, 27.53.110, 27.53.120, 27.53.130, 27.53.140, 27.53.150,

27.53.900, 27.53.901, 43.46.005, 43.46.015, 43.46.030, 43.46.040, 43.46.045, 43.46.050, 43.46.055, 43.46.060, 43.46.070, 43.46.090, 43.46.095, and 43.46.900; and repealing RCW 27.53.030.

Referred to Committee on Government Operations.

SB 6231 by Senators Hargrove, Anderson, Snyder, Swecker, T. Sheldon, Oke and Goings

AN ACT Relating to natural area preserves; and creating new sections.

Referred to Committee on Natural Resources and Parks.

SB 6232 by Senator Kohl (by request of Sentencing Guidelines Commission)

AN ACT Relating to sentencing for certain criminal acts; amending RCW 81.60.070 and 9.40.120; reenacting and amending RCW 9.94A.320; creating new sections; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6233 by Senators Rasmussen, Roach, Swecker, Fairley, Stevens, Zarelli, Rossi, Snyder, Long, McAuliffe and Oke

AN ACT Relating to revocation of driving privileges; amending RCW 46.20.265, 66.44.365, 69.41.065, 69.50.420, and 69.52.070; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6234 by Senators Wood, Kohl, Prentice, Long, Jacobsen, Winsley, Thibaudeau, Schow and Rossi

AN ACT Relating to revising administrative provisions of metropolitan park districts; amending RCW 35.61.010, 35.61.020, 35.61.030, 35.61.050, 35.61.130, 35.61.150, 35.61.180, 35.61.200, 35.61.210, 35.61.290, and 84.52.010; and adding new sections to chapter 35.61 RCW.

Referred to Committee on Government Operations.

SB 6235 by Senators Jacobsen and Kohl

AN ACT Relating to community athletic facilities; adding a new chapter to Title 43 RCW; and declaring an emergency.

Referred to Committee on Government Operations.

SB 6236 by Senators Jacobsen, Kohl, Wood, McAuliffe, Winsley and Patterson

AN ACT Relating to the Washington service scholars program; adding new sections to chapter 28A.600 RCW; adding a new section to chapter 28B.80 RCW; creating a new section; and making an appropriation.

Referred to Committee on Higher Education.

SB 6237 by Senators Jacobsen, Patterson, Brown, Kohl and McAuliffe

AN ACT Relating to scholarships for foster care children; adding new sections to chapter 28B.95 RCW; and making an appropriation.

Referred to Committee on Higher Education.

SB 6238 by Senators Stevens and Swecker

AN ACT Relating to dependent children; amending RCW 13.34.050, 13.34.060, 13.34.090, and 13.34.120; reenacting and amending RCW 26.44.020; and adding a new section to chapter 13.34 RCW.

Referred to Committee on Human Services and Corrections.

SB 6239 by Senators Stevens and Swecker



AN ACT Relating to the family policy council; amending RCW 70.190.060; adding new sections to chapter 43.131 RCW; and creating a new section.  
Referred to Committee on Human Services and Corrections.

SB 6240 by Senator Stevens

AN ACT Relating to superior court reporters; and amending RCW 2.32.180.  
Referred to Committee on Law and Justice.

SB 6241 by Senators Stevens, Rasmussen and Morton

AN ACT Relating to critical water supply service areas; amending RCW 70.116.050, 70.116.060, and 70.116.090; adding a new section to chapter 36.94 RCW; adding a new section to chapter 36.93 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35.92 RCW; and creating a new section.  
Referred to Committee on Agriculture and Environment.

SB 6242 by Senators Wood, West, Bauer, Winsley, Kohl, Prince, Hale, Haugen, B. Sheldon, Patterson, Goings, Wojahn, Anderson, McAuliffe and Schow

AN ACT Relating to the Washington state endowment for higher education; adding a new chapter to Title 28B RCW; and making an appropriation.  
Referred to Committee on Higher Education.

SB 6243 by Senators Hale, Loveland, Roach, T. Sheldon, B. Sheldon, Stevens, West, McCaslin, Prentice, Goings, Oke, Schow, Swecker and Kohl

AN ACT Relating to residential laundry facilities; and amending RCW 82.04.050.  
Referred to Committee on Ways and Means.

SB 6244 by Senators T. Sheldon, Hochstatter, Goings, Zarelli, McAuliffe, Rasmussen, Swecker and Stevens

AN ACT Relating to providing educational services for offenders under the age of eighteen and committed to a term of confinement in an adult correctional facility; and adding a new section to chapter 28A.190 RCW.  
Referred to Committee on Education.

SB 6245 by Senators Swecker and Winsley

AN ACT Relating to the enhancement of riparian habitat adjacent to cropped or pastured areas; adding a new section to chapter 43.06 RCW; creating new sections; and providing an expiration date.  
Referred to Committee on Agriculture and Environment.

SB 6246 by Senators Swecker and Winsley

AN ACT Relating to permits for the enhancement of riparian habitat adjacent to cropped or pastured areas; amending RCW 90.58.030 and 36.70A.060; adding a new section to chapter 89.08 RCW; adding a new section to chapter 75.20 RCW; adding a new section to chapter 90.48 RCW; creating a new section; and making an appropriation.  
Referred to Committee on Agriculture and Environment.

SB 6247 by Senators Benton, Roach, Strannigan, Anderson, Oke, Swecker, Stevens and Patterson

AN ACT Relating to display of sexually explicit material to minors; amending RCW 9.68.130 and 9.68.050; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6248 by Senator Swecker

AN ACT Relating to geoduck harvesting agreements; and amending RCW 79.96.080.  
Referred to Committee on Natural Resources and Parks.

SB 6249 by Senator Swecker

AN ACT Relating to geoduck harvesting agreements; and amending RCW 34.05.010 and 79.96.080.  
Referred to Committee on Natural Resources and Parks.

SB 6250 by Senators Swecker and Snyder

AN ACT Relating to geoduck diver licenses; and amending RCW 75.28.750.  
Referred to Committee on Natural Resources and Parks.

SB 6251 by Senators Horn, T. Sheldon, Patterson and Rossi (by request of Department of Information Services)

AN ACT Relating to the protection of taxpayer funded computer software; reenacting and amending RCW 42.17.310; and creating a new section.  
Referred to Committee on Energy and Utilities.

SB 6252 by Senator Rasmussen

AN ACT Relating to ensuring adequate access to state highways; and amending RCW 47.50.010, 47.50.040, and 47.50.080.  
Referred to Committee on Transportation.

SB 6253 by Senators Schow, Horn, Swecker, Rasmussen, Goings and T. Sheldon

AN ACT Relating to credit and debit card purchases in state liquor stores; and amending RCW 66.08.026 and 66.16.041.  
Referred to Committee on Commerce and Labor.

SB 6254 by Senators Schow, Franklin, Horn, Heavey, Johnson and Rasmussen

AN ACT Relating to manufactured or mobile homes; and amending RCW 46.70.011 and 18.85.010.  
Referred to Committee on Commerce and Labor.

SB 6255 by Senator Morton

AN ACT Relating to apiaries; amending RCW 15.60.005, 15.60.010, and 15.60.015; and repealing RCW 15.60.007, 15.60.020, 15.60.025, 15.60.030, 15.60.040, 15.60.042, 15.60.043, 15.60.050, 15.60.100, 15.60.110, 15.60.120, 15.60.140, 15.60.150, 15.60.170, 15.60.180, 15.60.190, 15.60.210, 15.60.220, 15.60.230, and 15.60.900.  
Referred to Committee on Agriculture and Environment.

SB 6256 by Senators Morton, Rasmussen and Swecker

AN ACT Relating to animal cruelty; and amending RCW 16.52.185.  
Referred to Committee on Agriculture and Environment.

SB 6257 by Senators Strannigan, Roach, Goings, Anderson, Long, Oke, Swecker, Benton, Wood, Stevens, Rasmussen and Patterson

AN ACT Relating to blood and breath alcohol standards for intoxication; amending RCW 46.20.308, 46.20.3101, 46.61.502, 46.61.504, 46.61.506, and 88.12.025; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6258 by Senators Roach, Kline and Hargrove (by request of Statute Law Committee)

AN ACT Relating to making technical corrections to the Revised Code of Washington; amending RCW 9A.40.060, 42.17.160, 43.160.076, and 82.14.370; reenacting and amending RCW 43.160.210; providing an effective date; and providing an expiration date.  
Referred to Committee on Law and Justice.

SB 6259 by Senators Swecker, Rasmussen and Winsley

AN ACT Relating to lake management service areas; amending RCW 85.38.010; and adding a new chapter to Title 90 RCW.  
Referred to Committee on Agriculture and Environment.

SB 6260 by Senators Swecker, Rasmussen and Winsley

AN ACT Relating to lake management districts; amending RCW 36.61.020 and 36.61.270; and repealing RCW 36.61.115.  
Referred to Committee on Agriculture and Environment.

SB 6261 by Senators Swecker, Rasmussen and Winsley

AN ACT Relating to an aquatic plant management permit program; amending RCW 90.48.445 and 17.24.051; reenacting and amending RCW 75.20.100; and adding a new chapter to Title 90 RCW.  
Referred to Committee on Agriculture and Environment.

SB 6262 by Senator Swecker

AN ACT Relating to the development of property transferred to children; amending RCW 58.17.040; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 36.70A RCW; and prescribing penalties.  
Referred to Committee on Government Operations.

SB 6263 by Senators Swecker, Rasmussen and Winsley

AN ACT Relating to lake management; amending RCW 90.24.010, 90.24.020, 90.24.030, 90.24.040, and 90.24.050; and repealing RCW 90.24.060 and 90.24.066.  
Referred to Committee on Agriculture and Environment.

SB 6264 by Senators Oke, Rasmussen, Morton, Swecker and Anderson

AN ACT Relating to mass marking of chinook salmon; amending RCW 75.08.510; creating a new section; and making an appropriation.  
Referred to Committee on Natural Resources and Parks.

SB 6265 by Senators Wood, Wojahn and Fairley

AN ACT Relating to authorizing dispensing opticians to perform eye refraction and modify existing prescriptions to reflect changes in vision; amending RCW 18.34.020, 18.34.060, 18.34.050, 18.34.080, 18.34.120, 18.34.136, and 18.34.010; adding new sections to chapter 18.34 RCW; recodifying RCW 18.34.010 and 18.34.060; and repealing RCW 18.34.110.

Referred to Committee on Health and Long-Term Care.

SB 6266 by Senators McAuliffe, Hochstatter, Goings, Johnson, Loveland, Thibaudeau, Snyder, B. Sheldon, Rasmussen, Fraser, Patterson, Kohl, Haugen, Zarelli, Brown, Long, Fairley, Winsley, Spanel, Jacobsen and Anderson

AN ACT Relating to improving class size; adding new sections to chapter 28A.150 RCW; and making an appropriation.

Referred to Committee on Education.

SB 6267 by Senators McAuliffe, Hochstatter, Goings, Winsley, Kohl, Loveland, Haugen, Snyder, Rasmussen, Fraser, B. Sheldon, Long, Patterson, Spanel, Brown, Fairley, Thibaudeau and Jacobsen

AN ACT Relating to time for learning; adding a new section to chapter 28A.630 RCW; creating a new section; and making an appropriation.

Referred to Committee on Education.

SB 6268 by Senators McAuliffe, Hochstatter, Rasmussen, Loveland, Zarelli, Johnson, B. Sheldon, Fairley, Kohl, Thibaudeau, Hargrove, Spanel, Goings, Schow and Winsley

AN ACT Relating to attending school; and amending RCW 28A.225.020.

Referred to Committee on Education.

SB 6269 by Senators McAuliffe, Johnson, Goings, Kohl, Snyder, Loveland, B. Sheldon, Rasmussen, Fraser, Fairley, Spanel, Thibaudeau and Jacobsen

AN ACT Relating to the use of the education savings account to train educators in the effective use of technology; and amending RCW 28A.305.235.

Referred to Committee on Education.

SB 6270 by Senators Anderson, Spanel, Swecker, West and Oke (by request of Department of Revenue)

AN ACT Relating to eliminating the business and occupation tax on internal distributions; amending RCW 82.04.270; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6271 by Senators Kohl and Thibaudeau

AN ACT Relating to medical marijuana; amending RCW 69.50.204, 69.50.206, 69.50.401, 69.50.505, 69.51.080, and 9A.82.085; adding new sections to chapter 69.50 RCW; adding a new section to chapter 18.64 RCW; adding a new section to chapter 28A.300 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Health and Long-Term Care.

SB 6272 by Senators Long, Strannigan, Kline, Wood, Johnson, Anderson and McAuliffe

AN ACT Relating to the number of district court judges; and amending RCW 3.34.010.

Referred to Committee on Law and Justice.

SB 6273 by Senators Wood, Winsley, Haugen and Fairley

AN ACT Relating to the registration of surgical technologists; adding a new chapter to Title 18 RCW; creating a new section; and providing an effective date.

Referred to Committee on Health and Long-Term Care.

SB 6274 by Senators Bauer, Benton, Oke and Schow

AN ACT Relating to slayers; amending RCW 11.84.900, 11.02.070, and 26.16.120; adding a new section to chapter 41.04 RCW; adding a new section to chapter 11.84 RCW; creating new sections; and declaring an emergency.  
Referred to Committee on Law and Justice.

SB 6275 by Senators Bauer, Benton, Oke and Schow

AN ACT Relating to slayers; amending RCW 11.84.020, 11.84.030, 11.84.040, 11.84.050, 11.84.060, 11.84.070, 11.84.900, 11.02.070, and 26.16.120; adding a new section to chapter 11.84 RCW; adding a new section to chapter 41.04 RCW; creating new sections; and declaring an emergency.  
Referred to Committee on Law and Justice.

SB 6276 by Senators Winsley, Kline, Sellar and Hale

AN ACT Relating to the linked deposit program; amending RCW 43.86A.060; and adding a new section to chapter 43.86A RCW.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6277 by Senators Newhouse, Heavey, Franklin, Schow, B. Sheldon, Sellar, Benton and Winsley

AN ACT Relating to the minimum rate of compensation for certain bus drivers for employment in excess of a forty-hour work week; and reenacting and amending RCW 49.46.130.  
Referred to Committee on Commerce and Labor.

SB 6278 by Senators Horn, McCaslin and T. Sheldon

AN ACT Relating to specifying the number of signatures required on a petition to place on the ballot the question of changing the name of a port district; and amending RCW 53.04.110.  
Referred to Committee on Government Operations.

SB 6279 by Senators Long, Kohl, Hargrove, Zarelli, Franklin, Stevens, Schow and Oke

AN ACT Relating to assessments for the prostitution prevention and intervention account; amending RCW 9.68A.105 and 9A.88.120; and prescribing penalties.  
Referred to Committee on Human Services and Corrections.

SB 6280 by Senators Jacobsen, B. Sheldon, Thibaudeau and McAuliffe

AN ACT Relating to the college promise program; adding a new section to chapter 28B.10 RCW; and making an appropriation.  
Referred to Committee on Higher Education.

SB 6281 by Senators Jacobsen, Kline, Thibaudeau, B. Sheldon and Fraser

AN ACT Relating to a Cascade foothills state park; creating new sections; and making an appropriation.  
Referred to Committee on Natural Resources and Parks.

SB 6282 by Senators Swecker, Oke and Schow

AN ACT Relating to federally listed threatened and endangered species; creating new sections; and declaring an emergency.  
Referred to Committee on Natural Resources and Parks.

SB 6283 by Senators Hochstatter, Schow and Benton

AN ACT Relating to K-12 public education property tax credits; and adding a new chapter to Title 84 RCW.  
Referred to Committee on Education.

SB 6284 by Senators Hochstatter, Zarelli, Sellar, Swecker, Johnson and Stevens

AN ACT Relating to mandatory titles in school excess-levy titles; amending RCW 84.52.053; and declaring an emergency.  
Referred to Committee on Education.

SJM 8018 by Senators Haugen, McCaslin, McAuliffe, Long, Goings, Winsley, Rasmussen, Wood, Oke and T. Sheldon

Urging Congress to establish a nationwide database to track juvenile convictions.

Referred to Committee on Law and Justice.

SJR 8213 by Senators Zarelli, West, Rossi, Stevens, Anderson, Swecker, Oke, Schow and Benton

Requiring a two-thirds vote of each house of the legislature for certain revenue raising and spending actions.

Referred to Committee on Ways and Means.

SCR 8423 by Senators McDonald, Sellar, Snyder and Loveland

Adopting cutoff dates.

HOLD.

#### MOTION

On motion of Senator Johnson, Senate Bill No. 6187, which was held on the desk January 13, 1998, was referred to the Committee on Law and Justice.

#### MOTION

On motion of Senator Johnson, the rules were suspended and Senate Concurrent Resolution No. 8423 was advanced to second reading and read the second time.

#### SENATE CONCURRENT RESOLUTION NO. 8423

By Senators McDonald, Sellar, Snyder and Loveland

WHEREAS, It is of paramount importance to establish cutoff dates for the consideration of legislation during the 1998 Regular Session of the Fifty-Fifth Legislature;

NOW, THEREFORE, BE IT RESOLVED, By the Senate of the State of Washington, the House of Representatives concurring, That the following cutoff dates apply to all bills, memorials, and joint resolutions with the exception of budgets, matters necessary to implement budgets, initiatives to the legislature, and alternatives to initiatives to the legislature;

Friday, February 6, 1998, the twenty-sixth day, shall be the final day to read in committee reports in the house of origin with the exception of reports from the Senate Ways and Means and Transportation Committees and House fiscal committees;

Tuesday, February 10, 1998, the thirtieth day, shall be the final day to read in Senate Ways and Means and Transportation Committees and House fiscal committee reports in the house of origin;

Tuesday, February 17, 1998, the thirty-seventh day, at 5:00 p.m., shall be the final time to consider bills in their house of origin;

Friday, February 27, 1998, the forty-seventh day, shall be the final day to read in committee reports on bills from the opposite house with the exception of reports from the Senate Ways and Means and Transportation Committees and House fiscal committees;

Monday, March 2, 1998, the fiftieth day, shall be the final day to read in Senate Ways and Means and Transportation Committees and House fiscal committee reports on bills from the opposite house; and

BE IT FURTHER RESOLVED, That after 5:00 p.m. on Friday, March 6, 1998, the fifty-fourth day, neither house may consider any bills, memorials, or joint resolutions except initiatives to the legislature and alternatives to such initiatives, messages pertaining to amendments, matters of differences between the two houses, conference and free conference reports, and matters incident to the interim and to the closing of the business of the 1998 Regular Session of the Legislature.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Concurrent Resolution No. 8423 was advanced to third reading, the second reading considered the third and the resolution was adopted.

SENATE CONCURRENT RESOLUTION NO. 8423 was adopted by voice vote.

#### MOTION

At 10:13 a.m., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Thursday, January 15, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

THIRD DAY, JANUARY 14, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

#### FOURTH DAY

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#### NOON SESSION

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Senate Chamber, Olympia, Thursday, January 15, 1998

The Senate was called to order at 12:00 noon by President Pro Tempore Newhouse. No roll call was taken.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

#### REPORTS OF STANDING COMMITTEES

January 13, 1998

SB 6165 Prime Sponsor, Senator Rossi: Strengthening penalties for violation of ignition interlock orders. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6165 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

January 13, 1998

SB 6166 Prime Sponsor, Senator Rossi: Increasing penalties for drunk driving. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6166 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENT

December 15, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Leslie Jones, appointed December 15, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Central Washington University.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

MESSAGE FROM STATE OFFICE

STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

January 13, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
PO Box 40482  
Olympia, Washington 98504-0482

Dear Mr. O'Connell:

Chapter 130, Laws of 1997, made changes to the Department of Social and Health Services' (DSHS) ability to file liens for debt recovery and required the department to transmit to the legislature an annual report on debt collection.

Legislative authority for this report is found in RCW 43.20B.030 (2)(b) and direct DSHS to include the following information:

- (i) The cumulative amount of debt due the department;
- (ii) The cumulative amount of debt that has been written off by the department as no longer cost-effective to pursue;
- (iii) The amount of debt due the department that has accrued in each of the previous five fiscal years; and
- (iv) The amount of debt that has been written off in each of the previous five fiscal years as no longer cost-effective to pursue.

The requested information is contained in the attached report. If you need additional data or have any questions, please call Bob Covington, Chief, Office of Accounting Services, at (306) 902-8215.

Sincerely,



LYLE QUASIM, Secretary

The Report from the Department of Social and Health Services on Accounts Receivable and Debt Write-Off is on file in the Office of the Secretary of Senate.

MESSAGE FROM THE HOUSE

January 14, 1998

MR. PRESIDENT:

The House has adopted SENATE CONCURRENT RESOLUTION NO. 8423, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SENATE CONCURRENT RESOLUTION NO. 8423.

INTRODUCTION AND FIRST READING

SB 6285 by Senators Goings, McCaslin, Haugen, Winsley, Patterson and Rasmussen

AN ACT Relating to benefit charges imposed by fire protection districts; and amending RCW 52.18.010 and 52.18.050.

Referred to Committee on Government Operations.

SB 6286 by Senators T. Sheldon, Benton, Stevens and Oke

AN ACT Relating to property taxes; adding new sections to chapter 84.36 RCW; adding a new section to chapter 84.40 RCW; and creating new sections.

Referred to Committee on Ways and Means.

SB 6287 by Senators T. Sheldon, Benton, Brown, Rossi, Finkbeiner, Rasmussen and Anderson

AN ACT Relating to safe public water supply; and amending RCW 54.16.030.

Referred to Committee on Government Operations.

SB 6288 by Senators T. Sheldon, Roach, Jacobsen, Swecker, Rasmussen, Stevens, Benton and Anderson

AN ACT Relating to the creation of fish and wildlife regional advisory councils; adding new sections to chapter 77.04 RCW; and creating a new section.

Referred to Committee on Natural Resources and Parks.

SB 6289 by Senators Benton, Johnson, McDonald, Rossi, T. Sheldon, Patterson, Strannigan, Stevens, Winsley, Oke, Schow, Zarelli and Roach

AN ACT Relating to high-occupancy vehicle lanes; and amending RCW 46.61.165.

Referred to Committee on Transportation.

SB 6290 by Senators Benton, Zarelli, Stevens, McDonald, Oke, Schow and Roach

AN ACT Relating to parental notification for abortions provided to minors; amending RCW 9.02.100; adding new sections to chapter 9.02 RCW; creating a new section; prescribing penalties; and declaring an emergency.

Referred to Committee on Law and Justice.

SB 6291 by Senators Benton and Zarelli

AN ACT Relating to the refund of vehicle license fees and fuel tax to island counties; and repealing RCW 46.68.080 and 47.17.990.

Referred to Committee on Transportation.

SB 6292 by Senators Benton and Zarelli

AN ACT Relating to distribution of motor vehicle excise taxes; amending RCW 82.44.150; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6293 by Senators Benton, Roach, T. Sheldon, Rossi, McDonald and Oke

AN ACT Relating to drunk driving; reenacting and amending RCW 46.61.5055; adding a new section to chapter 46.61 RCW; prescribing penalties; making an appropriation; and declaring an emergency.

Referred to Committee on Law and Justice.

SB 6294 by Senators Benton, Roach, T. Sheldon, Rossi, Oke and Rasmussen

AN ACT Relating to drunk driving; amending RCW 46.20.391; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.16 RCW; adding a new section to chapter 46.20 RCW; prescribing penalties; and declaring an emergency.

Referred to Committee on Law and Justice.

SB 6295 by Senators Benton, Patterson, T. Sheldon and Oke

AN ACT Relating to tax exemptions for transportation facilities; amending RCW 82.08.02569 and 82.12.02569; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; and providing an effective date.

Referred to Committee on Transportation.

SB 6296 by Senators Benton, Zarelli, Hochstatter, Johnson, Stevens, Oke, Schow and Roach

AN ACT Relating to a common language; adding a new section to chapter 1.20 RCW; and creating a new section.

Referred to Committee on Education.

SB 6297 by Senators Benton, Bauer and Snyder

AN ACT Relating to local public health financing; amending RCW 70.05.125; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6298 by Senators B. Sheldon, Winsley, Rasmussen, Anderson, Snyder and Oke

AN ACT Relating to self-employment for unemployed claimants; amending RCW 50.16.030; adding a new chapter to Title 50 RCW; and creating new sections.

Referred to Committee on Commerce and Labor.

SB 6299 by Senators Johnson and Heavey

AN ACT Relating to actions for unlawful issuance of a check or draft; and amending RCW 4.12.025.

Referred to Committee on Law and Justice.

SB 6300 by Senators Prentice, Winsley, Kline, Patterson, Kohl, Fairley, Franklin, Heavey and Jacobsen

AN ACT Relating to public housing authorities in jurisdictions with populations over four hundred thousand; amending RCW 35.82.040 and 35.82.050; and adding a new section to chapter 35.82 RCW.  
Referred to Committee on Government Operations.

SB 6301 by Senators Schow, Horn, Franklin and Heavey

AN ACT Relating to franchise agreements between motor vehicle manufacturers and dealers; and adding a new section to chapter 46.96 RCW.  
Referred to Committee on Commerce and Labor.

SB 6302 by Senators Winsley and Prentice (by request of Insurance Commissioner Senn)

AN ACT Relating to the risk-based capital of health carriers; and adding new sections to chapter 48.43 RCW.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6303 by Senators Bauer, Long, Franklin, Winsley, Rossi, Roach and Fraser (by request of Joint Committee on Pension Policy)

AN ACT Relating to restrictions on the restoration of service credit; adding a new section to chapter 41.26 RCW; adding a new section to chapter 41.32 RCW; adding new sections to chapter 41.40 RCW; and adding a new section to chapter 43.43 RCW.  
Referred to Committee on Ways and Means.

SB 6304 by Senators Bauer, Long, Roach, Winsley, Franklin, Fraser and Jacobsen (by request of Joint Committee on Pension Policy)

AN ACT Relating to the sharing of extraordinary investment gains in teachers' retirement system plan III; amending RCW 41.45.061 and 41.45.070; and adding a new section to chapter 41.34 RCW.  
Referred to Committee on Ways and Means.

SB 6305 by Senators Roach, Long, Rossi, Fraser, Oke and Rasmussen (by request of Joint Committee on Pension Policy)

AN ACT Relating to a death benefit for certain general authority police officers; and adding a new section to chapter 41.40 RCW.  
Referred to Committee on Ways and Means.

SB 6306 by Senators Long, Winsley, Rossi, Bauer, Roach and Anderson (by request of Joint Committee on Pension Policy)

AN ACT Relating to Washington school employees' retirement system; amending RCW 41.32.010, 41.32.044, 41.32.065, 41.32.067, 41.32.780, 41.32.812, 41.32.817, 41.32.835, 41.32.8401, 41.32.875, 41.34.060, 41.45.010, 41.45.020, 41.45.050, 41.45.060, 41.45.061, 41.45.070, 41.50.030, 41.50.060, 41.50.065, 41.50.075, 41.50.080, 41.50.086, 41.50.088, 41.50.132, 41.50.200, 41.50.205, 41.50.215, 41.50.230, 41.50.240, 41.50.255, 41.50.740, 41.50.750, 43.33A.020, 43.33A.190, 28A.400.250, 28B.10.417, 28B.50.874, 41.05.011, 41.33.010, 41.33.020, 41.33.030, 41.48.030, 41.48.050, 43.84.092, and 72.01.200; reenacting and amending RCW 41.40.010; adding a new section to chapter 41.32 RCW; adding new sections to chapter 41.34 RCW; adding a new section to chapter 41.40 RCW; adding new sections to chapter 41.45 RCW; adding a new section to chapter 41.54 RCW; creating new sections; decodifying RCW 41.32.032; repealing RCW 41.32.020 and 41.32.818; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6307 by Senators Long, Franklin, Fraser, Winsley, Bauer, Jacobsen and Roach (by request of Joint Committee on Pension Policy)

AN ACT Relating to the sharing of extraordinary investment gains; amending RCW 2.10.146, 41.26.460, 41.32.530, 41.32.785, 41.40.188, 41.40.660, 41.45.070, 41.45.060, and 41.04.275; adding a new chapter to Title 41 RCW; and making appropriations.

Referred to Committee on Ways and Means.

SB 6308 by Senators Fraser, Long, Winsley, Jacobsen, Bauer, Franklin, Roach and Rossi (by request of Joint Committee on Pension Policy)

AN ACT Relating to funding of the state retirement systems; amending RCW 41.45.020, 41.45.030, 41.45.060, and 41.45.090; and adding new sections to chapter 41.45 RCW.

Referred to Committee on Ways and Means.

SB 6309 by Senators Winsley, Franklin, Long, Bauer, Jacobsen, Fraser and Rossi (by request of Joint Committee on Pension Policy)

AN ACT Relating to creation of the public employees' retirement system, plan III; amending RCW 41.40.005, 41.40.054, 41.34.020, 41.34.030, 41.34.060, 41.34.080, 41.32.8401, 41.45.010, 41.45.020, 41.45.050, 41.45.060, 41.45.061, 41.45.070, 41.50.075, 41.50.086, 41.50.088, 41.05.011, and 43.33A.190; reenacting and amending RCW 41.40.010, 41.40.088, and 41.54.030; adding new sections to chapter 41.40 RCW; adding new sections to chapter 41.34 RCW; adding a new section to chapter 41.45 RCW; adding a new chapter to Title 41 RCW; and creating a new section.

Referred to Committee on Ways and Means.

SB 6310 by Senator Snyder

AN ACT Relating to sales and use tax deferrals and exemptions on investment projects; amending RCW 82.60.020 and 82.60.040; and providing an expiration date.

Referred to Committee on Ways and Means.

SB 6311 by Senators Snyder, Prince, Rasmussen and Goings

AN ACT Relating to the property taxation of assembly halls or meeting places; and amending RCW 84.36.037.

Referred to Committee on Ways and Means.

SB 6312 by Senators Swecker, Stevens and Oke

AN ACT Relating to tax exemptions for religious organizations; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; repealing RCW 82.04.339; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6313 by Senators Swecker, Rasmussen and Goings

AN ACT Relating to storm water control facilities; and amending RCW 36.89.080.

Referred to Committee on Energy and Utilities.

SB 6314 by Senators Morton, Rasmussen and Oke

AN ACT Relating to endangered species recovery plan funding; amending RCW 82.24.020 and 82.24.027; adding a new section to chapter 43.79 RCW; adding a new section to chapter 82.24 RCW; creating a new section; making an appropriation; and declaring an emergency.

Referred to Committee on Natural Resources and Parks.

SB 6315 by Senators Horn, Wood and Haugen (by request of Transportation Improvement Board)

AN ACT Relating to transportation improvement board bond retirement account revisions; and amending RCW 47.26.426, 47.26.427, 47.26.507, and 43.84.092.  
Referred to Committee on Transportation.

SB 6316 by Senators Zarelli and Kline

AN ACT Relating to discovery in actions or proceedings against the state; and adding a new section to chapter 4.92 RCW.  
Referred to Committee on Law and Justice.

SB 6317 by Senators Zarelli and Stevens

AN ACT Relating to adverse possession; amending RCW 4.16.020 and 7.28.010; adding a new section to chapter 4.16 RCW; and creating a new section.  
Referred to Committee on Law and Justice.

SB 6318 by Senators Heavey and Prentice

AN ACT Relating to requiring the public relations commission to petition courts to enforce its orders; and amending RCW 41.56.160.  
Referred to Committee on Commerce and Labor.

SB 6319 by Senators West, Wood, Kohl, McAuliffe and B. Sheldon (by request of Committee on Advanced College Tuition Payment and Higher Education Coordinating Board)

AN ACT Relating to the advanced college tuition payment program; amending RCW 39.42.060; reenacting and amending RCW 42.17.310; adding new sections to chapter 28B.95 RCW; and declaring an emergency.  
Referred to Committee on Higher Education.

SB 6320 by Senators Winsley, McCaslin, Haugen and Loveland

AN ACT Relating to small public works rosters; and reenacting and amending RCW 39.04.150.  
Referred to Committee on Government Operations.

SB 6321 by Senators Winsley, Fraser, Spanel, West, B. Sheldon, Oke, Rasmussen and Goings

AN ACT Relating to property tax exemptions and deferrals for senior citizens and persons retired for reasons of physical disability; amending RCW 84.36.381, 84.36.383, and 84.38.020; and creating a new section.  
Referred to Committee on Ways and Means.

SB 6322 by Senators Winsley, McCaslin, Haugen and Loveland

AN ACT Relating to job order contracting for public works; amending RCW 39.10.020, 39.08.030, 39.30.060, 60.28.011, and 39.10.902; adding a new section to chapter 39.10 RCW; adding a new section to chapter 39.12 RCW; and repealing RCW 39.10.020 and 39.10.---.  
Referred to Committee on Government Operations.

SB 6323 by Senators Roach, Long, Heavey, Swecker, Snyder, McCaslin, Goings and Rasmussen

AN ACT Relating to adverse possession affecting forest land; and adding a new section to chapter 7.28 RCW.  
Referred to Committee on Law and Justice.

SB 6324 by Senators Morton, Rasmussen, Oke, Swecker and West

AN ACT Relating to fish enhancement with remote site incubators; adding a new section to chapter 75.50 RCW; creating a new section; and making an appropriation.  
Referred to Committee on Natural Resources and Parks.

SB 6325 by Senators Oke, B. Sheldon and T. Sheldon

AN ACT Relating to additional state ferry vessels; adding new sections to chapter 47.60 RCW; creating a new section; and declaring an emergency.  
Referred to Committee on Transportation.

SB 6326 by Senators Schow, Rasmussen, Patterson, Horn, Zarelli, Stevens, Brown, Hochstatter, Swecker and Heavey

AN ACT Relating to disclosure of social security numbers by schools and school districts; and adding a new section to chapter 28A.320 RCW.  
Referred to Committee on Education.

SB 6327 by Senators Schow, Fairley, Roach, Finkbeiner, Heavey and Franklin

AN ACT Relating to providing entrepreneurial opportunities for disabled persons; amending RCW 39.19.010, 39.19.020, 39.19.030, 39.19.060, 39.19.080, 39.19.120, 39.19.150, 39.19.170, and 39.19.200; adding new sections to chapter 43.131 RCW; creating a new section; and providing an effective date.  
Referred to Committee on Commerce and Labor.

SB 6328 by Senators Oke, Jacobsen and Swecker (by request of Department of Fish and Wildlife)

AN ACT Relating to fish and wildlife code enforcement; amending RCW 75.12.320, 77.16.135, 75.08.011, 75.08.160, 75.08.274, 75.08.295, 75.08.300, 75.12.010, 75.12.015, 75.12.040, 75.12.132, 75.12.140, 75.12.210, 75.12.230, 75.12.390, 75.12.440, 75.12.650, 75.20.040, 75.20.060, 75.20.110, 75.24.080, 75.24.090, 75.24.100, 75.24.110, 75.28.010, 75.28.045, 75.28.095, 75.28.113, 75.28.125, 75.28.710, 75.28.740, 75.30.070, 75.30.140, 75.30.160, 75.30.210, 75.30.250, 75.30.280, 75.30.290, 75.30.350, 75.30.450, 75.58.010, 77.08.010, 77.12.055, 77.12.080, 77.12.090, 77.12.095, 77.12.120, 77.16.010, 77.16.020, 77.16.095, 77.16.170, 77.16.220, and 77.32.350; reenacting and amending RCW 75.30.130; adding a new chapter to Title 77 RCW; creating a new section; recodifying RCW 75.10.100, 75.10.220, 75.12.320, 77.12.120, 77.12.130, and 77.16.135; repealing RCW 75.10.010, 75.10.020, 75.10.030, 75.10.040, 75.10.050, 75.10.060, 75.10.080, 75.10.090, 75.10.110, 75.10.120, 75.10.130, 75.10.140, 75.10.170, 75.10.180, 75.10.190, 75.10.200, 75.10.210, 75.12.020, 75.12.031, 75.12.070, 75.12.090, 75.12.100, 75.12.115, 75.12.120, 75.12.125, 75.12.127, 75.12.400, 75.12.410, 75.12.420, 75.12.430, 75.24.050, 75.25.150, 77.12.060, 77.12.070, 77.16.040, 77.16.050, 77.16.060, 77.16.070, 77.16.080, 77.16.090, 77.16.100, 77.16.110, 77.16.120, 77.16.130, 77.16.150, 77.16.160, 77.16.180, 77.16.190, 77.16.250, 77.16.260, 77.16.310, 77.16.320, 77.16.330, 77.16.610, 77.21.010, 77.21.040, and 77.21.060; and prescribing penalties.  
Referred to Committee on Natural Resources and Parks.

SB 6329 by Senators Deccio, Thibaudeau, Wood and Loveland

AN ACT Relating to disclosure of health care information without patient's authorization; and amending RCW 70.02.050.  
Referred to Committee on Health and Long-Term Care.

SB 6330 by Senators Oke, Jacobsen, Swecker, Spanel, Loveland and Rasmussen

AN ACT Relating to fish and wildlife licenses; amending RCW 75.25.012, 75.25.091, 75.25.092, 75.25.095, 75.25.110, 75.25.120, 75.25.130, 75.25.140, 75.25.150, 75.25.170, 75.25.180, 75.25.190, 75.25.200, 77.32.005, 77.32.010, 77.32.014, 77.32.025, 77.32.050, 77.32.070, 77.32.090, 77.32.092, 77.32.155, 77.32.235, 77.32.240, 77.32.250, 77.32.320, 77.32.350, 77.32.370, 75.50.100, 75.54.140, 77.44.030, 77.08.045, 77.12.670, 77.12.690, 77.16.310, 77.21.020, 77.21.030, and 77.16.330; reenacting and amending RCW 75.25.005 and 75.25.080; adding new sections to chapter 75.25 RCW; adding new sections to chapter 77.32 RCW; adding a new section to chapter 42.17 RCW; repealing RCW 75.08.274, 77.12.810,

77.32.060, 77.32.101, 77.32.161, 77.32.230, 77.32.340, 77.32.352, 77.32.360, and 77.32.390; prescribing penalties; and making an appropriation.

Referred to Committee on Natural Resources and Parks.

SB 6331 by Senators Hargrove, Long, Fairley, Stevens and Oke

AN ACT Relating to teen parent eligibility for temporary assistance for needy families; amending RCW 74.12.255, 74.04.0052, and 74.08A.380; and creating a new section.

Referred to Committee on Health and Long-Term Care.

SB 6332 by Senators Winsley, Prentice, Heavey and Hale

AN ACT Relating to motor vehicle lubricant or chemical treatment product warranties; and amending RCW 48.01.050 and 48.96.010.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6333 by Senators Winsley, Prentice, Benton, Kline and Hale

AN ACT Relating to execution of a writ of restitution; and amending RCW 59.18.312.

Referred to Committee on Law and Justice.

SB 6334 by Senators Johnson, Rasmussen, Morton and Swecker

AN ACT Relating to temporary water rights for cities with populations no greater than five thousand; adding new sections to chapter 90.44 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Agriculture and Environment.

SB 6335 by Senators Schow, Heavey, Horn, Winsley and Anderson

AN ACT Relating to disclosures made for prize promotions; and amending RCW 19.170.030.

Referred to Committee on Commerce and Labor.

SB 6336 by Senators Bauer, Benton, Winsley, Schow and Zarelli

AN ACT Relating to local sales and use tax for funding for regional convention, conference, or special events centers; adding a new section to chapter 82.14 RCW; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6337 by Senators Winsley, Kline, Patterson, Kohl, Fairley, Brown, Goings, McAuliffe and Rasmussen

AN ACT Relating to property tax exemptions for nonprofit organizations; and amending RCW 84.36.043.

Referred to Committee on Ways and Means.

SB 6338 by Senators Benton, Swecker, Stevens, Oke, McDonald, Schow, Morton, Johnson, Hochstatter, McCaslin, Roach, Anderson and Strannigan

AN ACT Relating to parental notification for abortions provided to minors; amending RCW 9.02.100; adding new sections to chapter 9.02 RCW; creating a new section; prescribing penalties; and providing for submission of this act to a vote of the people.

Referred to Committee on Law and Justice.

SB 6339 by Senators Benton, Oke, Rossi, Deccio, Stevens, Schow, Morton, Roach, Swecker, Johnson, McCaslin, Strannigan, Hochstatter and Zarelli

AN ACT Relating to a common language; adding a new section to chapter 1.20 RCW; creating a new section; and providing for submission of this act to a vote of the people.  
Referred to Committee on Education.

SB 6340 by Senators Finkbeiner, Winsley and Oke

AN ACT Relating to telephone solicitation; and amending RCW 19.158.040.  
Referred to Committee on Energy and Utilities.

SB 6341 by Senator Snyder

AN ACT Relating to alternate operator licenses; and amending RCW 75.28.010, 75.28.030, 75.28.046, 75.28.047, and 75.28.048.  
Referred to Committee on Natural Resources and Parks.

SB 6342 by Senators Snyder, Swecker and Spanel

AN ACT Relating to sale of salmon eggs; adding a new section to chapter 75.08 RCW; and repealing RCW 75.08.245.  
Referred to Committee on Natural Resources and Parks.

SB 6343 by Senators Snyder, Swecker, Spanel and Rasmussen

AN ACT Relating to the prevention of wastage of viable salmon and trout eggs; adding a new section to chapter 75.50 RCW; and prescribing penalties.  
Referred to Committee on Natural Resources and Parks.

SB 6344 by Senators Brown, Morton and Rasmussen

AN ACT Relating to the transportation impacts of low-level radioactive waste; amending RCW 43.200.010; and adding a new section to chapter 43.200 RCW.  
Referred to Committee on Agriculture and Environment.

SJR 8214 by Senators T. Sheldon, Benton and Oke

Amending the Constitution to permit property tax relief.

Referred to Committee on Ways and Means.

#### MOTION

At 12:03 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Friday, January 16, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FOURTH DAY, JANUARY 15, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**FIFTH DAY**

-----  
**MORNING SESSION**  
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Senate Chamber, Olympia, Friday, January 16, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Bauer, Hargrove, Horn, McAuliffe, Prentice, Schow and West. On motion of Senator Franklin, Senators Bauer, Hargrove, McAuliffe and Prentice were excused. On motion of Senator Hale, Senator Schow was excused.

The Sergeant at Arms Color Guard, consisting of Pages Joseph Taylor and Margaret Elliott, presented the Colors. Reverend Walter Johnson, pastor of the Good Shepherd Missionary Church of Olympia, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**REPORTS OF STANDING COMMITTEES**

January 15, 1998

SB 5638 Prime Sponsor, Senator Fraser: Requiring a driver improvement interview when a person is involved in a fatal accident and is issued a traffic infraction. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Fairley, Goings, Hargrove, Kline, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

January 15, 1998

SB 6133 Prime Sponsor, Senator Oke: Allowing persons who have reported stolen property to inspect records of pawnbrokers and second-hand dealers. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: No recommendation and the bill be referred to Committee on Financial Institutions, Insurance and Housing. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Referred to Committee on Financial Institutions, Insurance and Housing.

January 15, 1998

SB 6142 Prime Sponsor, Senator Kline: Imposing administrative license suspensions on first-time DUI offenders. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, McCaslin and Stevens.

Passed to Committee on Rules for second reading.

January 15, 1998

SB 6169 Prime Sponsor, Senator Winsley: Regulating third-party appraisals. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: No recommendation and the bill be referred to Committee on Financial Institutions, Insurance and Housing. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Referred to Committee on Financial Institutions, Insurance and Housing.

January 16, 1998

SB 6209 Prime Sponsor, Senator Prince: Regulating current use taxation. Reported by Committee on Government Operations

MAJORITY recommendation: That the bill be referred to Committee on Agriculture and Environment. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Referred to Committee on Agriculture and Environment.

January 15, 1998

SB 6257 Prime Sponsor, Senator Strannigan: Lowering statutory levels for legal alcohol intoxication. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

January 15, 1998

SB 6299 Prime Sponsor, Senator Johnson: Identifying where actions for unlawful issuance of a check or draft may be brought. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

#### MESSAGE FROM THE HOUSE

January 14, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 1012,  
HOUSE BILL NO. 1038,  
HOUSE BILL NO. 1087,  
SUBSTITUTE HOUSE BILL NO. 1093,  
SUBSTITUTE HOUSE BILL NO. 1112,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1115,  
SUBSTITUTE HOUSE BILL NO. 1121,  
SUBSTITUTE HOUSE BILL NO. 1141,  
HOUSE BILL NO. 1172,  
SUBSTITUTE HOUSE BILL NO. 1174,  
SUBSTITUTE HOUSE BILL NO. 1193,  
SUBSTITUTE HOUSE BILL NO. 1195, and the same are herewith transmitted.

INTRODUCTION AND FIRST READING

SB 6345 by Senators Johnson, Anderson, Finkbeiner, Hale, Deccio, Rossi, Sellar, Oke, Hochstatter, McCaslin, Swecker, Schow, Stevens, Strannigan and Wood

AN ACT Relating to charter schools; amending RCW 41.59.080; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new chapter to Title 28A RCW; and declaring an emergency.  
Referred to Committee on Education.

SB 6346 by Senators Johnson and Heavey

AN ACT Relating to withdrawal from a regional transportation authority; and amending RCW 81.112.050.  
Referred to Committee on Transportation.

SB 6347 by Senators Deccio, McDonald, McCaslin, Benton, Hochstatter, Rossi, Morton, Hale, Long, Oke, Roach, Swecker, Johnson, Schow, Stevens, West, Anderson, Wood, Horn and Sellar

AN ACT Relating to income averaging for eligibility for temporary assistance for needy families benefits; and adding a new section to chapter 74.08A RCW.  
Referred to Committee on Health and Long-Term Care.

SB 6348 by Senators Hale and Haugen (by request of Department of Revenue)

AN ACT Relating to eliminating requirements for filing certificates or annual summaries for sales and use tax exemptions on manufacturing machinery and equipment; amending RCW 82.12.02565; reenacting and amending RCW 82.08.02565; and providing an effective date.  
Referred to Committee on Government Operations.

SB 6349 by Senators Anderson, Patterson and Swecker

AN ACT Relating to membership on the committee that establishes external boundaries of critical water supply service areas; and amending RCW 70.116.040.  
Referred to Committee on Agriculture and Environment.

SB 6350 by Senators Patterson, Roach, Kline, Long, Franklin, Anderson, Brown, Stevens, Kohl, Oke, Winsley, Swecker, Goings and Spanel

AN ACT Relating to delivery of a controlled substance to a pregnant woman; amending RCW 9.94A.390 and 13.40.150; and providing an effective date.  
Referred to Committee on Law and Justice.

SB 6351 by Senators Goings and Oke (by request of Washington State Patrol)

AN ACT Relating to eliminating an obsolete reference to index cross-reference reporting; and amending RCW 46.52.120.  
Referred to Committee on Transportation.

SB 6352 by Senators Wood and Haugen (by request of Washington State Patrol)

AN ACT Relating to examination eligibility requirements for Washington state patrol officers; and amending RCW 43.43.350.  
Referred to Committee on Government Operations.

SB 6353 by Senators Sellar and Goings (by request of Washington State Patrol)

AN ACT Relating to use of sick leave before eligibility for disability requirements of Washington state patrol officers; and amending RCW 43.43.040.

Referred to Committee on Government Operations.

SB 6354 by Senators Deccio, Wojahn, Benton, Thibaudeau, Wood, Franklin, Sellar, West, Hale, Anderson, Kohl, Winsley, Haugen, Patterson and Goings

AN ACT Relating to moneys received by the state pursuant to litigation or settlements with the tobacco industry; adding a new section to chapter 43.72 RCW; and declaring an emergency.

Referred to Committee on Health and Long-Term Care.

SB 6355 by Senators Winsley, Prentice, Sellar, Heavey, Benton and Hale (by request of Department of Financial Institutions)

AN ACT Relating to share insurance for credit unions; amending RCW 31.12A.007, 31.12.407, and 31.12.408; adding new sections to chapter 31.12A RCW; adding a new section to chapter 31.12 RCW; and providing expiration dates.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6356 by Senators Finkbeiner, Brown and Rossi (by request of Utilities and Transportation Commission)

AN ACT Relating to streamlining and clarifying regulatory requirements of telecommunication providers regulated by the utilities and transportation commission; amending RCW 80.36.310, 80.36.320, 80.36.330, 80.36.135, and 80.36.300; and adding a new section to chapter 80.36 RCW.

Referred to Committee on Energy and Utilities.

SB 6357 by Senators Finkbeiner, Brown and Jacobsen (by request of Utilities and Transportation Commission)

AN ACT Relating to excavation damage prevention and public safety; amending RCW 19.122.010, 19.122.020, and 19.122.070; and prescribing penalties.

Referred to Committee on Energy and Utilities.

SB 6358 by Senators Rossi, Finkbeiner, Brown and Jacobsen (by request of Utilities and Transportation Commission)

AN ACT Relating to utilities and transportation commission intrastate pipeline safety jurisdiction and penalties; adding new sections to chapter 81.88 RCW; and prescribing penalties.

Referred to Committee on Energy and Utilities.

SB 6359 by Senators Finkbeiner, Rossi, Brown and Jacobsen (by request of Utilities and Transportation Commission)

AN ACT Relating to filing of affiliated transactions with the utilities and transportation commission; and amending RCW 80.16.020, 80.16.030, 80.16.050, 80.16.060, 80.16.070, 81.16.020, 81.16.030, 81.16.050, 81.16.060, and 81.16.070.

Referred to Committee on Energy and Utilities.

SB 6360 by Senators Johnson and Kline

AN ACT Relating to processing fees for writs of garnishments that are not writs for continuing lien on earnings; amending RCW 6.27.005, 6.27.095, 6.27.100, and 6.27.110; and declaring an emergency.

Referred to Committee on Law and Justice.

SB 6361 by Senators Deccio, Wojahn, Benton, Franklin, Wood, Prentice and Winsley

AN ACT Relating to health care facility worker identification; and adding a new section to chapter 70.41 RCW.

Referred to Committee on Health and Long-Term Care.

SB 6362 by Senators Deccio, Wojahn, Wood and Winsley (by request of Department of Health)

AN ACT Relating to extending the time for the secretary of health to establish administrative procedures and requirements for health professions; and amending RCW 43.70.280.

Referred to Committee on Health and Long-Term Care.

SB 6363 by Senators Swecker and Oke

AN ACT Relating to eliminating fish passage barriers; amending RCW 75.50.160; adding a new section to chapter 75.50 RCW; adding a new section to chapter 79.38 RCW; creating new sections; making an appropriation; and declaring an emergency.

Referred to Committee on Natural Resources and Parks.

SB 6364 by Senators West, Benton, Strannigan, Finkbeiner, Rossi, Johnson, Hale, Oke and Swecker

AN ACT Relating to deposits to the emergency reserve fund; and creating a new section.

Referred to Committee on Ways and Means.

SB 6365 by Senators Kline, Roach, Long, Hargrove, Haugen, Johnson, Brown, Rasmussen, Jacobsen, Snyder, Winsley, Wojahn and Oke

AN ACT Relating to false claims against the government; adding a new chapter to Title 4 RCW; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6366 by Senators Kline, Kohl, Fairley, Brown, Patterson, Thibaudeau and Oke

AN ACT Relating to prohibiting investment of public pension and retirement funds in business firms manufacturing tobacco products; amending RCW 43.33A.110, 43.33A.130, 43.33A.140, and 43.84.150; adding a new section to chapter 43.33A RCW; and creating a new section.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6367 by Senators Kline, Bauer and Thibaudeau

AN ACT Relating to refunds from the motor vehicle fund that are credited to the nonhighway and off-road vehicle activities program account; and amending RCW 46.09.170.

Referred to Committee on Transportation.

SB 6368 by Senators Kline, Patterson, Fairley, Kohl, Goings, Jacobsen, McAuliffe, Snyder, Thibaudeau, Oke, Swecker and Haugen

AN ACT Relating to impoundment and forfeiture of vehicles operated by persons driving or in actual physical control of a vehicle while under the influence of intoxicating liquor; amending RCW 46.55.113, 46.55.120, 46.61.5058, and 46.12.240; creating a new section; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6369 by Senators Kline, Winsley, Patterson, McAuliffe and Prentice

AN ACT Relating to occupational drivers' licenses; amending RCW 46.20.391 and 46.20.394; and adding a new section to chapter 46.20 RCW.

Referred to Committee on Law and Justice.

SB 6370 by Senators Kline, Winsley, Brown, McAuliffe, Prentice and Franklin

AN ACT Relating to occupational drivers' licenses; and amending RCW 46.20.391.  
Referred to Committee on Law and Justice.

SB 6371 by Senators McCaslin, Haugen, Swecker, Bauer, Anderson, Winsley and Goings

AN ACT Relating to implementing the capital facilities elements of comprehensive plans adopted under the growth management act; amending RCW 36.70A.103, 82.45.060, and 43.84.092; adding a new section to chapter 36.70A RCW; and creating a new section.  
Referred to Committee on Government Operations.

SB 6372 by Senators Thibaudeau, Patterson, Brown, McAuliffe, Heavey, Kohl and Spanel

AN ACT Relating to the business and occupation taxation of child care; amending RCW 82.04.339; creating a new section; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6373 by Senators Wood, Thibaudeau, Franklin, McAuliffe, Brown, Prentice, Snyder, Rasmussen, Kohl, Oke and Swecker

AN ACT Relating to an end-of-life care center; adding a new chapter to Title 70 RCW; and making an appropriation.  
Referred to Committee on Health and Long-Term Care.

SB 6374 by Senators Thibaudeau, Kohl and Patterson

AN ACT Relating to medicaid eligibility for children; reenacting and amending RCW 74.09.510 and 74.09.510; and making an appropriation.  
Referred to Committee on Health and Long-Term Care.

SB 6375 by Senators Winsley, Prentice, Sellar, Hale and Benton

AN ACT Relating to the rates of interest and other fees charged by pawnbrokers; and amending RCW 19.60.060.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6376 by Senators Patterson, Long, Heavey, Jacobsen, Thibaudeau, Goings, Kohl and Spanel

AN ACT Relating to contraceptive health care benefits; adding a new section to chapter 48.43 RCW; and creating a new section.  
Referred to Committee on Health and Long-Term Care.

SB 6377 by Senators McCaslin, Patterson, Hale, T. Sheldon, Winsley, Snyder, Rasmussen, Prentice, Heavey, Sellar and Goings

AN ACT Relating to mobile or manufactured homes; amending RCW 43.63B.010, 43.63B.060, 35.63.110, 35A.63.100, 36.70.750, 46.70.011, 18.85.010, 18.85.330, 82.45.032, 65.20.910, 43.22.440, 46.04.302, and 65.20.020; adding new sections to chapter 43.63B RCW; adding a new section to chapter 36.70A RCW; creating new sections; and providing an effective date.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6378 by Senators Horn, Haugen, McCaslin and T. Sheldon

AN ACT Relating to adoption by reference of codes by the state building code council that constitute the state building code; and amending RCW 19.27.031 and 19.27.074.  
Referred to Committee on Government Operations.

SB 6379 by Senators Anderson, Spanel and Roach

AN ACT Relating to the retail sales tax exemption for sales of laundry service; and amending RCW 82.04.050.  
Referred to Committee on Ways and Means.

SB 6380 by Senators Winsley, Prentice, Hale, Oke, Patterson and Goings (by request of Department of Community, Trade, and Economic Development)

AN ACT Relating to mobile home relocation assistance; amending RCW 59.21.010, 59.21.021, 59.21.025, 59.21.040, and 59.21.050; and repealing RCW 59.21.015.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6381 by Senator Fairley

AN ACT Relating to eliminating the time limit on regular tax levies for medical care and services; amending RCW 84.52.069; and creating a new section.  
Referred to Committee on Health and Long-Term Care.

SB 6382 by Senators Wood and Thibaudeau

AN ACT Relating to the endorsement of school sealant endorsed dental hygienists; adding new sections to chapter 18.29 RCW; and creating a new section.  
Referred to Committee on Health and Long-Term Care.

SB 6383 by Senators Wood and Fairley

AN ACT Relating to inactive status for physical therapists; and adding a new section to chapter 18.74 RCW.  
Referred to Committee on Health and Long-Term Care.

SB 6384 by Senators Wood and Fairley

AN ACT Relating to limited licensure for physical therapists; and adding a new section to chapter 18.74 RCW.  
Referred to Committee on Health and Long-Term Care.

SB 6385 by Senators Roach, Fraser, Swecker, Oke, Winsley, Spanel, B. Sheldon, Fairley, Kline, Thibaudeau, Franklin and Patterson

AN ACT Relating to notification of pesticide application; amending RCW 17.21.020; and adding a new section to chapter 17.21 RCW.  
Referred to Committee on Agriculture and Environment.

SB 6386 by Senators Fraser, Horn, Heavey, Fairley, Goings, T. Sheldon, Schow, Oke and Winsley

AN ACT Relating to notice of actions against drivers' licenses; amending RCW 46.25.040; and adding a new section to chapter 46.20 RCW.  
Referred to Committee on Transportation.

SB 6387 by Senators Fraser, Swecker, Fairley, Rasmussen and Winsley

AN ACT Relating to authorizing deductions from retirement allowances for charitable purposes; and reenacting and amending RCW 41.40.052.  
Referred to Committee on Ways and Means.

SB 6388 by Senators Fraser, Franklin, Prentice and Winsley

AN ACT Relating to mobile home park landlord-tenant agreements; amending RCW 59.20.160; and reenacting and amending RCW 59.20.060.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6389 by Senators Fraser and Swecker

AN ACT Relating to the use of revenues under the county conservation futures levy; and amending RCW 84.34.230.

Referred to Committee on Agriculture and Environment.

SB 6390 by Senators Fraser, Patterson, Heavey, Swecker, Rasmussen, Winsley and Goings

AN ACT Relating to retail sales and use taxation; and amending RCW 82.08.010 and 82.12.010.

Referred to Committee on Ways and Means.

SB 6391 by Senators Wood, Haugen, Horn, Benton, Rasmussen, Oke, Prince, Patterson, Jacobsen, Goings, Prentice, Fraser, Morton, B. Sheldon and Bauer

AN ACT Relating to confidentiality of certain public transportation information; and adding a new section to chapter 42.17 RCW.

Referred to Committee on Transportation.

SB 6392 by Senators Strannigan, Long, West and Oke

AN ACT Relating to licensed overnight youth shelters; adding a new section to chapter 74.15 RCW; creating a new section; and making an appropriation.

Referred to Committee on Human Services and Corrections.

SB 6393 by Senators Winsley and Prentice (by request of Insurance Commissioner Senn)

AN ACT Relating to institutions conducting a charitable gift annuity business; amending RCW 48.38.010, 48.38.020, 48.38.040, 48.38.050, and 48.31.020; and adding new sections to chapter 48.38 RCW.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6394 by Senators Hochstatter, Stevens, Oke and Swecker

AN ACT Relating to science textbooks; and adding a new section to chapter 28A.150 RCW.

Referred to Committee on Education.

SB 6395 by Senators Horn, Schow and Anderson

AN ACT Relating to civil penalties for accident prevention program violations; and amending RCW 49.17.180.

Referred to Committee on Commerce and Labor.

SB 6396 by Senators Wood, Kohl, Winsley, Haugen, Prince, Bauer and West

AN ACT Relating to the Washington center for real estate research; adding new sections to chapter 28B.30 RCW; adding new sections to chapter 43.131 RCW; and creating a new section.

Referred to Committee on Higher Education.

SB 6397 by Senators Fraser, Roach, Fairley, Kohl, Oke and Swecker

AN ACT Relating to rape victim protection; amending RCW 13.34.030, 26.26.060, 26.26.170, and 13.34.200; adding a new section to chapter 9A.44 RCW; and declaring an emergency.



Referred to Committee on Law and Justice.

SB 6398 by Senators McCaslin and Winsley (by request of Secretary of State Munro)

AN ACT Relating to testing of voting systems; and amending RCW 29.33.145, 29.33.350, and 29.33.360.  
Referred to Committee on Government Operations.

SB 6399 by Senators Oke, Haugen, Morton and Rasmussen

AN ACT Relating to security of drivers' licenses; amending RCW 46.20.091, 46.20.117, 46.20.161, and 46.20.181; reenacting and amending RCW 46.63.020; adding a new section to chapter 46.04 RCW; adding new sections to chapter 46.20 RCW; adding a new section to chapter 42.17 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Transportation.

SB 6400 by Senators Brown, Finkbeiner, Oke and Thibaudeau (by request of Department of Social and Health Services)

AN ACT Relating to extending the Washington telephone assistance program; and amending 1993 c 249 s 3 (uncodified).

Referred to Committee on Energy and Utilities.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1012 by Representatives Cairnes, Skinner, Hankins, Robertson, Chandler, Mitchell, B. Thomas, L. Thomas, Cooke and Mielke

Authorizing highway bonds.

Referred to Committee on Transportation.

HB 1038 by Representatives D. Schmidt, Scott and D. Sommers

Providing procedural requirements for recording documents in the office of the county auditor.

Referred to Committee on Government Operations.

HB 1087 by Representative Sheahan

Providing penalties for public consumption of liquor.

Referred to Committee on Law and Justice.

SHB 1093 by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Costa, D. Sommers, Dunn, O'Brien and Anderson)

Making various changes in election laws.

Referred to Committee on Government Operations.

SHB 1112 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Mastin, Koster, Delvin, Mulliken, Johnson, B. Thomas and Honeyford)

Adjudicating water rights.

Referred to Committee on Agriculture and Environment.

ESHB 1115 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Mastin, Chandler, McMorris, Koster, Delvin, Mulliken, Johnson, Dyer and Honeyford)

Altering appeal procedures for water-related actions of the department of ecology.

Referred to Committee on Agriculture and Environment.

SHB 1121 by House Committee on Children and Family Services (originally sponsored by Representatives Veloria, Cooke, Tokuda, Wolfe, Dunn and Costa)

Revising legal custody of children.

Referred to Committee on Human Services and Corrections.

SHB 1141 by House Committee on Government Administration (originally sponsored by Representatives Scott, Dunshee and Poulsen) (by request of Governor Lowry)

Eliminating boards and commissions.

Referred to Committee on Government Operations.

HB 1172 by Representatives D. Sommers, Sterk, O'Brien, Koster, Thompson, Delvin, Sherstad, Schoesler, Hatfield and Conway

Concerning the failure to register as a sex offender.

Referred to Committee on Human Services and Corrections.

SHB 1174 by House Committee on Government Administration (originally sponsored by Representatives Koster, Dunn, McMorris and Boldt)

Extending less than county-wide port districts.

Referred to Committee on Government Operations.

SHB 1193 by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Dunn, L. Thomas, Wolfe, Scott and Wensman)

Controlling personal service contracts.

Referred to Committee on Government Operations.

SHB 1195 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Robertson, Schoesler, Dunshee, Sterk, Scott, K. Schmidt, Buck, Smith, Delvin, Hickel, Carlson, Hatfield, DeBolt, Dunn and Mulliken)

Requiring proof of auto insurance to drivers' license examiners.

Referred to Committee on Transportation.

#### MOTION

At 10:08 a.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Monday, January 19, 1998.

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FIFTH DAY, JANUARY 16, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**EIGHTH DAY**

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MORNING SESSION  
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Senate Chamber, Olympia, Monday, January 19, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Anderson, Finkbeiner, Kline and Strannigan. On motion of Senator Hale, Senators Anderson, Finkbeiner and Strannigan were excused. On motion of Senator Franklin, Senator Kline was excused.

The Sergeant at Arms Color Guard, consisting of Pages Patty Boberg and Kyle Anderson, presented the Colors. Reverend Jim Erlandson, pastor of The Reorganized Church of Jesus Christ of Latter-Day Saints of Olympia, offered the prayer.

MOMENT OF SILENCE

The President requested a moment of silence in memory of Stanley McNaughton, longtime Seattle businessman and longtime friend of the Legislature, who died early this morning.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORT OF STANDING COMMITTEE

January 15, 1998

SB 6220 Prime Sponsor, Senator Horn: Allowing airline employees to trade shifts without overtime pay. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

MESSAGES FROM THE HOUSE

January 16, 1998

MR. PRESIDENT:

The Speaker has signed:  
SENATE CONCURRENT RESOLUTION NO. 8421,  
SENATE CONCURRENT RESOLUTION NO. 8422,

SENATE CONCURRENT RESOLUTION NO. 8423, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

January 16, 1998

MR. PRESIDENT:

The Speaker has signed HOUSE CONCURRENT RESOLUTION NO. 4426, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
HOUSE CONCURRENT RESOLUTION NO. 4426.

INTRODUCTION AND FIRST READING

SB 6401 by Senators Rasmussen and Franklin

AN ACT Relating to the summer school jump start program; adding a new section to chapter 28A.630 RCW; creating a new section; and making an appropriation.  
Referred to Committee on Education.

SB 6402 by Senators Schow, Kline, Newhouse and Prentice

AN ACT Relating to a fund raising event; and amending RCW 9.46.0233.  
Referred to Committee on Commerce and Labor.

SB 6403 by Senators Goings, Wood, Haugen and Rasmussen

AN ACT Relating to statutes authorizing the Washington state patrol; amending RCW 43.43.010, 43.43.020, 43.43.330, and 43.43.350; adding a new section to chapter 43.43 RCW; and repealing RCW 43.43.370 and 43.43.380.  
HOLD.

SB 6404 by Senators Goings, Wood, Haugen, Rasmussen and Fairley

AN ACT Relating to backup alert devices on delivery trucks; amending RCW 46.37.400; and providing an effective date.  
Referred to Committee on Transportation.

SB 6405 by Senators Strannigan, Fairley and Winsley

AN ACT Relating to establishing utilization review and disclosure standards for outpatient mental health services; and adding a new section to chapter 48.43 RCW.  
Referred to Committee on Health and Long-Term Care.

SB 6406 by Senators Anderson, Brown, Long, Franklin, Strannigan, Winsley and Oke

AN ACT Relating to the adoption support program; and reenacting and amending RCW 70.47.060.  
Referred to Committee on Health and Long-Term Care.

SB 6407 by Senators Wood, Kohl, Bauer, Patterson, B. Sheldon, Winsley and Oke (by request of Board of Education)

AN ACT Relating to teacher assessment for certification; adding new sections to chapter 28A.410 RCW; creating a new section; and repealing RCW 28A.410.020.  
Referred to Committee on Education.

SB 6408 by Senators McCaslin, Kline, Long, Fairley, Stevens, Hargrove, Zarelli, Johnson, Thibaudeau, Haugen, Schow, Roach and Oke

AN ACT Relating to penalties for alcohol violators; reenacting and amending RCW 46.61.5055; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6409 by Senators Hargrove and Long (by request of Department of Social and Health Services)

AN ACT Relating to care for children with developmental disabilities provided by the department of social and health services in the division of developmental disabilities; amending RCW 71A.10.020, 71A.12.040, and 74.20A.030; adding a new section to chapter 71A.10 RCW; and creating a new section.  
Referred to Committee on Human Services and Corrections.

SB 6410 by Senators Rossi, Snyder, Swecker, T. Sheldon, Stevens, Morton and Hargrove

AN ACT Relating to redeployment of personnel in the department of fish and wildlife; creating new sections; and declaring an emergency.  
Referred to Committee on Natural Resources and Parks.

SB 6411 by Senators Deccio, Wood, Prentice, Franklin, Winsley, Kohl and Oke (by request of Department of Health)

AN ACT Relating to department of health recommendations removing barriers to nurse delegation; and amending RCW 18.88A.030 and 18.88A.210.  
Referred to Committee on Health and Long-Term Care.

SB 6412 by Senators McCaslin, Patterson, Heavey, Roach, Haugen and Schow

AN ACT Relating to voting for port commissioners; amending RCW 53.12.010; and adding a new section to chapter 53.12 RCW.  
Referred to Committee on Government Operations.

SB 6413 by Senators Patterson, Heavey, Roach, Schow and Jacobsen

AN ACT Relating to airport noise property tax exemptions for port district property taxes; amending RCW 84.55.010; adding a new section to chapter 47.68 RCW; and adding a new section to chapter 84.36 RCW.  
Referred to Committee on Transportation.

SB 6414 by Senators Stevens, Roach and Benton

AN ACT Relating to open public meetings; amending RCW 42.30.020 and 42.30.120; and prescribing penalties.  
Referred to Committee on Government Operations.

SB 6415 by Senators Hale, Loveland and Oke

AN ACT Relating to taxation of neighborhood recreational organizations; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; and adding a new section to chapter 82.12 RCW.  
Referred to Committee on Ways and Means.

SB 6416 by Senators Hale, Benton and Oke (by request of Secretary of State Munro)

AN ACT Relating to the order of candidates on ballots; amending RCW 29.30.025; and repealing RCW 29.30.040.  
Referred to Committee on Government Operations.

SB 6417 by Senators Anderson, T. Sheldon, Swecker, Hargrove, Zarelli and Hale

AN ACT Relating to allowing rural counties to authorize additional industrial development in rural areas; and adding a new section to chapter 36.70A RCW.  
Referred to Committee on Government Operations.

SB 6418 by Senators Deccio, Wojahn, Fairley, Wood and Winsley (by request of Department of Social and Health Services)

AN ACT Relating to implementing amendments relating to child support contained in the federal personal responsibility and work opportunity reconciliation act of 1996; amending RCW 26.23.050, 26.23.055, 26.23.120, and 26.23.040; reenacting and amending RCW 74.20A.080; adding a new section to chapter 26.23 RCW; prescribing penalties; and providing an effective date.  
Referred to Committee on Health and Long-Term Care.

SB 6419 by Senators Deccio, Wojahn, Fairley, Wood and Winsley (by request of Department of Social and Health Services)

AN ACT Relating to food stamps or food stamp benefits transferred electronically; amending RCW 9.91.140, 10.101.010, 34.05.482, 43.20B.620, 43.20B.630, 74.04.300, 74.04.380, 74.04.500, 74.04.510, 74.04.515, 74.04.520, 74.04.750, 74.08.046, 74.08.080, 74.08.331, 74.25A.045, 82.08.0297, and 82.12.0297; and reenacting and amending RCW 74.04.005.  
Referred to Committee on Health and Long-Term Care.

SB 6420 by Senators Schow, Heavey and Winsley (by request of Employment Security Department)

AN ACT Relating to application for initial determination for unemployment insurance benefits; and amending RCW 50.20.140.  
Referred to Committee on Commerce and Labor.

SB 6421 by Senators Schow, Heavey and Winsley (by request of Employment Security Department)

AN ACT Relating to unemployment compensation for persons with public employment contracts; amending RCW 50.04.320; and creating a new section.  
Referred to Committee on Commerce and Labor.

SB 6422 by Senators Schow, Heavey and Winsley (by request of Employment Security Department)

AN ACT Relating to support for collaborative efforts toward worker reemployment; amending RCW 50.12.190; and creating new sections.  
Referred to Committee on Commerce and Labor.

SB 6423 by Senators Schow, Heavey and Winsley (by request of Employment Security Department)

AN ACT Relating to unemployment compensation for part-time faculty; amending RCW 50.44.050 and 50.44.053; creating a new section; and declaring an emergency.  
Referred to Committee on Commerce and Labor.

SB 6424 by Senators Haugen, McAuliffe, Prentice, Kline, Goings, Fairley and Spanel

AN ACT Relating to the placement of children under the jurisdiction of the department of social and health services; amending RCW 72.05.020, 74.15.020, and 28A.600.475; reenacting and amending RCW 13.50.010; adding new

sections to chapter 72.05 RCW; adding a new section to chapter 74.15 RCW; adding a new section to chapter 13.40 RCW; adding a new chapter to Title 36 RCW; and creating new sections.  
Referred to Committee on Human Services and Corrections.

SB 6425 by Senators McCaslin, Haugen and Fraser

AN ACT Relating to legal authority of agency heads; and amending RCW 34.05.010.  
Referred to Committee on Government Operations.

SB 6426 by Senators Heavey, Patterson and Kline

AN ACT Relating to defining "uniformed personnel" for public employees' collective bargaining; and amending RCW 41.56.030.  
Referred to Committee on Government Operations.

SB 6427 by Senators Heavey, Patterson and Kline

AN ACT Relating to defining "uniformed personnel" for public employees' collective bargaining; and amending RCW 41.56.030.  
Referred to Committee on Government Operations.

SB 6428 by Senators Kohl, Wojahn, Thibaudeau, Patterson, Wood, Winsley, B. Sheldon, Schow, Heavey, Franklin, Fairley and Fraser

AN ACT Relating to the health effects of noise; and creating new sections.  
Referred to Committee on Health and Long-Term Care.

SB 6429 by Senators Long, Kline, Wojahn, Fairley, Winsley and Kohl (by request of Washington Council for Prevention of Child Abuse and Neglect)

AN ACT Relating to the treasurer's trust fund; and reenacting and amending RCW 43.79A.040.  
Referred to Committee on Human Services and Corrections.

SB 6430 by Senators McCaslin, Roach, Swecker, Oke, Johnson, Sellar, West and Schow

AN ACT Relating to boundary review board review of city incorporations; and amending RCW 36.93.150.  
Referred to Committee on Government Operations.

SB 6431 by Senators Roach, Goings, Rasmussen, T. Sheldon, Rossi, Stevens, Long, Hochstatter, Oke, Swecker, McCaslin, Morton, Johnson, Deccio, Sellar and Haugen

AN ACT Relating to impoundment and forfeiture of vehicles operated by persons driving or in actual physical control of a vehicle while under the influence of intoxicating liquor; amending RCW 46.55.113, 46.55.120, 46.61.5058, and 46.12.240; creating a new section; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6432 by Senators Benton, Long, Heavey, Zarelli, Swecker, Rossi, Roach, Morton, McCaslin, Deccio, T. Sheldon, Stevens, West, Johnson, Sellar, Strannigan, Schow and Oke

AN ACT Relating to compulsory study of the United States Constitution and the Declaration of Independence; and amending RCW 28A.230.170.  
Referred to Committee on Education.

SB 6433 by Senators Long, Franklin, Zarelli, Winsley and Stevens (by request of Attorney General Gregoire)

AN ACT Relating to registration of individuals who have committed sex or kidnapping offenses; amending RCW 9A.44.135, 9A.44.140, and 43.43.540; reenacting and amending RCW 9A.44.130; and declaring an emergency.  
Referred to Committee on Human Services and Corrections.

SB 6434 by Senators Finkbeiner, Brown, Winsley, Jacobsen, Haugen, Rasmussen and Kohl (by request of Attorney General Gregoire)

AN ACT Relating to electronic mail; adding a new chapter to Title 19 RCW; and prescribing penalties.  
Referred to Committee on Energy and Utilities.

SB 6435 by Senators Wood, Prentice and Winsley

AN ACT Relating to vehicle dealer license requirements; and reenacting and amending RCW 46.70.041.  
Referred to Committee on Transportation.

SB 6436 by Senators Horn, McCaslin, Patterson and Haugen

AN ACT Relating to authorizing regional transit authorities to issue short-term obligations; and amending RCW 39.50.010.  
Referred to Committee on Transportation.

SB 6437 by Senators Brown, Prentice, Franklin, Wood, T. Sheldon, Winsley, McAuliffe, Kline, Prince, Heavey, B. Sheldon, Snyder, Patterson, Fairley, Rasmussen, Fraser, Haugen, Thibaudeau, Jacobsen, Goings, Spanel, Horn, Kohl and Wojahn

AN ACT Relating to federal funding; and creating a new section.  
Referred to Committee on Human Services and Corrections.

SB 6438 by Senators Winsley and Prentice

AN ACT Relating to private activity bond allocation ceilings; and amending RCW 39.86.120.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6439 by Senators Wood, Haugen, Prince and Horn (by request of Department of Transportation)

AN ACT Relating to construction of certain highway projects under a design-build procedure; creating new sections; and providing a contingent expiration date.  
Referred to Committee on Transportation.

SB 6440 by Senators Heavey, Prince, Haugen, Horn, Winsley and Jacobsen (by request of Department of Transportation)

AN ACT Relating to studded tires; amending RCW 46.37.420; adding a new section to chapter 46.04 RCW; adding new sections to chapter 46.37 RCW; and providing an effective date.  
Referred to Committee on Transportation.

SB 6441 by Senators Oke, Prince, Haugen and Winsley (by request of Department of Transportation)

AN ACT Relating to environmental protection change orders in public projects; and amending RCW 39.04.120.  
Referred to Committee on Transportation.

SB 6442 by Senators Franklin, Winsley, Loveland, Fairley, Prentice, Thibaudeau, Kohl, Kline, Snyder, Heavey, Schow, T. Sheldon, Patterson, Rasmussen, Goings, Hargrove, McAuliffe, Spanel and B. Sheldon



AN ACT Relating to low-cost housing for low-income buyers; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.45 RCW; and adding a new section to chapter 82.46 RCW.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6443 by Senators Spanel, Swecker, Fraser, Jacobsen, Haugen, Snyder, McAuliffe, Bauer and Kohl

AN ACT Relating to state funding for salmon-related programs; amending 1997 c 454 s 302 (uncodified); amending 1997 c 454 s 304 (uncodified); amending 1997 c 454 s 305 (uncodified); and making appropriations.

Referred to Committee on Ways and Means.

SB 6444 by Senators Spanel, Fraser, Jacobsen, Haugen, Fairley, Snyder, McAuliffe and Kohl

AN ACT Relating to providing guidance in developing habitat conservation plans and similar endangered species agreements; and adding a new chapter to Title 77 RCW.

Referred to Committee on Natural Resources and Parks.

SB 6445 by Senators Long, Hargrove, Haugen, Zarelli, McAuliffe, Franklin and Winsley

AN ACT Relating to the placement of children under the jurisdiction of the department of social and health services; amending RCW 72.05.020, 74.15.020, and 28A.600.475; reenacting and amending RCW 13.50.010; adding new sections to chapter 72.05 RCW; adding a new section to chapter 74.15 RCW; adding a new section to chapter 13.40 RCW; and creating new sections.

Referred to Committee on Human Services and Corrections.

SB 6446 by Senators Wojahn, Thibaudeau, Fairley, McAuliffe, Brown, Kohl, Prentice, Heavey, Kline and Spanel

AN ACT Relating to providing the necessary revenues for the support of health care for the citizens of Washington state; amending RCW 82.03.130, 82.03.140, 48.14.080, 82.04.4289, 82.08.150, and 82.04.4328; reenacting and amending RCW 82.04.260 and 66.24.290; adding a new section to chapter 82.04 RCW; adding a new title to the Revised Code of Washington to be codified as Title 82A RCW; creating new sections; repealing RCW 48.14.0201, 82.04.220, 82.04.2201, 82.04.230, 82.04.240, 82.04.2403, 82.04.250, 82.04.255, 82.04.270, 82.04.280, 82.04.290, 82.04.293, 82.04.297, 82.04.310, 82.04.312, 82.04.315, 82.04.317, 82.04.320, 82.04.322, 82.04.324, 82.04.327, 82.04.330, 82.04.333, 82.04.335, 82.04.337, 82.04.339, 82.04.3395, 82.04.340, 82.04.350, 82.04.355, 82.04.360, 82.04.363, 82.04.365, 82.04.366, 82.04.367, 82.04.368, 82.04.370, 82.04.380, 82.04.385, 82.04.390, 82.04.392, 82.04.395, 82.04.397, 82.04.399, 82.04.405, 82.04.408, 82.04.410, 82.04.415, 82.04.418, 82.04.419, 82.04.421, 82.04.423, 82.04.425, 82.04.4271, 82.04.4281, 82.04.4282, 82.04.4283, 82.04.4284, 82.04.4285, 82.04.4286, 82.04.4287, 82.04.4291, 82.04.4292, 82.04.4293, 82.04.4294, 82.04.4295, 82.04.4296, 82.04.4297, 82.04.4298, 82.04.431, 82.04.432, 82.04.4322, 82.04.4324, 82.04.4326, 82.04.4327, 82.04.4329, 82.04.433, 82.04.4331, 82.04.4333, 82.04.434, 82.04.435, 82.04.440, 82.04.4451, 82.04.4452, 82.04.4453, 82.04.4454, 82.04.4455, 82.04.460, 82.04.480, 82.04.500, 82.04.510, 82.04.600, 82.04.900, 82.16.010, 82.16.020, 82.16.030, 82.16.040, 82.16.042, 82.16.047, 82.16.048, 82.16.049, 82.16.050, 82.16.053, 82.16.055, 82.16.060, 82.16.080, and 82.16.090; prescribing penalties; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6447 by Senators Kohl, Winsley, Anderson, Hale, Spanel, Brown, Jacobsen, T. Sheldon, Goings, Snyder and B. Sheldon (by request of Governor Locke)

AN ACT Relating to tax exemption from the state share of labor and services on higher education facility construction; amending RCW 81.104.170 and 82.14.820; reenacting and amending RCW 82.04.190; adding new sections to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; creating a new section; and providing an effective date.

Referred to Committee on Higher Education.

SB 6448 by Senators Winsley, Prentice, Kohl, McAuliffe, Snyder, Fraser, B. Sheldon, Jacobsen, Goings, Patterson, Bauer and Rasmussen (by request of Governor Locke)

AN ACT Relating to the education excellence account; amending RCW 43.84.092; adding a new section to chapter 28A.415 RCW; creating a new section; providing an effective date; and declaring an emergency.  
Referred to Committee on Education.

SB 6449 by Senators West, Anderson, Kohl, T. Sheldon, Jacobsen, Goings and Winsley (by request of Governor Locke)

AN ACT Relating to the business and occupation taxation of income in the nature of royalties for the use of intangible rights; amending RCW 82.04.290; adding a new section to chapter 82.04 RCW; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6450 by Senators West, Spanel, Jacobsen, Loveland, Thibaudeau, Franklin, Winsley, Bauer and Kohl (by request of Governor Locke)

AN ACT Relating to fiscal matters; amending RCW 50.24.014; amending 1997 c 454 ss 101, 102, 103, 104, 105, 202, 203, 204, 205, 206, 207, 208, 210, 211, 212, 213, 214, 301, 302, 303, 304, 305, 501, 503, 504, 505, 506, 507, 508, 601, 602, 603, 604, 605, 606, 607, 608, 609, 611, 801, and 802 (uncodified); amending 1997 c 149 ss 101, 102, 110, 111, 112, 114, 116, 117, 120, 121, 123, 129, 134, 136, 140, 142, 143, 146, 152, 204, 205, 206, 209, 210, 217, 306, 309, 310, 401, 402, 502, 505, 506, 507, 508, 509, 511, 513, 516, 612, 614, 616, 618, 619, 701, 703, 705, 710, and 905 (uncodified); adding new sections to 1997 c 149 (uncodified); making appropriations; and declaring an emergency.  
Referred to Committee on Ways and Means.

SB 6451 by Senators Deccio, Snyder, West, Hale, Winsley, Sellar, Anderson, Horn and Schow (by request of Governor Locke)

AN ACT Relating to resolving conflicts in lodging tax statutes enacted in 1997; amending RCW 67.28.181 and 67.28.1817; adding a new section to chapter 67.28 RCW; creating a new section; and declaring an emergency.  
Referred to Committee on Government Operations.

SB 6452 by Senators Snyder, Winsley, Kohl, Loveland, T. Sheldon, Goings, B. Sheldon, Patterson and Bauer (by request of Governor Locke)

AN ACT Relating to providing a tax incentive to build facilities to be used by biotechnology businesses; amending RCW 82.63.010 and 82.63.045; adding a new section to chapter 82.63 RCW; creating a new section; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6453 by Senators Kline, Winsley, Wojahn, Thibaudeau, Patterson, Bauer and Kohl (by request of Governor Locke)

AN ACT Relating to the revenue provisions for low-income housing programs; amending RCW 82.46.010, 82.45.060, 82.45.180, and 84.36.043; adding a new section to chapter 82.45 RCW; creating new sections; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6454 by Senators Prince, Haugen, Wood, Horn and Bauer (by request of Governor Locke)

AN ACT Relating to transportation bonds; adding new sections to chapter 47.10 RCW; adding new sections to chapter 47.60 RCW; and creating a new section.  
Referred to Committee on Transportation.

SB 6455 by Senators Strannigan, West, Anderson, Fraser and Spanel (by request of Governor Locke)

AN ACT Relating to the capital budget; amending 1997 c 235 ss 152, 219, 301, 302, 329, 344, 501, 566, 567, 606, 611, 612, 659, and 702 (uncodified); adding new sections to chapter 1997 c 235; making appropriations and authorizing expenditures for capital improvements; and declaring an emergency.

Referred to Committee on Ways and Means.

SB 6456 by Senators Prince, Haugen, Wood, Kline and Horn (by request of Governor Locke)

AN ACT Relating to transportation funding and appropriations; amending 1997 c 457 ss 208, 209, 210, 211, 212, 213, 214, 216, 217, 218, 219, 220, 221, 222, 224, 225, 226, 227, 228, 401, 402, 403, 407, and 517 (uncodified); adding new sections to 1997 c 457 (uncodified); making appropriations; and declaring an emergency.

Referred to Committee on Transportation.

SB 6457 by Senators Winsley, Hale, Long, Kline, Franklin, Patterson, Thibaudeau, Goings and Oke (by request of Governor Locke)

AN ACT Relating to providing business and occupation tax credits for financial institutions making qualified donations for first-time home buyer assistance; adding a new section to chapter 82.04 RCW; adding a new section to chapter 43.180 RCW; and providing an effective date.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6458 by Senators Prince, Haugen, Wood, Patterson, Kline, Horn, Goings and Oke (by request of Governor Locke)

AN ACT Relating to providing a tax exemption for the state share of labor and services on state roads and high capacity transportation systems construction; amending RCW 81.104.170 and 82.14.820; reenacting and amending RCW 82.04.190; adding new sections to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; creating a new section; and providing an effective date.

Referred to Committee on Transportation.

SB 6459 by Senators Prince, Haugen, Horn, Kline, Bauer and Rasmussen (by request of Governor Locke)

AN ACT Relating to transportation funding; amending RCW 36.78.070, 46.68.110, 46.68.130, 47.26.405, 47.26.425, 47.26.4252, 47.26.4254, 47.26.505, 47.30.030, 47.30.050, 47.56.725, 47.56.750, 47.56.771, 47.60.420, 82.36.020, 82.36.025, 82.36.100, 82.38.030, and 82.38.075; reenacting and amending RCW 46.68.090; adding new sections to chapter 82.36 RCW; adding a new section to chapter 82.38 RCW; repealing RCW 46.68.095, 46.68.100, 46.68.115, 46.68.150, 47.26.060, 47.26.070, and 47.26.410; and providing effective dates.

Referred to Committee on Transportation.

SB 6460 by Senators Anderson, Hale, Swecker, T. Sheldon, Snyder, Loveland, Hargrove, Franklin, Haugen, Fraser, Spanel, Jacobsen, Goings, B. Sheldon, Thibaudeau, Patterson, Schow, Rasmussen and Kohl (by request of Governor Locke)

AN ACT Relating to tax incentives for the development of job opportunities in distressed counties; amending RCW 81.104.170, 82.62.030, and 82.14.370; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; adding a new section to chapter 82.16 RCW; adding a new section to chapter 44.28 RCW; adding a new chapter to Title 84 RCW; creating new sections; and providing an effective date.

Referred to Committee on Commerce and Labor.

SB 6461 by Senators Prince, Haugen, Wood, Winsley, Heavey, Loveland, Snyder, Kohl, Jacobsen, Patterson, Prentice, Thibaudeau, Franklin, Spanel, McAuliffe, Goings, Fraser, Schow and Rasmussen (by request of Governor Locke)

AN ACT Relating to creating partnerships for strategic freight investments; amending RCW 47.01.071 and 47.05.051; adding a new section to chapter 47.06 RCW; and adding a new chapter to Title 47 RCW.

Referred to Committee on Transportation.

SB 6462 by Senators Prince, Haugen, Wood, Patterson, Loveland, Snyder, Jacobsen, Franklin, McAuliffe, Kline, Thibaudeau, Goings, Spanel, Fraser, Winsley, Bauer and Rasmussen (by request of Governor Locke)

AN ACT Relating to providing additional motor vehicle excise tax distributions for criminal justice purposes; amending RCW 82.44.110; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6463 by Senators Prince, Wood, Kline, Jacobsen, Snyder, Kohl, Patterson, Spanel, Fraser, Fairley, McAuliffe, Thibaudeau, Goings, Winsley, Bauer, Haugen and Rasmussen (by request of Governor Locke)

AN ACT Relating to a personal-use motor vehicle excise tax credit; amending RCW 82.44.020; adding a new section to chapter 82.44 RCW; and creating a new section.  
Referred to Committee on Ways and Means.

SB 6464 by Senators Goings, Winsley, Roach, Anderson, Patterson, Fairley, Franklin, McAuliffe, Jacobsen, Horn, Haugen, Schow, Rasmussen and Oke (by request of Governor Locke)

AN ACT Relating to manufacture of methamphetamine; reenacting and amending RCW 9.94A.320; creating a new section; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6465 by Senators Prince, Haugen, Wood, Patterson, Jacobsen, Loveland, Snyder, McAuliffe, Franklin, Goings and Rasmussen (by request of Governor Locke)

AN ACT Relating to special fuel and motor vehicle fuel taxes; amending RCW 35A.82.010, 82.04.4285, 82.36.020, 82.36.032, 82.36.045, 82.36.047, 82.36.060, 82.36.070, 82.36.080, 82.36.090, 82.36.100, 82.36.120, 82.36.130, 82.36.140, 82.36.150, 82.36.160, 82.36.170, 82.36.180, 82.36.190, 82.36.200, 82.36.230, 82.36.280, 82.36.335, 82.36.350, 82.36.370, 82.36.375, 82.36.390, 82.36.400, 82.38.020, 82.38.030, 82.38.070, 82.38.080, 82.38.090, 82.38.100, 82.38.110, 82.38.120, 82.38.130, 82.38.150, 82.38.160, 82.38.170, 82.38.180, 82.38.190, 82.38.210, 82.38.220, 82.38.230, 82.38.235, 82.38.240, 82.38.260, 43.05.110, 82.47.010, and 82.80.010; reenacting and amending RCW 82.08.0255, 82.12.0256, 82.36.010, and 82.38.140; adding new sections to chapter 82.36 RCW; adding new sections to chapter 82.38 RCW; creating new sections; repealing RCW 82.36.030, 82.36.220, 82.38.040, 82.38.082, and 82.38.086; prescribing penalties; and providing an effective date.  
Referred to Committee on Transportation.

SB 6466 by Senators Winsley, Anderson, Hale, Kohl, Patterson, Loveland, Snyder, Fairley, Jacobsen, Wojahn, Kline, Franklin, Thibaudeau, Goings, Spanel, Fraser, McAuliffe, Brown, Haugen and Rasmussen (by request of Governor Locke)

AN ACT Relating to providing tax credits for businesses making expenditures for employee child care; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; creating a new section; and providing an effective date.  
Referred to Committee on Human Services and Corrections.

SB 6467 by Senators West, Spanel, Anderson, Hale, Jacobsen, Snyder, Loveland, Kohl, Franklin, Brown, Fraser, T. Sheldon, Goings, B. Sheldon, Patterson, Bauer and Rasmussen (by request of Governor Locke)

AN ACT Relating to business and occupation tax credit; amending RCW 82.04.4451; creating a new section; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6468 by Senator Jacobsen (by request of Governor Locke)

AN ACT Relating to managing the water quality account by changing the timing of transfers and reallocating cigarette tax revenues to the health services account; amending RCW 70.146.080, 82.24.020, and 82.24.027; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6469 by Senators Winsley, Jacobsen, Long, Anderson, Kohl, Haugen, Snyder, Loveland, B. Sheldon, Wojahn, Hale, T. Sheldon, Franklin, Fraser, Spanel, Goings, Kline, Patterson, Rasmussen and Oke (by request of Governor Locke)

AN ACT Relating to providing tax credits for businesses making expenditures for work force training; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; and providing an effective date.

Referred to Committee on Commerce and Labor.

SB 6470 by Senators West, Anderson, Kohl, Snyder, Loveland, Fairley, T. Sheldon and Jacobsen (by request of Governor Locke)

AN ACT Relating to the tax treatment of canned and custom software; adding a new section to chapter 82.04 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6471 by Senators Winsley, Prentice, Fraser, Jacobsen, Franklin, Patterson and Heavey (by request of Governor Locke)

AN ACT Relating to personnel; amending RCW 41.06.030, 41.06.150, 41.06.150, 41.06.022, 41.06.110, 41.06.160, 41.06.167, 41.06.170, 41.06.186, 41.06.196, 41.06.270, 41.06.350, 41.06.400, 41.06.410, 41.06.450, 41.06.475, 41.06.490, 28B.12.060, 34.05.030, 34.12.020, 41.04.340, 41.50.804, 43.06.425, 43.33A.100, 43.131.090, 49.46.010, 41.06.340, 13.40.320, 39.29.006, 41.04.385, 47.46.040, 72.09.100, 41.06.079, 41.06.152, 41.06.152, 41.06.500, 41.06.500, 43.211.010, 43.23.010, 49.74.030, 49.74.030, 49.74.040, and 49.74.040; reenacting and amending RCW 41.06.070; adding new sections to chapter 41.06 RCW; adding a new chapter to Title 41 RCW; creating new sections; repealing RCW 41.06.163, 41.06.165, 28B.16.015, 41.06.140, 41.50.804, 41.06.520, 41.06.380, 41.06.382, 41.64.010, 41.64.020, 41.64.030, 41.64.040, 41.64.050, 41.64.060, 41.64.070, 41.64.080, 41.64.090, 41.64.100, 41.64.110, 41.64.120, 41.64.130, 41.64.140, and 41.64.910; and providing effective dates.

Referred to Committee on Government Operations.

SB 6472 by Senators Deccio, Wojahn, Winsley, Kline, Franklin, Heavey, Hargrove, Jacobsen, Prentice, Fairley, B. Sheldon, Haugen, Kohl, Brown, McAuliffe, Fraser, Spanel, Goings, Snyder, Loveland, Thibaudeau, Patterson and Rasmussen (by request of Governor Locke)

AN ACT Relating to creating the children's health initiative program; amending RCW 70.47.010, 70.47.020, and 70.47.030; and reenacting and amending RCW 70.47.060.

Referred to Committee on Health and Long-Term Care.

SB 6473 by Senators McAuliffe, Kohl, Brown, Snyder, Loveland, Franklin, Fairley, Prentice, Heavey, Kline, B. Sheldon, Fraser, Spanel, Goings and Thibaudeau (by request of Governor Locke)

AN ACT Relating to local levy equalization; amending RCW 28A.500.010; creating a new section; and providing an effective date.

Referred to Committee on Education.

SB 6474 by Senators Jacobsen, Rasmussen, Kline, T. Sheldon, Patterson and Fairley (by request of Governor Locke)

AN ACT Relating to fertilizer regulation; amending RCW 15.54.270, 15.54.275, 15.54.325, 15.54.330, 15.54.340, 15.54.350, 15.54.362, 15.54.370, 15.54.380, 15.54.414, 15.54.420, 15.54.436, 15.54.470, 15.54.474, 15.54.480, 15.54.800, 70.95.030, 70.95.170, 70.95.210, and 70.95.240; adding new sections to chapter 70.95 RCW; adding a new section to chapter 70.105 RCW; adding a new section to chapter 15.54 RCW; creating new sections; repealing RCW 15.54.335 and 70.95.830; prescribing penalties; and making an appropriation.

Referred to Committee on Agriculture and Environment.

SB 6475 by Senators Roach, Fairley, Patterson, Kline, Haugen, McAuliffe, Goings, Kohl, Rasmussen and Oke (by request of Governor Locke)

AN ACT Relating to driving under the influence of intoxicating liquor or any drug; amending RCW 46.20.308, 46.20.3101, 46.61.502, 46.61.504, 46.61.506, 88.12.025, 46.20.355, 10.05.010, 10.05.120, 10.05.160, 46.01.260, 46.20.285, 46.20.391, 46.55.113, 46.55.120, 46.61.5058, and 46.12.240; reenacting and amending RCW 46.61.5055; adding a new section to chapter 46.61 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6476 by Senators Fraser, Hale, Spanel, Franklin, Jacobsen, Loveland, Thibaudeau and Kohl (by request of Governor Locke)

AN ACT Relating to the taxation of hazardous waste remedial actions; amending RCW 82.04.050, 82.04.290, and 82.04.290; reenacting and amending RCW 82.04.190; adding a new section to chapter 82.04 RCW; providing effective dates; providing expiration dates; and prescribing penalties. Referred to Committee on Agriculture and Environment.

SB 6477 by Senators Patterson, Benton, T. Sheldon, Winsley, Brown, Kline, Goings, Wood, Kohl, Hale, B. Sheldon, Bauer and Rasmussen

AN ACT Relating to fishing license fees for low-income seniors; and amending RCW 75.25.091.

Referred to Committee on Natural Resources and Parks.

SB 6478 by Senators Patterson, Roach, Heavey, Prentice, Kohl, McAuliffe, Fairley, Fraser, Jacobsen, Snyder, Franklin and Kline

AN ACT Relating to assisting school districts to establish and develop educational foundations; creating new sections; making an appropriation; and providing an expiration date.

Referred to Committee on Education.

SB 6479 by Senators Patterson, Heavey, Schow and Roach

AN ACT Relating to payment of industrial insurance awards after death; and amending RCW 51.32.040.

Referred to Committee on Commerce and Labor.

SB 6480 by Senators Patterson, Schow and Heavey

AN ACT Relating to environmental settlements and penalties; amending RCW 43.21B.300 and 43.08.250; adding new sections to chapter 43.21A RCW; and creating new sections.

Referred to Committee on Agriculture and Environment.

SB 6481 by Senator Patterson

AN ACT Relating to candidates' and voters' pamphlets; amending RCW 29.80.010; and adding a new section to chapter 29.81 RCW.

Referred to Committee on Government Operations.

SB 6482 by Senators Horn, Haugen and McCaslin

AN ACT Relating to time limits for local project review under the growth management act; amending RCW 36.70B.090; and providing an expiration date.

Referred to Committee on Government Operations.

SJM 8019 by Senators Winsley and Prentice

Requesting federal funds for housing finance.

Referred to Committee on Financial Institutions, Insurance and Housing.

SCR 8424 by Senators Hale, Loveland, Sellar, Strannigan, Rossi, Snyder, Kline, Heavey, Anderson, Hochstatter, Haugen, Spanel, Rasmussen, Swecker, Horn, Newhouse, Stevens, Johnson, Prince, McDonald, Bauer and Jacobsen

Regarding 1998 as "The Year of the River."

Referred to Committee on Natural Resources and Parks.

MOTION

On motion of Senator Johnson, Senate Bill No. 6403 was held on the desk.

MOTION

On motion of Senator Hochstatter, the following resolution was adopted:

SENATE RESOLUTION 1998-8682

By Senators Franklin, Spanel, Thibaudeau, Snyder, Kline, B. Sheldon, Prentice, Kohl, Heavey, Wojahn, Rasmussen, T. Sheldon, Goings, Long, McAuliffe, Wood, Hochstatter, Haugen, Schow, Fairley, Hale, Johnson and Bauer

WHEREAS, We live in a time when racial, religious, and cultural intolerance is too often a cause of mistrust, violence, and dislike for people seen as being "different"; and

WHEREAS, Although some forms of racism have changed, racism continues to raise its ugly head and seeks to divide the races based on skin color and stereotypes; and

WHEREAS, The law in theory assures us all of equality, the rules keep changing and the bar keeps rising higher; and

WHEREAS, In America today we rarely discuss openly and honestly the reasons for our differences and our own fears and prejudices, thus perpetuating the problem; and

WHEREAS, Talking about race tends to uncover our deepest prejudices and emotions; and

WHEREAS, The Reverend Martin Luther King Jr.'s example of dealing openly and directly with the things that divide us along racial and cultural lines is one that we would do well to emulate, not only one day each year but every day of the year; and

WHEREAS, The increasing separation of citizens into groups of like-color as a way of dealing with racism is directly at odds with Rev. King's message of unity, equality, and justice; and

WHEREAS, We as a nation and a people can only rise up in unison, and foster a country and community spirit of one America, working together and living in peace and harmony; and

WHEREAS, Dr. King's message of peaceful perseverance in the face of seemingly insurmountable obstacles to equality is still a source of inspiration and hope for Americans and for many other people around the world;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby honor the memory of the Reverend Martin Luther King Jr., a man of peace who saw injustice and tried to end it for the benefit of all Americans, regardless of race; and that we urge the citizens of Washington to heed Dr. King's message of unity and equality, remembering that as long as any one citizen is not fully free, then none of us can be truly free; and that the race issue, unresolved, is a barrier to life, liberty, and the pursuit of happiness as articulated in the Declaration of Independence.

Senators Franklin, McDonald, Prentice and Hale spoke to Senate Resolution 1998-8682.

MOTION

At 10:21 a.m., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Tuesday, January 20, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

EIGHTH DAY, JANUARY 19, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**NINTH DAY**

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**NOON SESSION**

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Senate Chamber, Olympia, Tuesday, January 20, 1998

The Senate was called to order at 12:00 noon by President Pro Tempore Newhouse. No roll call was taken.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**REPORTS OF STANDING COMMITTEES**

January 20, 1998

SB 6300 Prime Sponsor, Senator Prentice: Regulating housing authorities with populations over four hundred thousand. Reported by Committee on Government Operations

MAJORITY Recommendation: That the bill be referred to Committee on Financial Institutions, Insurance and Housing without recommendation. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Referred to Committee on Financial Institutions, Insurance and Housing.

January 16, 1998

HB 1129 Prime Sponsor, Representative Thompson: Increasing penalties for attempting to elude a pursuing police vehicle to a class B felony. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin and Thibaudeau .

Passed to Committee on Rules for second reading.

January 16, 1998

SHB 1441 Prime Sponsor, House Committee on Law and Justice: Penalizing voyeurism. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, McCaslin, Stevens and Zarelli.



MINORITY Recommendation: Do not pass as amended. Signed by Senators Fairley and Thibaudeau.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
REFERRED FROM RULES

January 19, 1998

SB 5124 Prime Sponsor, Senator Kohl: Imposing an additional assessment for persons entering diversion agreements in regard to prostitution offenses. Reported by Committee on Rules.

MAJORITY Recommendation: That the bill be referred to the Committee on Human Services and Corrections without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Human Services and Corrections.

January 19, 1998

SSB 5207 Prime Sponsor, Senate Committee on Natural Resources and Parks: Concerning habitat conservation plans. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Natural Resources and Parks. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Natural Resources and Parks.

January 19, 1998

SB 5232 Prime Sponsor, Senator Wood: Completing the prescriptive authority of advanced registered nurse practitioners. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Health and Long-Term Care without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Snyder, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Health and Long-Term Care.

January 19, 1998

SB 5250 Prime Sponsor, Senator Heavey: Limiting weight of tire studs. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Transportation without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Transportation.

January 19, 1998

SB 5284 Prime Sponsor, Senator Long: Providing for additional judges for Snohomish county superior court. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Law and Justice without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Law and Justice.

January 19, 1998

SB 5288 Prime Sponsor, Senator McCaslin: Creating additional judicial positions in the Spokane superior court. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Law and Justice without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Law and Justice.

January 19, 1998

SSB 5305 Prime Sponsor, Senate Committee on Health and Long-Term Care: Controlling drugs used to facilitate rape. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Health and Long-Term Care without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Health and Long-Term Care.

January 19, 1998

SSB 5311 Prime Sponsor, Senate Committee on Energy and Utilities: Changing representation on the information services board. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Energy and Utilities without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Energy and Utilities.

January 19, 1998

SSB 5332 Prime Sponsor, Senate Committee on Energy and Utilities: Prohibiting the department of information services from spending funds for multimedia kiosks for the Washington information network except for maintenance and operation of existing kiosks. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Energy and Utilities without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Energy and Utilities.

January 19, 1998

SSB 5424 Prime Sponsor, Senate Committee on Ways and Means: Providing tax exemptions for businesses in community empowerment zones that provide selected international services. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Ways and Means without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Ways and Means.

January 19, 1998

SB 5434 Prime Sponsor, Senator Stevens: Providing for designation of mineral resource lands. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Natural Resources and Parks. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Natural Resources and Parks.

January 19, 1998

SB 5468 Prime Sponsor, Senator Rasmussen: Promoting beekeeping operations. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Agriculture and Environment without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Agriculture and Environment.

January 19, 1998

SB 5476 Prime Sponsor, Senator Wood: Enhancing child bicycle safety. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Health and Long-Term Care without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Snyder, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Health and Long-Term Care.

January 19, 1998

SB 5517 Prime Sponsor, Senator Wood: Requiring one student member on each state institution of higher education's governing board. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Higher Education without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Higher Education.

January 19, 1998

SB 5528 Prime Sponsor, Senator Kohl: Protecting children and vulnerable adults by using background checks. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Human Services and Corrections without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Human Services and Corrections.

January 19, 1998

SB 5699 Prime Sponsor, Senator Wood: Enhancing transportation planning. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Transportation without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Transportation.

January 19, 1998

SB 5708 Prime Sponsor, Senator Kohl: Requiring liability insurance for child day-care providers. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Human Services and Corrections without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Human Services and Corrections.

January 19, 1998

SSB 5790 Prime Sponsor, Senate Committee on Government Operations: Modifying the state employee whistleblower protection act. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Government Operations without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Government Operations.

January 19, 1998

SB 5923 Prime Sponsor, Senator West: Expanding eligibility for the educational opportunity grant program. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Higher Education without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Higher Education.

January 19, 1998

SB 5946 Prime Sponsor, Senator Anderson: Revising property tax exemptions for persons confined in adult family homes and certain boarding homes. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Health and Long-Term Care without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Health and Long-Term Care.

January 19, 1998

SB 6015 Prime Sponsor, Senator Deccio: Repealing water recreation facilities. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Health and Long-Term Care without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Health and Long-Term Care.

January 19, 1998

SCR 8407 Prime Sponsor, Senator Franklin: Establishing an interagency task force to conduct a study of contingent work force issues. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Commerce and Labor without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, McDonald, Sellar, Snyder, Stevens, Strannigan, Swecker and Zarelli.

Referred to Committee on Commerce and Labor.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENT

December 15, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Lucy Isaki, appointed December 15, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Eastern Washington University.

Sincerely,

GARY LOCKE, Governor

Referred to the Committee on Higher Education.

MESSAGES FROM THE HOUSE

January 16, 1998

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 1487,

SUBSTITUTE HOUSE BILL NO. 1504,

SUBSTITUTE HOUSE BILL NO. 1510,  
HOUSE BILL NO. 1521,  
HOUSE BILL NO. 1751,  
SUBSTITUTE HOUSE BILL NO. 1781,  
HOUSE BILL NO. 1785,  
SUBSTITUTE HOUSE BILL NO. 1786,  
SUBSTITUTE HOUSE BILL NO. 1800,  
HOUSE BILL NO. 1835,  
ENGROSSED HOUSE BILL NO. 1891,  
SUBSTITUTE HOUSE BILL NO. 2051,  
HOUSE BILL NO. 2127,  
HOUSE BILL NO. 2141,  
SUBSTITUTE HOUSE BILL NO. 2166,  
HOUSE BILL NO. 2261, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

January 16, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 1207,  
SUBSTITUTE HOUSE BILL NO. 1211,  
SUBSTITUTE HOUSE BILL NO. 1212,  
HOUSE BILL NO. 1248,  
HOUSE BILL NO. 1250,  
HOUSE BILL NO. 1252,  
SUBSTITUTE HOUSE BILL NO. 1253,  
SECOND SUBSTITUTE HOUSE BILL NO. 1275,  
HOUSE BILL NO. 1308,  
HOUSE BILL NO. 1332,  
SUBSTITUTE HOUSE BILL NO. 1352,  
HOUSE BILL NO. 1368,  
SUBSTITUTE HOUSE BILL NO. 1385,  
SUBSTITUTE HOUSE BILL NO. 1390,  
SUBSTITUTE HOUSE BILL NO. 1416,  
HOUSE BILL NO. 1421, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

January 16, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 1040,  
HOUSE BILL NO. 1046,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1074,  
HOUSE BILL NO. 1075,  
SUBSTITUTE HOUSE BILL NO. 1088,  
SUBSTITUTE HOUSE BILL NO. 1126,  
ENGROSSED HOUSE BILL NO. 1205,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1230,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1344,  
SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354, and the same are herewith transmitted.

INTRODUCTION AND FIRST READING

SB 6483 by Senator West

AN ACT Relating to the transfer of the enforcement authority for cigarette and tobacco taxes from the department of revenue to the liquor control board; and amending RCW 66.44.010.  
Referred to Committee on Ways and Means.

SB 6484 by Senators West, Benton, Strannigan, Johnson and Oke

AN ACT Relating to reimbursing sellers for sales tax collection costs; amending RCW 82.08.050; adding a new section to chapter 82.04 RCW; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6485 by Senators West, Deccio, Swecker, Hale, Morton, Strannigan, Benton, Schow, Johnson, Anderson, McCaslin, Hochstatter, Roach, Wood, Prince, Sellar, Horn, McDonald and Oke

AN ACT Relating to the recovery of the cost of tobacco-related health care; adding a new section to chapter 43.79 RCW; and providing for submission of this act to a vote of the people.  
Referred to Committee on Ways and Means.

SB 6486 by Senators Wood, Wojahn, Winsley, Long, Fairley, Thibaudeau, Kohl and Oke

AN ACT Relating to managed care consumer protection; reenacting and amending RCW 48.43.005; and adding new sections to chapter 48.43 RCW.  
Referred to Committee on Health and Long-Term Care.

SB 6487 by Senators Stevens, Hochstatter and Swecker

AN ACT Relating to membership in the Washington state school directors' association; and amending RCW 28A.345.010, 28A.345.020, 28A.345.040, and 28A.345.050.  
Referred to Committee on Education.

SB 6488 by Senators Goings, Zarelli, Fairley, Kline, Bauer, Rasmussen, Oke and Spanel

AN ACT Relating to sex offenders whose victims are children; adding a new section to chapter 9A.44 RCW; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6489 by Senators McCaslin, Long, Hargrove, Fairley, Goings, Hale, Kline, Thibaudeau, Prince, Patterson, Winsley, Kohl, Oke and Haugen

AN ACT Relating to district court elections; and amending RCW 29.21.015.  
Referred to Committee on Government Operations.

SB 6490 by Senators Winsley, Prentice, Kline, Kohl and Goings

AN ACT Relating to the business and occupation tax; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 82 RCW; creating a new section; and providing an effective date.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6491 by Senators Schow, Fraser, Anderson, Franklin, Horn, Heavey and Winsley

AN ACT Relating to membership on the work force training and education coordinating board; and amending RCW 28C.18.020.

Referred to Committee on Commerce and Labor.

SB 6492 by Senators Newhouse, Deccio, Johnson, Loveland and McCaslin (by request of Board for Judicial Administration)

AN ACT Relating to superior court judges; amending RCW 2.08.063; and creating a new section.

Referred to Committee on Law and Justice.

SB 6493 by Senators Wood, Wojahn, Fairley, Thibaudeau, Benton, Strannigan, Franklin, Deccio, Bauer, Winsley and Kohl

AN ACT Relating to in-home care providers and workers; adding a new sections to chapter 74.39A RCW; and creating a new section.

Referred to Committee on Health and Long-Term Care.

SB 6494 by Senators Winsley, Prentice, Kohl and Oke

AN ACT Relating to consumer choices in automotive repair; adding new sections to chapter 48.30 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6495 by Senators Schow, Roach and Heavey

AN ACT Relating to modification of lemon law procedures regarding motor homes without expanding or diminishing the covered defects; and amending RCW 19.118.021, 19.118.031, 19.118.041, 19.118.061, and 19.118.090.

Referred to Committee on Commerce and Labor.

SB 6496 by Senators Kohl, Zarelli, Franklin, Stevens, Horn, Prince and Winsley

AN ACT Relating to disclosure of adoption information; and amending RCW 26.33.340 and 26.33.345.

Referred to Committee on Human Services and Corrections.

SB 6497 by Senators McCaslin, T. Sheldon, Anderson and Oke

AN ACT Relating to the taking of private property; and amending RCW 36.70A.370.

Referred to Committee on Government Operations.

SB 6498 by Senators Horn, Wood, Benton and Oke

AN ACT Relating to the contracting of department of transportation services; amending RCW 41.06.150, 13.40.320, 39.29.006, 47.46.040, and 72.09.100; adding a new section to chapter 47.04 RCW; repealing RCW 41.06.380; and providing an effective date.

Referred to Committee on Transportation.

SB 6499 by Senators Horn, Benton and Oke

AN ACT Relating to a plan for consolidation of the county road administration board, the transportation improvement board, and the transaid division; and creating new sections.

Referred to Committee on Transportation.

SB 6500 by Senators Jacobsen and Wood

AN ACT Relating to a scenic byways designation program; amending RCW 47.39.010, 47.39.030, and 47.39.060; and adding new sections to chapter 47.39 RCW.



Referred to Committee on Transportation.

SB 6501 by Senators Horn, Haugen, Benton, Goings, Wood, Winsley and Oke

AN ACT Relating to performance budgeting for transportation agencies; reenacting and amending 43.88.030 RCW; adding a new chapter to Title 47 RCW; and creating new sections.

Referred to Committee on Transportation.

SB 6502 by Senators Horn, Haugen, Benton, Goings and Wood

AN ACT Relating to obsolete transportation accounts and funds; amending RCW 43.84.092, 43.160.010, 47.01.280, 47.02.130, 47.02.150, 47.10.801, 47.10.803, 47.12.125, 47.56.772, 47.60.150, 47.60.326, and 47.60.440; reenacting and amending RCW 46.68.090; creating a new section; repealing RCW 46.68.180, 46.68.190, 46.68.200, 46.68.210, 47.02.180, 47.13.010, 47.13.020, 47.13.030, 47.13.040, 47.13.900, and 47.56.775; and providing an effective date.

Referred to Committee on Transportation.

SB 6503 by Senators Horn, Haugen, Benton, Goings, Wood and Winsley

AN ACT Relating to unanticipated transportation receipts; and amending RCW 43.79.270 and 43.79.280.

Referred to Committee on Transportation.

SB 6504 by Senators Horn, Haugen, Benton, Goings, Wood and Winsley

AN ACT Relating to technology planning; and amending RCW 43.105.160 and 43.105.190.

Referred to Committee on Transportation.

SB 6505 by Senators Schow and Heavey

AN ACT Relating to mandatory coverage of worker's compensation insurance for agents, brokers, or solicitors of insurance; and amending RCW 51.12.020.

Referred to Committee on Commerce and Labor.

SB 6506 by Senators Bauer and Winsley

AN ACT Relating to tax deferred annuities for school employees; and amending RCW 28A.400.250.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6507 by Senators Wood, Haugen, Oke, Heavey, Swecker, Prentice, Schow, Wojahn, Long, Loveland, Hale, Kline, West, Patterson, Snyder, Goings, Jacobsen, Spanel, Fairley, Fraser, McAuliffe, Brown and Kohl

AN ACT Relating to eliminating the expiration of the state cosmetology, barbering, esthetics, and manicuring advisory board; and amending RCW 18.16.050.

Referred to Committee on Government Operations.

SB 6508 by Senators Prentice, Schow, Haugen and Heavey

AN ACT Relating to seat licenses in publicly owned or operated stadia; adding a new section to chapter 36.100 RCW; and declaring an emergency.

Referred to Committee on Commerce and Labor.

SB 6509 by Senators Hochstatter, Benton, Zarelli, Rossi, Swecker, Deccio, Johnson, Oke, McCaslin, Stevens, Morton, Roach and Schow

AN ACT Relating to training in reading instruction; amending RCW 28A.305.130; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 28A.150 RCW; creating a new section; repealing RCW 28A.300.310, 28A.300.320, 28A.300.330, and 28A.300.340; making appropriations; providing an expiration date; and declaring an emergency.

Referred to Committee on Education.

SB 6510 by Senators Goings, Roach, Fairley, T. Sheldon, Hale, Winsley, Rasmussen, Oke and Haugen

AN ACT Relating to selling or giving drug paraphernalia to minors; adding a new section to chapter 26.28 RCW; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6511 by Senators Patterson, Haugen, Anderson and Goings (by request of Land Use Study Commission)

AN ACT Relating to recommendations of the land use study commission; amending RCW 35.13.182, 35.13.130, and 36.70A.060; amending 1995 c 347 s 433 (uncodified); amending 1995 c 347 s 411 (uncodified); amending 1995 c 347 s 412 (uncodified); adding new sections to chapter 35.13 RCW; and adding a new section to chapter 36.70A RCW.

Referred to Committee on Government Operations.

SB 6512 by Senators Heavey, Prentice, Kohl, Fairley, Franklin, McAuliffe, Snyder, Brown, Bauer, Thibaudeau, Patterson, Goings, B. Sheldon, Spanel and Jacobsen

AN ACT Relating to equity in employment for part-time employees; amending RCW 49.12.005 and 49.12.360; adding a new section to chapter 49.12 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Commerce and Labor.

SB 6513 by Senators Jacobsen, Thibaudeau and Kohl (by request of Governor Locke)

AN ACT Relating to providing open government through unedited televised coverage of state government proceedings; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; and providing an effective date.

Referred to Committee on Government Operations.

SB 6514 by Senators Deccio, Wojahn, Zarelli and Haugen (by request of Superintendent of Public Instruction Bergeson)

AN ACT Relating to catheterization of students; and amending RCW 28A.210.280.

Referred to Committee on Health and Long-Term Care.

SB 6515 by Senators Strannigan, Finkbeiner, Morton and Swecker

AN ACT Relating to franchises and the use of public rights of way; adding new sections to chapter 80.36 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.01 RCW; and creating a new section.

Referred to Committee on Energy and Utilities.

SB 6516 by Senators Roach, Goings, Hochstatter, Benton, Rossi, Patterson, Oke, Schow, Johnson, McDonald, Stevens, Strannigan, Fraser, Sellar, Prentice, Bauer and Rasmussen

AN ACT Relating to first degree murder; adding a new section to chapter 9.94A RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Law and Justice.

SB 6517 by Senators Roach, Benton, Hochstatter, Rossi, Goings, Johnson, Sellar, Snyder, Zarelli, Horn, McDonald, McCaslin, Strannigan, Oke, Fraser, Schow, Swecker, Deccio and Rasmussen

AN ACT Relating to deadly weapon sentence enhancements; amending RCW 9.94A.400; reenacting and amending RCW 9.94A.310; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6518 by Senators Roach, Benton, Long, Oke, Zarelli, Rossi, Sellar, Snyder, Johnson, Horn, McDonald, Hale, Strannigan, McCaslin, Prentice, Schow, Fraser, Deccio, Swecker, Morton, Goings, Bauer, Rasmussen and Haugen

AN ACT Relating to rape; amending RCW 9A.44.045, 9A.44.060, 9.41.010, 9.94A.440, 9.95.062, 9A.32.030, 9A.46.060, 10.64.025, 10.99.020, 13.40.077, 13.40.210, 43.43.830, and 71.09.020; reenacting and amending RCW 9A.44.040, 9.94A.030, 9.94A.320, 9A.04.080, 9A.44.010, 10.95.020, and 13.40.0357; repealing RCW 9A.44.050; prescribing penalties; and providing an effective date.  
Referred to Committee on Law and Justice.

SB 6519 by Senators Roach, Benton, Goings, Rossi, Oke, Johnson, Sellar, Snyder, Zarelli, Horn, McDonald, Hale, Strannigan, McCaslin, Prentice, Schow, Fraser, Hochstatter, West, Deccio, Bauer and Rasmussen

AN ACT Relating to conditions of sentences; and reenacting and amending RCW 9.94A.120.  
Referred to Committee on Human Services and Corrections.

SB 6520 by Senators Fraser, Fairley and McAuliffe

AN ACT Relating to local funding of watershed plans; and adding a new chapter to Title 36 RCW.  
Referred to Committee on Agriculture and Environment.

SB 6521 by Senators Fraser, Long, Jacobsen, Fairley, Patterson, Rasmussen, Kohl, Heavey, B. Sheldon, Thibaudeau and Franklin

AN ACT Relating to department of transportation expenditures for environmental retrofit projects; and adding a new section to chapter 47.28 RCW.  
Referred to Committee on Transportation.

SB 6522 by Senators Wojahn, Winsley, Thibaudeau, Wood, Hale, B. Sheldon, Patterson, Heavey, Prentice, Rasmussen, Bauer, Brown, Fairley, Spanel, Kohl and Goings

AN ACT Relating to increasing access for maternity care coverage; and amending RCW 48.43.115.  
Referred to Committee on Health and Long-Term Care.

SB 6523 by Senators Morton, Hochstatter and Rasmussen

AN ACT Relating to levy equalization for the Colville school district; making an appropriation; and declaring an emergency.  
Referred to Committee on Education.

SB 6524 by Senators Morton, Rasmussen and Hochstatter

AN ACT Relating to defining prior tax collection year for purposes of local effort assistance; and amending RCW 28A.500.010.  
Referred to Committee on Education.

SB 6525 by Senators Franklin, Winsley, Fairley, Kohl, Rasmussen, Brown and Patterson

AN ACT Relating to proof of financial responsibility or motor vehicle liability insurance; and amending RCW 46.30.020, 46.16.212, 46.16.210, 46.30.040, and 46.30.030.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SJM 8020 by Senators Thibaudeau, Heavey, McAuliffe, Brown, Wojahn, Franklin, Fraser and Spanel

Urging Congress to set employment standards for offshore companies.

Referred to Committee on Commerce and Labor.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1040 by Representatives D. Schmidt, Scott, Thompson and D. Sommers

Determining the order of candidates on ballots.

Referred to Committee on Government Operations.

HB 1046 by Representatives Carlson, Pennington, Radcliff, Ogden, Doumit, Keiser, Scott, Cole, DeBolt, Cooper, Mason, Cody, Costa, L. Thomas, Dyer, Regala, Anderson, Appelwick and O'Brien

Requiring personal flotation devices for children on certain recreational vessels.

Referred to Committee on Natural Resources and Parks.

ESHB 1074 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Costa, Hatfield and Constantine)

Protecting personality rights.

Referred to Committee on Law and Justice.

HB 1075 by Representatives Hickel, Mitchell, Keiser and Delvin

Providing concurrent jurisdiction for certain courts dealing with compulsory school attendance.

Referred to Committee on Law and Justice.

SHB 1088 by House Committee on Government Administration (originally sponsored by Representatives Sheahan and Schoesler)

Designating Mammuthus COLUMBI as the official fossil of the state of Washington.

Referred to Committee on Government Operations.

SHB 1126 by House Committee on Finance (originally sponsored by Representatives Mastin, Sump, Boldt, Doumit, Hatfield, McMorris, Kessler, Sheahan, Sheldon, Mulliken, Grant, Chandler, O'Brien, Conway, Wood, Cooper, Murray and Morris)

Providing for 911 emergency communications funding.

Referred to Committee on Ways and Means.

EHB 1205 by Representatives Lambert, Koster, McMorris, L. Thomas, Pennington, Sump, Carrell, Johnson, Sheahan, Cooke, Schoesler, Mielke, McDonald, Zellinsky and Thompson

Prohibiting specified sex offenses against children.

Referred to Committee on Law and Justice.

HB 1207 by Representatives D. Schmidt, Dunshee, Poulsen, Kessler and Mielke (by request of Military Department)

Revising provisions for enhanced 911 excise taxes.

Referred to Committee on Energy and Utilities.

SHB 1211 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives DeBolt, Fisher, K. Schmidt, Blalock, Johnson, Mielke, O'Brien and Costa) (by request of Washington Traffic Safety Commission)

Making accident reports available to the traffic safety commission.

Referred to Committee on Transportation.

SHB 1212 by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Scott, Mielke and Dunn)

Making corrections regarding combining water-sewer districts.

Referred to Committee on Government Operations.

ESHB 1230 by House Committee on Education (originally sponsored by Representatives Backlund, Johnson, Lambert, Carrell, Sherstad, D. Schmidt, Thompson, Boldt and Pennington)

Protecting students' religious rights.

Referred to Committee on Education.

HB 1248 by Representatives Sump, Costa, Sheahan, Sterk, Sherstad, Skinner, Lantz, Lambert, D. Schmidt, D. Sommers, Backlund, Ogden, Wensman and Constantine (by request of Secretary of State Munro)

Allowing facsimile filings with the secretary of state's office.

Referred to Committee on Law and Justice.

HB 1250 by Representatives Wensman, Costa, Sheahan, Sterk, Lantz, Kenney, Skinner, Sherstad, Lambert, Gardner, D. Schmidt and Pennington (by request of Secretary of State Munro)

Regulating trademarks.

Referred to Committee on Law and Justice.

HB 1252 by Representatives Wensman, Costa, Sheahan, Sterk, Lantz, Skinner, Kenney and Lambert (by request of Secretary of State Munro)

Regulating the dissolution of limited partnerships.

Referred to Committee on Law and Justice.

SHB 1253 by House Committee on Government Administration (originally sponsored by Representatives Parlette, Costa, Sheahan, Sterk, Lantz, Skinner, Sherstad, Lambert, Gardner, D. Schmidt, Kenney and Wensman) (by request of Secretary of State Munro)

Regulating naming of businesses.

Referred to Committee on Law and Justice.

2SHB 1275 by House Committee on Finance (originally sponsored by Representatives Mastin, Mitchell, Radcliff, Morris, Mason, Schoesler, Keiser, Dickerson, Wood, Kessler, Scott, Blalock, Thompson, Costa, Kenney and Conway)

Establishing public utility tax credits for weatherization and energy assistance programs.

Referred to Committee on Energy and Utilities.

HB 1308 by Representatives Mielke, McMorris, Mulliken, Sterk and McDonald

Providing additional exemptions from state law for the handling of hazardous devices.

Referred to Committee on Law and Justice.

HB 1332 by Representatives Sheahan, Costa, Dickerson, Blalock, O'Brien, Kenney, Linville, Wood, Benson, Ballasiotes, Ogden, Murray, Cody, Dunshee, Conway, Lantz, Carrell and Mason

Authorizing diversion agreements to prohibit contact with victims or witnesses of offenses committed by the juvenile.

Referred to Committee on Human Services and Corrections.

ESHB 1344 by House Committee on Government Administration (originally sponsored by Representatives Mielke, Doumit, Pennington, Alexander, Boldt, Hatfield, Bush and Smith)

Requiring county legislative authorities to include a summary of public testimony in the written minutes.

Referred to Committee on Government Operations.

SHB 1352 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives K. Schmidt, Fisher, Buck and Mitchell) (by request of Department of Transportation)

Funding transportation project environmental mitigation.

Referred to Committee on Transportation.

2E2SHB 1354 by House Committee on Appropriations (originally sponsored by Representatives Pennington, Mielke, Dunn and Boldt)

Changing air pollution control provisions.

Referred to Committee on Agriculture and Environment.

HB 1368 by Representatives Huff, Hatfield and Blalock

Easing restrictions on gambling fund-raisers.

Referred to Committee on Commerce and Labor.

SHB 1385 by House Committee on Education (originally sponsored by Representatives Johnson, B. Thomas, Talcott, Sump and Hickel)

Changing probation provisions for certificated educational employees.

Referred to Committee on Education.

SHB 1390 by House Committee on Government Administration (originally sponsored by Representatives Hatfield, Pennington, Doumit, Robertson, Murray, D. Schmidt, Chopp, Scott, Gardner, Romero, Dunshee, Wolfe, Morris, Wensman, Kessler and Dunn)

Revising provisions regulating municipal officers' interest in contracts.

Referred to Committee on Government Operations.

SHB 1416 by House Committee on Education (originally sponsored by Representatives Mulliken, Romero, Talcott, Clements, Johnson, Costa, Wolfe, Mielke and Dunn)

Recognizing degrees in deaf education from a program approved by the council on education of the deaf.

Referred to Committee on Education.

HB 1421 by Representatives Mitchell, Ogden, Carlson, Scott, Fisher, Hickel, Costa, Robertson, Radcliff, Carrell, Lambert, Talcott, O'Brien and L. Thomas

Using transportation centers.

Referred to Committee on Transportation.

HB 1487 by Representatives K. Schmidt, Fisher, Mitchell and Hankins

Enhancing transportation planning.

Referred to Committee on Transportation.

SHB 1504 by House Committee on Government Administration (originally sponsored by Representatives McMorris, Boldt, Honeyford and Dunn)

Protecting records of strategy discussions.

Referred to Committee on Government Operations.

SHB 1510 by House Committee on Government Administration (originally sponsored by Representatives Wensman, D. Schmidt, Scott, Doumit and Cooper)

Regulating statements of financial matters.

Referred to Committee on Government Operations.

HB 1521 by Representatives B. Thomas, Dickerson and Dunn

Extending to local agencies the same authority now authorized for state agencies to protect taxpayer information under public records.

Referred to Committee on Government Operations.

HB 1751 by Representatives Zellinsky, Clements, L. Thomas, Fisher, Sheldon, Chandler, Carrell, Grant, Ballasiotes, K. Schmidt, Radcliff, Johnson, Cooke, Reams, Smith, Van Luven, Thompson, Lambert, Wensman, O'Brien, Boldt, Wolfe, Dunn and Schoesler

Protecting communications between state employees and legislators.

Referred to Committee on Government Operations.

SHB 1781 by House Committee on Appropriations (originally sponsored by Representatives Lambert, Ballasiotes, Clements, McMorris, Talcott, Costa, Backlund, Cooke, Huff, Delvin and Thompson)

Expanding the supervision management and recidivist tracking program.

Referred to Committee on Human Services and Corrections.

HB 1785 by Representatives K. Schmidt, Zellinsky and Wensman

Encouraging the public to submit names for state ferries.

Referred to Committee on Transportation.

SHB 1786 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives K. Schmidt, Fisher, Murray, Cooper, Mitchell, Hatfield, Sterk, Skinner, Blalock, Ogden, Robertson, DeBolt, Gardner, Johnson, Wood, Backlund, O'Brien, Scott, Zellinsky, Hankins, Chandler and Dyer)

Requiring the transportation improvement board to report to the legislative transportation committees.

Referred to Committee on Transportation.

SHB 1800 by House Committee on Appropriations (originally sponsored by Representatives Delvin, Poulsen, Sheahan, Costa, Kessler, Dickerson, Blalock, Hatfield, Conway, Gombosky, Keiser, Cody, Morris, Ogden, Mason and McDonald)

Assisting crime stoppers programs.

Referred to Committee on Law and Justice.

HB 1835 by Representatives Skinner and Clements

Requiring audit resolution reports.

Referred to Committee on Ways and Means.

EHB 1891 by Representatives Dyer and Wolfe

Authorizing the distribution of certain governmental lists of public information to private companies for use by federal, state or local governments and certain business entities.

Referred to Committee on Government Operations.

SHB 2051 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Linville, Regala, Mastin, D. Schmidt, Grant, Voloria, Clements, Cody and Parlette)

Exempting environmental remedial services, labor, and businesses from taxation.

Referred to Committee on Agriculture and Environment.

HB 2127 by Representatives Reams, Romero, Cairnes, Regala, Lantz, Ogden and Costa



Requiring state agencies to make available paper copies of information electronically disseminated to the public.

Referred to Committee on Government Operations.

HB 2141 by Representatives Cairnes and Scott (by request of Washington State Patrol)

Providing changes to terminal audit violation penalties.

Referred to Committee on Transportation.

SHB 2166 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Huff, K. Schmidt, Clements, Buck, Talcott, Johnson, Mitchell, Carlson, Delvin, Cooke and Chandler)

Encouraging coordinated transportation services.

Referred to Committee on Transportation.

HB 2261 by Representatives Huff, H. Sommers and Wensman (by request of Office of Financial Management)

Reducing paperwork for the governor's budget document.

Referred to Committee on Ways and Means.

MOTION

On motion of Senator Johnson, Senate Bill No. 6403, which was held on the desk January 19, 1998, was referred to the Committee on Transportation.

MOTION

At 12:05 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Wednesday, January 21, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

JOURNAL OF THE SENATE

NINTH DAY, JANUARY 20, 1998

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**TENTH DAY**

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MORNING SESSION  
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Senate Chamber, Olympia, Wednesday, January 21, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Loveland, McDonald, Patterson, Schow and Strannigan. On motion of Senator Hale, Senators McDonald and Schow were excused. On motion of Senator Franklin, Senator Patterson was excused.

The Sergeant at Arms Color Guard, consisting of Pages Emily Flemming and Erin Schneider, presented the Colors. Reverend Jim Erlandson, pastor of the Reorganized Church of Jesus Christ of Latter-Day Saints, offered the prayer.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

#### REPORTS OF STANDING COMMITTEES

January 20, 1998

SB 5158 Prime Sponsor, Senator Kohl: Providing economic incentives for employer-sponsored child-care benefits. Reported by Committee on Ways and Means

MAJORITY Recommendation: That the bill be referred to Committee on Human Services and Corrections without recommendation. Signed by Senators West, Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, Spanel, Swecker and Winsley.

Referred to Committee on Human Services and Corrections.

January 20, 1998

SB 5278 Prime Sponsor, Senator Patterson: Requiring court-ordered use of long-term pharmaceutical birth control for mothers who have given birth to a baby with drug addiction. Reported by Committee on Ways and Means

MAJORITY Recommendation: That the bill be referred to Committee on Human Services and Corrections without recommendation. Signed by Senators West, Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, Spanel, Swecker and Winsley.

Referred to Committee on Human Services and Correction.

January 20, 1998

SB 6019 Prime Sponsor, Senator Deccio: Stabilizing long-term care for persons with developmental disabilities living in the community and in residential habilitation centers. Reported by Committee on Ways and Means

MAJORITY Recommendation: That the bill be referred to Committee on Health and Long-Term Care without recommendation. Signed by Senators West, Chair; Strannigan, Vice Chair; Deccio, Vice Chair; Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, Spanel, Swecker, Thibaudeau and Winsley.

Referred to Committee on Health and Long-Term Care.

January 20, 1998

SB 6113 Prime Sponsor, Senator Wood: Exempting from taxation property of nonprofit organizations providing medical research or training of medical personnel. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That the bill be referred to Committee on Ways and Means without recommendation. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin and Wojahn.

Referred to Committee on Ways and Means.

January 20, 1998

SB 6116 Prime Sponsor, Senator Fairley: Increasing membership on the Puget Sound council. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 20, 1998

SB 6122 Prime Sponsor, Senator Morton: Inspecting horticultural products. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 20, 1998

SB 6131 Prime Sponsor, Senator Oke: Regulating sanitary control of shellfish. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 20, 1998

SB 6152 Prime Sponsor, Senator Swecker: Managing state park lands. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Refereed to Committee on Ways and Means.

January 20, 1998

SB 6158 Prime Sponsor, Senator Morton: Repealing duplicate authority for the Washington state wheat commission. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 20, 1998

SB 6159 Prime Sponsor, Senator Morton: Repealing the authority for the Washington land bank. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 20, 1998

SB 6160 Prime Sponsor, Senator Morton: Repealing the authority for reclamation districts over one million acres. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 20, 1998

SB 6264 Prime Sponsor, Senator Oke: Providing for the mass marking of chinook salmon. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate No. 6264 be substituted for Senate Bill No. 6264 and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Referred to Committee on Ways and Means.

January 20, 1998

SB 6406 Prime Sponsor, Senator Anderson: Exempting income from the adoption support program from gross family income calculations for the basic health plan. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That the bill be referred to Committee on Ways and Means without recommendation. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin and Wojahn.

Referred to Committee on Ways and Means.

#### MESSAGE FROM THE HOUSE

January 19, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 2657,  
HOUSE BILL NO. 2698, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING

SB 6526 by Senator Hargrove

AN ACT Relating to visitation rights for persons other than parents; amending RCW 26.09.240 and 26.10.160; and creating a new section.

Referred to Committee on Law and Justice.

SB 6527 by Senator Morton

AN ACT Relating to financing county criminal justice programs; amending RCW 82.14.310; and adding a new section to chapter 82.14 RCW.

Referred to Committee on Ways and Means.

SB 6528 by Senators West and Finkbeiner

AN ACT Relating to securities litigation; and adding a new section to chapter 21.20 RCW.

Referred to Committee on Law and Justice.

SB 6529 by Senators Schow, McAuliffe, Spanel, Goings, Oke and Kohl (by request of Superintendent of Public Instruction Bergeson and Governor Locke)

AN ACT Relating to a tax exemption from the state share of labor and services on K-12 facility construction; amending RCW 81.104.170 and 82.14.820; reenacting and amending RCW 82.04.190; adding new sections to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6530 by Senators Swecker, Hargrove, Stevens, Benton, Zarelli, Hochstatter, McCaslin, Oke, Morton, Deccio, Wood, Strannigan, Johnson, Sellar, Roach, Schow and Anderson

AN ACT Relating to limiting partial-birth abortions; amending RCW 9.02.100; adding new sections to chapter 9.02 RCW; creating a new section; prescribing penalties; and providing for submission of this act to a vote of the people.

Referred to Committee on Law and Justice.

SB 6531 by Senators Thibaudeau, Horn and Kohl

AN ACT Relating to operating fee surcharges for pharmacy students; and amending RCW 28B.15.100.

Referred to Committee on Higher Education.

SB 6532 by Senators Thibaudeau, Winsley, Prentice, Fairley and McAuliffe

AN ACT Relating to hospice care; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; and adding a new section to chapter 48.46 RCW.

Referred to Committee on Health and Long-Term Care.

SB 6533 by Senators Strannigan, Anderson, Long, Schow, Wood, Finkbeiner, Benton, Roach, West, Stevens, Winsley, Hale, Oke, Patterson and Heavey

AN ACT Relating to property tax exemptions for senior citizens and persons retired for reasons of physical disability; amending RCW 84.36.381; and creating a new section.

Referred to Committee on Ways and Means.

SB 6534 by Senators Loveland and Prince

AN ACT Relating to defining distressed area for purposes of economic assistance; and amending RCW 43.165.010 and 43.168.020.

Referred to Committee on Commerce and Labor.

SB 6535 by Senators Horn, Patterson, Haugen, Hale and Oke (by request of Washington State Patrol)

AN ACT Relating to electronic transfer of information; and amending RCW 10.98.090.  
Referred to Committee on Law and Justice.

SB 6536 by Senators Horn, Heavey, Schow, Snyder, Goings, McDonald, Benton, Winsley, Oke and Haugen

AN ACT Relating to employee wearing apparel; amending RCW 49.12.005; adding a new section to chapter 49.12 RCW; and creating a new section.  
Referred to Committee on Commerce and Labor.

ESB 6537 by Senators Schow, Heavey, Winsley and T. Sheldon (by request of Liquor Control Board)

AN ACT Relating to the receipt of grant moneys, and other funds or donations, by the liquor control board to implement tobacco enforcement and prevention of youth access to tobacco; and amending RCW 66.08.050.  
Referred to Committee on Commerce and Labor.

SB 6538 by Senators Schow and Heavey (by request of Liquor Control Board)

AN ACT Relating to redefining the criteria for spirits, beer, and wine restaurant licenses; and amending RCW 66.24.410 and 66.24.420.  
Referred to Committee on Commerce and Labor.

SB 6539 by Senators Schow and Heavey (by request of Liquor Control Board)

AN ACT Relating to technical changes regarding designations for liquor licenses; amending RCW 66.20.010, 66.24.244, 66.24.320, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.28.010, 66.28.040, 66.28.200, 66.44.310, 66.98.060, and 82.08.150; reenacting and amending RCW 66.24.010; and providing an effective date.  
Referred to Committee on Commerce and Labor.

SB 6540 by Senators Schow and T. Sheldon

AN ACT Relating to vehicle licensing agents; and amending RCW 46.01.140.  
Referred to Committee on Transportation.

SB 6541 by Senators Sellar, Snyder, Schow, Hale, Haugen and Kohl (by request of Department of Community, Trade, and Economic Development)

AN ACT Relating to funding for tourism development; adding new sections to chapter 43.330 RCW; adding new sections to chapter 43.88 RCW; creating a new section; providing an effective date; and providing expiration dates.  
Referred to Committee on Commerce and Labor.

SB 6542 by Senators Stevens, Hargrove, Long, Zarelli, Winsley, Schow and Roach

AN ACT Relating to the family policy council; and amending RCW 70.190.010 and 70.190.060.  
Referred to Committee on Human Services and Corrections.

SB 6543 by Senators Winsley, Prentice, Heavey, Hale, Benton, Finkbeiner and Strannigan

AN ACT Relating to automobile clubs; adding a new chapter to Title 48 RCW; and prescribing penalties.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6544 by Senators Deccio, Franklin, Wood, Wojahn and Winsley

AN ACT Relating to improving long-term care; amending RCW 70.129.030; adding a new section to chapter 18.20 RCW; adding a new section to chapter 70.128 RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Health and Long-Term Care.

SB 6545 by Senators Wood, Wojahn, Rasmussen, Benton, Fairley, Strannigan and Hale

AN ACT Relating to treatment programs for impaired physicians; amending RCW 18.71.0195, 18.71.300, 18.71.310, 18.71.320, 18.71.330, 18.71.340, 18.130.070, 18.130.080, 18.130.175, and 18.130.300; adding a new section to chapter 18.71 RCW; and creating a new section.

Referred to Committee on Health and Long-Term Care.

SB 6546 by Senators Deccio, Wood, Wojahn, Rasmussen, Hochstatter, McAuliffe, Finkbeiner, Prentice, Thibaudeau, Oke and Patterson

AN ACT Relating to school nurses; adding a new section to chapter 28A.210 RCW; creating new sections; and providing an expiration date.

Referred to Committee on Health and Long-Term Care.

SB 6547 by Senators Schow, Heavey, Winsley and Strannigan

AN ACT Relating to regulation of plumbers; amending RCW 18.106.010, 18.106.020, 18.106.030, 18.106.050, 18.106.070, 18.106.090, 18.106.155, 18.106.170, 18.106.180, and 18.106.250; adding a new section to chapter 18.106 RCW; and providing an effective date.

Referred to Committee on Commerce and Labor.

SB 6548 by Senators Hale, Loveland, Swecker, Rossi, Rasmussen, T. Sheldon, Deccio and Anderson

AN ACT Relating to exempting unassisted self-service motor vehicle wash, wax, and vacuum services rendered through coin-operated devices from sales and use taxes; adding a new section to chapter 82.08 RCW; and adding a new section to chapter 82.12 RCW.

Referred to Committee on Ways and Means.

SB 6549 by Senators West, Hale, Anderson, Loveland, Swecker, Rossi and Deccio

AN ACT Relating to exempting unassisted self-service motor vehicle wash, wax, and vacuum services rendered through coin-operated devices from sales and use taxes; adding a new section to chapter 82.08 RCW; and adding a new section to chapter 82.12 RCW.

Referred to Committee on Ways and Means.

SB 6550 by Senators Deccio, Wojahn, Wood and Fairley

AN ACT Relating to chemical dependency counselor regulation; reenacting and amending RCW 18.130.040; adding a new chapter to Title 18 RCW; creating a new section; and providing an effective date.

Referred to Committee on Health and Long-Term Care.

SB 6551 by Senators Horn, McCaslin, Deccio, Prentice and Haugen

AN ACT Relating to siting of boarding and adult family homes; and amending RCW 18.20.050 and 70.128.060.

Referred to Committee on Health and Long-Term Care.

SB 6552 by Senators Strannigan and Bauer (by request of Department of Revenue)

AN ACT Relating to the ad valorem taxation of vessels or ferries used for the conveyance for compensation of either persons or property, or both, between fixed termini or over a regular route; amending RCW 84.12.200, 84.12.280, 84.12.330, 84.12.360, 84.36.080, and 84.40.036; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6553 by Senators Johnson, Rasmussen, Swecker, Goings, Winsley, Anderson, Hale and Oke

AN ACT Relating to limited outdoor burning; and amending RCW 70.94.755.  
Referred to Committee on Agriculture and Environment.

SB 6554 by Senator Jacobsen

AN ACT Relating to the use of lodging tax revenues; and amending RCW 67.28.180.  
Referred to Committee on Ways and Means.

SB 6555 by Senators Morton, T. Sheldon, Anderson, Hargrove, Rasmussen, Strannigan and Zarelli

AN ACT Relating to categorical exemptions from the state environmental policy act for certain activities; and adding a new section to chapter 43.21C RCW.  
Referred to Committee on Agriculture and Environment.

SB 6556 by Senators Anderson, T. Sheldon, Horn and Hale

AN ACT Relating to integration of land-use related laws; amending RCW 90.58.090, 90.58.100, 90.58.140, 90.58.143, 90.58.180, and 90.58.190; adding a new section to chapter 90.58 RCW; creating new sections; and repealing RCW 90.58.185 and 90.58.360.  
Referred to Committee on Government Operations.

SB 6557 by Senators Kohl, Long, Brown, Patterson, Thibaudeau, Franklin, Rasmussen and Winsley

AN ACT Relating to reporting and obtaining information related to licensed child day-care centers and family day-care providers through a toll-free telephone number; and adding a new section to chapter 74.15 RCW.  
Referred to Committee on Human Services and Corrections.

SB 6558 by Senators Zarelli, Hargrove, Long, Stevens, Roach and Oke

AN ACT Relating to citizen review of child abuse and neglect cases; reenacting and amending RCW 13.50.010; adding a new chapter to Title 26 RCW; prescribing penalties; and making an appropriation.  
Referred to Committee on Human Services and Corrections.

SB 6559 by Senators Zarelli and Stevens

AN ACT Relating to computation of the seventy-two hour period for evaluation and treatment of mental disorders; and amending RCW 71.05.180, 71.05.150, 71.05.160, 71.05.170, and 71.05.200.  
Referred to Committee on Human Services and Corrections.

SB 6560 by Senators Brown, Jacobsen, T. Sheldon, Kohl, Hargrove, Fairley, B. Sheldon, Prentice, Wojahn, Loveland, Thibaudeau, McAuliffe, Heavey, Spanel, Snyder, Rasmussen, Haugen, Patterson and Franklin

AN ACT Relating to retail electrical customers; adding a new chapter to Title 18 RCW; and creating new sections.  
Referred to Committee on Energy and Utilities.

SB 6561 by Senators Schow and Fraser



AN ACT Relating to functions and licensing of security guards; and amending RCW 18.170.010, 18.170.020, 18.170.040, 18.170.050, 18.170.060, 18.170.130, 18.170.165, and 18.170.230.  
Referred to Committee on Commerce and Labor.

SB 6562 by Senators Schow, Heavey, Rasmussen and Anderson

AN ACT Relating to relief for the equine industry by amending the parimutuel tax on horse racing to provide additional support for licensed racing associations, the state fair account, the state trade fair account, and the Washington horse racing commission; amending RCW 67.16.100, 67.16.105, and 67.16.170; adding a new section to chapter 15.76 RCW; adding a new section to chapter 43.31 RCW; making appropriations; and declaring an emergency.  
Referred to Committee on Commerce and Labor.

SB 6563 by Senators Heavey, West, Wojahn, Bauer, Roach, Fairley, Loveland, Schow, Haugen, Swecker, T. Sheldon and Kohl

AN ACT Relating to effective dates of bills; adding a new section to chapter 1.04 RCW; adding a new section to chapter 2.04 RCW; and creating a new section.  
Referred to Committee on Government Operations.

SB 6564 by Senators T. Sheldon, Roach, Heavey and McCaslin

AN ACT Relating to the tax-exempt financing of parking facilities; and amending RCW 43.180.300.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6565 by Senators Hale, Prentice, Winsley, Franklin, Long, Roach, Haugen, Stevens, Spanel, Wood, Rasmussen, T. Sheldon, Loveland, Benton, Johnson, Thibaudeau, McDonald, B. Sheldon, Snyder, Anderson, Oke and Goings

AN ACT Relating to insurance payments for insureds who are victims of domestic abuse; and adding a new section to chapter 48.18 RCW.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6566 by Senators Thibaudeau, Kline, Fairley, Long, Wojahn and Kohl

AN ACT Relating to mental health parity; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; adding a new section to chapter 48.41 RCW; adding a new section to chapter 74.09 RCW; and creating a new section.  
Referred to Committee on Health and Long-Term Care.

SB 6567 by Senators Horn, Schow and Anderson

AN ACT Relating to industrial insurance deadlines for hearing loss claims; and amending RCW 51.28.055.  
Referred to Committee on Commerce and Labor.

SB 6568 by Senators Anderson, Hargrove, Swecker, Snyder, Stevens, Spanel, Morton, Roach, Benton, Rossi and Zarelli

AN ACT Relating to school district revenues; amending RCW 28A.150.250 and 28A.520.020; and reenacting and amending RCW 76.12.120.  
Referred to Committee on Education.

SB 6569 by Senators Jacobsen, Spanel, Prentice and Fraser

AN ACT Relating to creating a scientific salmon and steelhead funding review panel; and creating new sections.  
Referred to Committee on Natural Resources and Parks.

SB 6570 by Senators Jacobsen, Spanel, Prentice, Haugen and Fraser

AN ACT Relating to the creation of a habitat restoration technical information clearinghouse; adding a new section to chapter 75.50 RCW; creating a new section; and making an appropriation.

Referred to Committee on Natural Resources and Parks.

SB 6571 by Senators Wood, T. Sheldon, Snyder, Strannigan, Loveland, Patterson, Sellar, Johnson and West

AN ACT Relating to the business and occupation taxation of warehousing and reselling of pharmaceutical drugs subject to regulation by the federal drug enforcement administration and the state board of pharmacy; amending RCW 82.04.270, 82.04.280, and 82.04.290; adding a new section to chapter 82.04 RCW; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6572 by Senators Schow, T. Sheldon, Sellar, Snyder, Horn, Franklin, Heavey, Jacobsen, Newhouse, Winsley, Anderson and Hale

AN ACT Relating to the Washington economic development strategy council; adding a new chapter to Title 43 RCW; and providing an effective date.

Referred to Committee on Commerce and Labor.

SB 6573 by Senators Johnson, Long, Hale, Wood, Winsley, Zarelli, Prince, Deccio, Horn, McCaslin, Morton, Schow, Oke, Rossi, Sellar and Hochstatter

AN ACT Relating to record checks of private school educational employees; adding a new section to chapter 28A.195 RCW; making an appropriation; and providing an expiration date.

Referred to Committee on Education.

SB 6574 by Senators Johnson, Stevens, Wood, Winsley, Deccio, Schow, Oke, McCaslin, Rossi, Hochstatter, Swecker, Sellar, Morton, McDonald and Roach

AN ACT Relating to the learning materials loan program; adding a new section to chapter 28A.195 RCW; creating a new section; making an appropriation; and providing an effective date.

Referred to Committee on Education.

SB 6575 by Senators Hale, T. Sheldon, McCaslin, Snyder, Horn, McDonald, Sellar, Newhouse, Schow, Strannigan, Benton, Zarelli, Stevens, Roach, Heavey and Oke

AN ACT Relating to extending the powers of the joint administrative rules review committee; and amending RCW 34.05.630, 34.05.640, 34.05.655, and 34.05.660.

Referred to Committee on Government Operations.

SB 6576 by Senators Fairley, Prince, Wojahn and Kohl

AN ACT Relating to recognizing and regulating the right of patients to their choice of end-of-life care; amending RCW 70.122.020 and 70.122.030; adding a new chapter to Title 70 RCW; and prescribing penalties.

Referred to Committee on Health and Long-Term Care.

SB 6577 by Senators Franklin, Prentice, Heavey, Patterson, Fairley, Snyder, McAuliffe, Spanel, Bauer, Brown, Goings, Jacobsen, B. Sheldon, Kline, Thibaudeau, Kohl and Fraser

AN ACT Relating to increasing the state minimum wage rate to six dollars and fifty cents an hour by the year 2000 with inflation increases thereafter without addressing deductions from or credits against employees' wages as a means for employers to comply with minimum wage laws; and amending RCW 49.46.020.  
Referred to Committee on Commerce and Labor.

SB 6578 by Senators Winsley, Wojahn, Wood and Rasmussen

AN ACT Relating to regulation of health care service contractors; and amending RCW 48.44.020.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6579 by Senators Hale and Haugen

AN ACT Relating to recording documents in the county auditor's office; and amending RCW 4.28.320, 4.28.325, 36.18.005, 47.28.025, 60.44.030, 60.68.045, 61.16.030, 61.24.030, 64.32.120, 65.04.020, 65.04.060, 65.08.060, 65.08.140, 65.08.160, 84.26.080, 84.33.120, 84.33.140, 84.34.108, and 84.56.330.  
Referred to Committee on Government Operations.

SB 6580 by Senators Roach, Heavey, Benton, Patterson, Fairley, Hargrove, Fraser, Stevens, Zarelli, Goings, Oke, Rossi, Horn, Swecker and Morton

AN ACT Relating to education requirements for members of the commission on judicial conduct; and adding a new section to chapter 2.64 RCW.  
Referred to Committee on Law and Justice.

SB 6581 by Senators Roach and Fairley

AN ACT Relating to standards for determining child support obligations for parents with a combined monthly net income of less than six hundred dollars; and amending RCW 26.19.065 and 26.19.020.  
Referred to Committee on Law and Justice.

SB 6582 by Senators Finkbeiner, Horn and Fraser (by request of Secretary of State Munro)

AN ACT Relating to electronic signatures; amending RCW 19.34.100; and adding a new section to chapter 19.34 RCW.  
Referred to Committee on Energy and Utilities.

SJM 8021 by Senator West

Joint Memorial requesting federal securities litigation legislation.

Referred to Committee on Law and Justice.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 2657 by Representatives Quall and O'Brien

Creating sentencing guidelines for the sale of various amounts of controlled substances.

Referred to Committee on Law and Justice.

HB 2698 by Representatives B. Thomas, Dunshee, Wensman, Gardner and Ballasiotes (by request of Governor Locke)

Resolving conflicts in lodging tax statutes enacted in 1997.

Referred to Committee on Government Operations.

MOTION

On motion of Senator Snyder, the following resolution was adopted:

SENATE RESOLUTION 1998-8681

By Senators Snyder, Wojahn, Johnson, Bauer, Spanel and Kohl

WHEREAS, The Benevolent and Protective Order of the Elks is a nationwide organization that embodies the spirit of community service and compassion to people in all walks of life; and

WHEREAS, The Benevolent and Protective Order of the Elks has established lodges in fifty-two different communities in the state of Washington, representing over 47,000 members; and

WHEREAS, These local lodges and members dedicate countless hours and resources to improving the lives of citizens throughout the state of Washington through many important and charitable projects; and

WHEREAS, The Benevolent and Protective Order of the Elks wishes to pay its respects to the officials of the state of Washington, including all members of the 55th Washington State Legislature; and

WHEREAS, The Washington State Elks Association is holding their annual Elks Government Relations Day on this day, January 21, 1998; and

WHEREAS, It is the custom of the Washington State Senate to acknowledge the unselfish service and dedication of the community organizations in this state;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate does hereby recognize and honor the Benevolent and Protective Order of Elks for its outstanding service and programs for youth, disabled children, educational scholarships, drug prevention, and a variety of community-oriented charities and service programs; and

BE IT FURTHER RESOLVED, That copies of this resolution be transmitted by the Secretary of the Senate to Roger Buck, President of the Washington State Elks Association.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Benevolent and Protective Order of the Elks who were seated in the gallery.

MOTION

At 10:15 a.m., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Thursday, January 22, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

TENTH DAY, JANUARY 21, 1998

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**ELEVENTH DAY**

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NOON SESSION  
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Senate Chamber, Olympia, Thursday, January 22, 1998

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator Strannigan, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

January 22, 1998

SB 6352 Prime Sponsor, Senator Wood: Specifying examination eligibility requirements for Washington state patrol officers.  
Reported by Committee on Government Operations

MAJORITY Recommendation: That the bill be referred to Committee on Transportation without recommendation.  
Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

Referred to Committee on Transportation.

January 22, 1998

SB 6353 Prime Sponsor, Senator Sellar: Reflecting actual working hours for disability of Washington state patrol officers.  
Reported by Committee on Government Operations

MAJORITY Recommendation: That the bill be referred to Committee on Transportation without recommendation.  
Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

Referred to Committee on Transportation.

REPORTS OF STANDING COMMITTEES  
REFERRED FROM RULES COMMITTEE

January 21, 1998

SSB 5727 Prime Sponsor, Senate Committee on Transportation: Requiring rearview mirrors on certain delivery trucks.  
Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Transportation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Benton, Hale, Horn, Johnson, Loveland, McAuliffe, McDonald, Sellar, Snyder, Stevens, Strannigan, Swecker, Wojahn and Zarelli.

Referred to Committee on Transportation.

January 21, 1998

HB 1129 Prime Sponsor, Representative Thompson: Increasing penalties for attempting to elude a pursuing police vehicle to a class B felony. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Ways and Means. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Bauer, Benton, Hale, Horn, Johnson, Loveland, McAuliffe, McDonald, Sellar, Stevens, Strannigan, Swecker, Thibaudeau, Wojahn and Zarelli.

Referred to Committee on Ways and Means.

MESSAGE FROM THE HOUSE

January 21, 1998

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1043,  
ENGROSSED HOUSE BILL NO. 1186,  
ENGROSSED HOUSE BILL NO. 1408,  
SUBSTITUTE HOUSE BILL NO. 1505,  
SUBSTITUTE HOUSE BILL NO. 1541,  
HOUSE BILL NO. 1549,  
HOUSE BILL NO. 1673,  
SUBSTITUTE HOUSE BILL NO. 1692,  
SECOND SUBSTITUTE HOUSE BILL NO. 1709,  
ENGROSSED HOUSE BILL NO. 1740,  
SUBSTITUTE HOUSE BILL NO. 1784, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

INTRODUCTION AND FIRST READING

SB 6583 by Senators Morton, Wojahn, Deccio, Franklin, Winsley, Wood and Jacobsen

AN ACT Relating to an advisory committee on matters relating to the regulation of adult family homes; adding a new section to chapter 70.128 RCW; and creating a new section.  
Referred to Committee on Health and Long-Term Care.

SB 6584 by Senators Oke and Snyder

AN ACT Relating to damage by marine mammals; adding a new chapter to Title 77 RCW; and declaring an emergency.  
Referred to Committee on Natural Resources and Parks.

SB 6585 by Senators Oke and Rossi

AN ACT Relating to distribution of nonhighway vehicle funds; and amending RCW 46.09.240.  
Referred to Committee on Natural Resources and Parks.

SB 6586 by Senators Strannigan and Wojahn

AN ACT Relating to dental assistants; amending RCW 18.32.010, 18.32.030, and 18.32.039; adding a new section to chapter 18.32 RCW; and creating a new section.  
Referred to Committee on Health and Long-Term Care.

SB 6587 by Senators Long, Hargrove, Zarelli, Thibaudeau, Kohl and Oke

AN ACT Relating to a task force on mentally ill offenders; creating new sections; providing an expiration date; and declaring an emergency.

Referred to Committee on Human Services and Corrections.

SB 6588 by Senators Winsley, Snyder, Kohl, B. Sheldon and Oke

AN ACT Relating to exempting movie theater snack counters from the special stadium sales and use tax imposed on restaurants; and amending RCW 82.14.360.

Referred to Committee on Ways and Means.

SB 6589 by Senators Horn, Haugen and Wood (by request of Department of Licensing)

AN ACT Relating to exemptions from driver's license requirements for nonresidents; and amending RCW 46.20.025.

Referred to Committee on Transportation.

SB 6590 by Senators Horn, Haugen and Wood (by request of Department of Licensing)

AN ACT Relating to driver's license examinations; and amending RCW 46.20.120.

Referred to Committee on Transportation.

SB 6591 by Senators Horn, Haugen and Wood (by request of Department of Licensing)

AN ACT Relating to waiver of administrative alcohol or drug-related hearing fees due to indigency; and amending RCW 46.20.308.

Referred to Committee on Transportation.

SB 6592 by Senator Prentice

AN ACT Relating to the administration of controlled substances to persons experiencing intractable pain; adding a new chapter to Title 69 RCW; and declaring an emergency.

Referred to Committee on Health and Long-Term Care.

SB 6593 by Senators Swecker, Rasmussen and Morton

AN ACT Relating to the department of natural resources; adding new sections to chapter 79.90 RCW; and making an appropriation.

Referred to Committee on Natural Resources and Parks.

SB 6594 by Senators Anderson, Schow, Rossi, Horn and Oke

AN ACT Relating to prohibiting industrial insurance benefits payment if the use of alcohol or controlled substances materially contributed to the injury or death; and adding new sections to chapter 51.32 RCW.

Referred to Committee on Commerce and Labor.

SB 6595 by Senators Strannigan, Winsley and Prentice

AN ACT Relating to mobile home parks; amending RCW 59.23.015, 59.23.020, and 59.23.025; and adding a new section to chapter 59.23 RCW.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6596 by Senators Horn, Haugen, Prince, Rasmussen, Patterson and Morton

AN ACT Relating to regional transportation planning; and amending RCW 47.80.023, 47.80.040, and 47.80.070.

Referred to Committee on Transportation.

SB 6597 by Senators Kohl, B. Sheldon, Winsley and Wood

AN ACT Relating to fire suppression systems; creating a new section; and providing an expiration date.  
Referred to Committee on Government Operations.

SB 6598 by Senators Horn, Haugen and T. Sheldon (by request of Office of Financial Management)

AN ACT Relating to filing of state-funded personal service contracts; and amending RCW 39.29.055.  
Referred to Committee on Government Operations.

SB 6599 by Senators Benton, Spanel, Kohl and Oke (by request of Department of Revenue)

AN ACT Relating to fund-raising activities; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; creating a new section; and repealing RCW 82.04.365, 82.04.366, 82.08.02571, and 82.08.02572.  
Referred to Committee on Ways and Means.

SB 6600 by Senators T. Sheldon, Hochstatter, Long, Kohl, Oke and Winsley (by request of Superintendent of Public Instruction Bergeson)

AN ACT Relating to education of juveniles incarcerated in adult correctional facilities; amending RCW 72.09.460 and 41.59.080; adding a new chapter to Title 28A RCW; and declaring an emergency.  
Referred to Committee on Education.

SB 6601 by Senators Snyder, Roach and Oke

AN ACT Relating to recovery of bail fugitives; amending RCW 10.19.140; adding a new section to chapter 4.24 RCW; adding a new section to chapter 18.185 RCW; adding a new chapter to Title 18 RCW; creating a new section; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6602 by Senators Anderson, Loveland, Bauer, Long, Goings, B. Sheldon, Strannigan, Benton, Rossi, Swecker, West, Schow and Oke

AN ACT Relating to carbonated beverage taxes; adding a new section to chapter 82.04 RCW; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6603 by Senators Horn, Spanel, Oke and Wood

AN ACT Relating to exceptions from vessel registration; and amending RCW 88.02.030.  
Referred to Committee on Transportation.

SB 6604 by Senators Schow, Heavey and Horn

AN ACT Relating to premanufactured electric power generation equipment; and amending RCW 19.28.200 and 19.28.610.  
Referred to Committee on Commerce and Labor.

SB 6605 by Senators Morton and Rasmussen

AN ACT Relating to artificial insemination procedures and reproductively viable semen; amending RCW 60.52.030; adding a new section to chapter 60.52 RCW; and providing an effective date.  
Referred to Committee on Agriculture and Environment.



SB 6606 by Senator Sellar

AN ACT Relating to the state centennial song; and adding a new section to chapter 1.20 RCW.  
Referred to Committee on Education.

SB 6607 by Senators Heavey, Jacobsen and Kline

AN ACT Relating to driving on ocean beaches; and amending RCW 43.51.710.  
Referred to Committee on Natural Resources and Parks.

SB 6608 by Senators Heavey, Schow and Jacobsen

AN ACT Relating to election of councilmembers in first class cities with populations of over four hundred thousand; amending RCW 35.22.370; and adding a new section to chapter 35.22 RCW.  
Referred to Committee on Government Operations.

SB 6609 by Senators West and Prince

AN ACT Relating to higher education needs in Spokane county.  
Referred to Committee on Higher Education.

SB 6610 by Senators Roach, T. Sheldon, Stevens, Goings, Bauer and Oke

AN ACT Relating to sex offender sentencing; amending RCW 9.94A.130; reenacting and amending RCW 9.94A.120; prescribing penalties; and declaring an emergency.  
Referred to Committee on Law and Justice.

SB 6611 by Senators Roach, Anderson, Long, Stevens, Zarelli, Schow and Oke

AN ACT Relating to body piercing; amending RCW 26.28.085; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6612 by Senators Roach, Stevens, Zarelli and Schow

AN ACT Relating to school employee codes of ethics; and adding a new section to chapter 28A.320 RCW.  
Referred to Committee on Education.

SB 6613 by Senators Finkbeiner, Benton, Swecker, McCaslin, Oke, Goings, Long, Anderson, Rossi, Schow, Johnson, Hale and Sellar

AN ACT Relating to disclosure of health care information; and amending RCW 70.02.050.  
Referred to Committee on Law and Justice.

SB 6614 by Senators Haugen, Long, T. Sheldon, Wood, Goings, Rasmussen and Oke

AN ACT Relating to provisional driver licensing; amending RCW 46.04.480, 46.20.161, 46.20.311, and 46.20.342; adding new sections to chapter 46.20 RCW; and prescribing penalties.  
Referred to Committee on Transportation.

SB 6615 by Senators Schow and Heavey

AN ACT Relating to exemptions from provisions governing occupational and professional activities; and amending RCW 72.09.100.  
Referred to Committee on Human Services and Corrections.

SB 6616 by Senators Brown, West, Wojahn, Wood, Kohl, Anderson, B. Sheldon, Thibaudeau, Franklin, Patterson and Spanel

AN ACT Relating to funding breast and cervical cancer screening for low-income women; and making an appropriation.

Referred to Committee on Ways and Means.

SB 6617 by Senators Brown, Patterson and Kohl

AN ACT Relating to health insurance benefits for eating disorders; adding new sections to chapter 48.43 RCW; and creating a new section.

Referred to Committee on Health and Long-Term Care.

SJM 8022 by Senators Rossi, Benton, Oke, Jacobsen, Prentice, T. Sheldon, Finkbeiner, Hochstatter and Stevens

Urging legislation facilitating forest land exchange.

Referred to Committee on Natural Resources and Parks.

SJM 8023 by Senators Deccio, Wojahn, Benton, Fairley, Wood, Thibaudeau, Franklin, Winsley, Prentice, Oke, Hale, Schow, Morton, Spanel, Roach, Brown, McAuliffe, Bauer, Snyder, B. Sheldon, Jacobsen, T. Sheldon, Rasmussen, Goings, Haugen, Fraser, Kohl, Hargrove, Heavey, Kline and Patterson

Regarding recovery of damages in tobacco litigation.

Referred to Committee on Ways and Means.

SJM 8024 by Senators Loveland, Rasmussen, Prentice, Snyder, B. Sheldon, McAuliffe, Fairley, Brown, T. Sheldon, Goings, Hargrove, Spanel, Kohl, Fraser, Heavey, Kline, Haugen, Franklin, Wojahn, Jacobsen, Bauer, Thibaudeau, Patterson and Schow

Urging Congress not to sell the Bonneville Power Administration.

Referred to Committee on Energy and Utilities.

SCR 8425 by Senators Schow, Prentice, Heavey, Horn, Haugen, Long, Spanel, Rossi, Brown, Snyder, Patterson, Wojahn, Hochstatter, Zarelli, Roach, Oke and Winsley

Creating a gambling policy task force.

Referred to Committee on Commerce and Labor.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1043 by House Committee on Law and Justice (originally sponsored by Representatives Schoesler, Dunn and Smith)

Requiring the state landlord/tenant act to preempt all other local landlord/tenant acts.

Referred to Committee on Law and Justice.

EHB 1186 by Representatives Hickel, Mitchell, Ballasiotes, Dickerson, Robertson, Blalock, Benson, Quall, Sheahan, Delvin, Lisk, Carrell, Cairnes, McDonald, Johnson and DeBolt

Changing duties for aiding injured persons and the penalties for second degree murder.

Referred to Committee on Law and Justice.

EHB 1408 by Representatives Mielke, Sheahan, Doumit, Pennington, Mulliken, Sterk, Thompson, Dunn and Sullivan

Authorizing carrying of concealed pistols by certain persons from out of state.

Referred to Committee on Law and Justice.

SHB 1505 by House Committee on Government Administration (originally sponsored by Representatives Cairnes, O'Brien, Robertson, Delvin, Scott, McDonald, L. Thomas, Costa, Linville, Mitchell, Schoesler, Mielke, Thompson, Carrell, Conway and Dunn)

Protecting privacy of law enforcement personnel.

Referred to Committee on Transportation.

SHB 1541 by House Committee on Law and Justice (originally sponsored by Representatives Sump, McMorris, Sheahan, Sheldon, Crouse, Sherstad, Honeyford, DeBolt, Koster, Chandler, Linville, Clements, Boldt, Sterk, Smith, Conway and Bush)

Protecting sport shooting ranges.

Referred to Committee on Law and Justice.

HB 1549 by Representatives H. Sommers, Reams, Scott, B. Thomas, Dunshee, Gombosky, Cooper, Chopp, Conway, Costa, Lantz, Cole, O'Brien and Mason

Reducing property tax assessments in response to government restrictions.

Referred to Committee on Ways and Means.

HB 1673 by Representatives Dunn, Bush, Boldt, Koster, Thompson, Mielke, Chandler, Wensman, Alexander, Clements, Skinner, Mulliken and Johnson

Allowing parents to decline having their children in the transitional bilingual program.

Referred to Committee on Education.

SHB 1692 by House Committee on Capital Budget (originally sponsored by Representatives Sehlin, Morris, Anderson, Honeyford, Huff, Lantz and Chopp)

Describing those lands eligible to be included in a port district aquatic lands management agreement.

Referred to Committee on Natural Resources and Parks.

2SHB 1709 by House Committee on Appropriations (originally sponsored by Representatives McMorris, Chandler, Mastin and Smith)

Changing provisions relating to school mandates.

Referred to Committee on Education.

EHB 1740 by Representatives Sheahan, Boldt, Thompson and Clements

Prohibiting the purchase of liquor by intoxicated persons.

Referred to Committee on Law and Justice.

SHB 1784 by House Committee on Children and Family Services (originally sponsored by Representatives Boldt, Bush, Cooke, Lambert, L. Thomas, Backlund and Sullivan)

Regulating public assistance fraud.

Referred to Committee on Health and Long-Term Care.

MOTION

At 12:02 p.m., on motion of Senator Strannigan, the Senate adjourned until 10:00 a.m., Friday, January 23, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

ELEVENTH DAY, JANUARY 22, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**TWELFTH DAY**

-----  
**MORNING SESSION**  
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Senate Chamber, Olympia, Friday, January 23, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard, consisting of Pages Holly Williams and Bob Johnson, presented the Colors. Reverend Jim Erlandson, pastor of the Reorganized Church of Jesus Christ of Latter-Day Saints of Olympia, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**REPORTS OF STANDING COMMITTEES**

January 22, 1998

SB 6118 Prime Sponsor, Senator Long: Clarifying "gifts" for purposes of ethics in public service. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 21, 1998

SB 6125 Prime Sponsor, Senator Kline: Requiring drivers convicted of DUI to participate in victim impact panels. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6125 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

January 22, 1998

SB 6129 Prime Sponsor, Senator Swecker: Allowing continued use of pollution control tax credits after facilities are modified to maintain effective pollution control. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6129 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 22, 1998

SB 6145 Prime Sponsor, Senator Roach: Revising provisions for crime victims' compensation. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Long, McCaslin, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

January 22, 1998

SB 6161 Prime Sponsor, Senator Swecker: Creating a dairy nutrient management program. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6161 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Referred to Committee on Ways and Means.

January 22, 1998

SB 6173 Prime Sponsor, Senator McCaslin: Removing the requirement that the veterans' preference must be used within eight years. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 22, 1998

SB 6175 Prime Sponsor, Senator McCaslin: Authorizing financing contracts. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6175 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 21, 1998

SB 6183 Prime Sponsor, Senator Johnson: Regulating shareholder rights under the Washington business corporation act. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

January 22, 1998

SB 6187 Prime Sponsor, Senator Stevens: Adding penalties for alcohol offenders. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6187 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

January 22, 1998

SB 6240 Prime Sponsor, Senator Stevens: Allowing a superior court judge to appoint a stenographic reporter. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6240 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

January 22, 1998

SB 6293 Prime Sponsor, Senator Benton: Permanently revoking drivers' licenses upon a drunk driving violation. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6293 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

HOLD

January 22, 1998

SB 6324 Prime Sponsor, Senator Morton: Rehabilitating salmon and trout populations with a remote site incubator program. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Spanel and Swecker.

Referred to Committee on Ways and Means.

January 20, 1998

SB 6327 Prime Sponsor, Senator Schow: Providing entrepreneurial opportunities for disabled persons. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Referred to Committee on Ways and Means.

January 21, 1998

SB 6431 Prime Sponsor, Senator Roach: Providing for impoundment and forfeiture of vehicles operated by persons driving a vehicle or in actual physical control of a vehicle while under the influence of intoxicating liquor. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6431 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, McCaslin, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

January 21, 1998

SHB 1077 Prime Sponsor, House Committee on Law and Justice: Specifying the official forms of establishing proof of identity.  
Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

January 22, 1998

HB 1082 Prime Sponsor, Representative McDonald: Extending authority to cite for contempt of court. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

January 22, 1998

HB 1117 Prime Sponsor, Representative Benson: Providing penalties for supplying liquor to or consuming liquor by minors.  
Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

January 22, 1998

HB 1165 Prime Sponsor, Representative Backlund: Creating the crimes of homicide by watercraft and assault by watercraft.  
Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

January 21, 1998

HB 1181 Prime Sponsor, Representative Sterk: Taking judicial notice of radar evidence. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

January 21, 1998

HB 1297 Prime Sponsor, Representative DeBolt: Including the existence of a no contact order as an aggravating circumstance in first degree murder. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Long, McCaslin, Stevens and Zarelli.



MINORITY Recommendation: Do not pass as amended. Signed by Senators Fairley, Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Johnson, Senate Bill No. 6293 was held at the desk.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

January 22, 1998

GA 9280 CONNIE NIVA, reappointed August 5, 1997, for a term ending June 30, 2003, as a member of the Transportation Commission.

Reported by Committee on Transportation

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Prince, Chair; Goings, Haugen, Heavey, Horn, Morton, Oke, Patterson, Prentice and Rasmussen.

Passed to Committee on Rules.

January 22, 1998

GA 9299 CHRISTOPHER J. MARR, appointed December 10, 1997, for a term ending June 30, 2002, as a member of the Transportation Commission.

Reported by Committee on Transportation

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Prince, Chair; Goings, Haugen, Heavey, Horn, Morton, Oke, Patterson, Prentice and Rasmussen.

Passed to Committee on Rules.

January 22, 1998

GA 9315 A. MICHELE MAHER, appointed December 10, 1997, for a term ending June 30, 1999, as a member of the Transportation Commission.

Reported by Committee on Transportation

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Prince, Chair; Goings, Haugen, Heavey, Horn, Morton, Oke, Patterson, Prentice and Rasmussen.

Passed to Committee on Rules.

MESSAGE FROM THE HOUSE

January 21, 1998

MR. PRESIDENT:

The House has passed:

SECOND ENGROSSED HOUSE BILL NO. 1027,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1374,

SECOND ENGROSSED HOUSE BILL NO. 1584, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

INTRODUCTION AND FIRST READING

SB 6618 by Senators Anderson, T. Sheldon, Swecker, Hargrove, Stevens, Morton, Oke, Benton and Hale

AN ACT Relating to increasing flexibility for counties and cities in implementing growth management; amending RCW 36.70A.040 and 36.70A.110; adding new sections to chapter 36.70A RCW; and declaring an emergency.  
Referred to Committee on Government Operations.

SB 6619 by Senators Anderson, T. Sheldon, Swecker, Hargrove, Stevens, Morton and Benton

AN ACT Relating to allowing rural counties to remove themselves and their cities from the planning requirements of the growth management act; amending RCW 36.70A.040; adding a new section to chapter 36.70A RCW; and declaring an emergency.  
Referred to Committee on Government Operations.

SB 6620 by Senators Bauer, Strannigan, Fraser and Wojahn

AN ACT Relating to authority of school districts to borrow money and issue bonds; amending RCW 28A.530.010 and 28A.525.168; and adding a new section to chapter 28A.525 RCW.  
Referred to Committee on Education.

SB 6621 by Senators Wojahn, Wood, Prentice, Winsley, McAuliffe, Kline, Franklin, B. Sheldon, Thibaudeau, Snyder, Goings, Fraser, Fairley and Kohl

AN ACT Relating to reporting of domestic violence by physicians; adding a new section to chapter 10.99 RCW; creating a new section; and prescribing penalties.  
Referred to Committee on Health and Long-Term Care.

SB 6622 by Senator Finkbeiner (by request of Utilities and Transportation Commission)

AN ACT Relating to the implementation of the federal telecommunications act of 1996, P.L. 104-104 (110 Stat. 56); adding new sections to chapter 80.36 RCW; and creating a new section.  
Referred to Committee on Energy and Utilities.

SB 6623 by Senator Swecker (by request of Board for Judicial Administration)

AN ACT Relating to superior court judges; amending RCW 2.08.062; and creating a new section.  
Referred to Committee on Law and Justice.

SB 6624 by Senator McCaslin

AN ACT Relating to backflow protection devices; amending RCW 18.106.010 and 18.106.010; providing an effective date; and providing an expiration date.  
Referred to Committee on Commerce and Labor.

SB 6625 by Senators Wood and Rasmussen

AN ACT Relating to use of commercial employment driving records; and repealing RCW 48.30.310.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6626 by Senators Finkbeiner, Brown, Swecker, Sellar, Oke, T. Sheldon, Anderson, Zarelli, Hale, Deccio, Rasmussen, Rossi, Schow, McCaslin, McDonald, Johnson and West

AN ACT Relating to digital broadband internet access and transport services; and amending RCW 80.36.370.  
Referred to Committee on Energy and Utilities.

SB 6627 by Senators Fairley and Goings

AN ACT Relating to property tax levies for emergency medical care and services; amending RCW 84.52.069; and creating a new section.

Referred to Committee on Government Operations.

SB 6628 by Senators Benton, Finkbeiner, Anderson, Zarelli and Schow

AN ACT Relating to the state-owned facilities component of the state-wide transportation plan and intercity passenger rail; and amending RCW 47.06.050 and 47.06.090.

Referred to Committee on Transportation.

SB 6629 by Senators Benton, Winsley, Zarelli, Rossi, Stevens, Roach, Johnson, Anderson, Schow and Oke

AN ACT Relating to limitations on property taxes; amending RCW 84.52.065, 84.52.043, 84.52.050, 36.58.150, 36.60.040, 36.69.145, 36.73.060, 36.83.030, 36.100.050, 67.38.130, 84.52.010, and 84.69.020; and creating a new section.

Referred to Committee on Ways and Means.

SB 6630 by Senators Wood, Fairley, Strannigan, Wojahn, Rasmussen and Thibaudeau

AN ACT Relating to counselors; and amending RCW 18.19.170.

Referred to Committee on Health and Long-Term Care.

SB 6631 by Senators McCaslin and Haugen

AN ACT Relating to candidate declaration filings in districts comprising more than one county; and amending RCW 29.15.030.

Referred to Committee on Government Operations.

SB 6632 by Senators Franklin, Long, Hargrove, Schow, Kohl and Rasmussen

AN ACT Relating to guardians and guardians ad litem; amending RCW 11.88.045, 11.88.090, 11.88.095, and 11.92.180; creating a new section; and providing an expiration date.

Referred to Committee on Human Services and Corrections.

SB 6633 by Senators Long, Hargrove, Deccio, Thibaudeau, West and Rasmussen

AN ACT Relating to managed public mental health care; adding new sections to chapter 71.24 RCW; creating new sections; making an appropriation; providing expiration dates; and declaring an emergency.

Referred to Committee on Human Services and Corrections.

SB 6634 by Senators Horn, Haugen, Wood and Oke (by request of Department of Licensing)

AN ACT Relating to the extension of the validity of a driver's license that expires while the driver is outside the state; and amending RCW 46.20.120.

Referred to Committee on Transportation.

SB 6635 by Senators Sellar, Bauer, Long and Fraser (by request of Department of Retirement Systems)

AN ACT Relating to clarifying the trusteeship role of the state investment board and the employee retirement benefits board; amending RCW 41.04.020, 41.04.340, 41.04.605, 41.04.610, 41.04.615, 41.04.620, 41.04.630, 41.04.635, 41.04.640, 41.50.088, 41.50.770, 41.50.780, and 28B.50.874; and adding a new section to chapter 43.33A RCW.

Referred to Committee on Government Operations.

SB 6636 by Senators Jacobsen, Fraser and Brown

AN ACT Relating to addressing the impacts of climate change; and creating new sections.  
Referred to Committee on Agriculture and Environment.

SB 6637 by Senators Schow, Bauer and Rasmussen

AN ACT Relating to low alcohol beverage coolers; amending RCW 66.04.010; adding a new section to chapter 66.08 RCW; adding a new section to chapter 19.126 RCW; adding a new section to chapter 82.02 RCW; and providing an effective date.  
Referred to Committee on Commerce and Labor.

SB 6638 by Senators Horn, Schow and Oke

AN ACT Relating to consumer protection regarding contractors; amending RCW 18.27.010, 18.27.030, 18.27.040, 18.27.050, 18.27.100, 18.27.114, 18.27.340, 60.04.021, 60.04.031, and 60.04.041; adding a new section to chapter 82.01 RCW; adding new sections to chapter 18.27 RCW; adding new sections to chapter 43.131 RCW; repealing RCW 18.27.075; and prescribing penalties.  
Referred to Committee on Commerce and Labor.

SB 6639 by Senators Morton and Swecker

AN ACT Relating to establishing a pilot project for noxious weed control in state highway rights of way; creating new sections; and declaring an emergency.  
Referred to Committee on Transportation.

SB 6640 by Senators Morton, Roach, Swecker, McCaslin, Fairley, Goings, Anderson, Oke and Benton

AN ACT Relating to sex offender name changes; amending RCW 4.24.130; and reenacting and amending RCW 9A.44.130.  
Referred to Committee on Human Services and Corrections.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

2EHB 1027 by Representatives Schoesler, Chandler, Sheahan, Sterk, McMorris, Honeyford, Dyer, Mielke and D. Schmidt

Restricting mailings and public service broadcasts by state officials.

Referred to Committee on Government Operations.

E2SHB 1374 by House Committee on Appropriations (originally sponsored by Representatives Smith, Johnson, Hickel, Talcott, B. Thomas and Thompson)

Establishing alternate teacher certification.

Referred to Committee on Education.

2EHB 1584 by Representatives Sherstad, Zellinsky, Dyer, Skinner, Backlund and Johnson

Revising provisions for school district employee benefits.

Referred to Committee on Health and Long-Term Care.

MOTION

On motion of Senator Hale, the following resolution was adopted:

SENATE RESOLUTION 1998-8684

By Senators Hale, Swecker, Heavey, McDonald, Newhouse, Haugen, Spanel, Horn, Stevens, Jacobsen, Loveland, Sellar, Johnson, Franklin, Kohl and Rasmussen

WHEREAS, Mighty rivers began shaping the state of Washington thousands of years ago, creating an area of exceptional natural beauty at the confluence of the Yakima, Snake, and Columbia Rivers; and

WHEREAS, Washington citizens' universal connection to the water is an abundantly powerful force; and

WHEREAS, No single resource in the great state of Washington influences the region's culture and way of life as its rivers do; and

WHEREAS, Washington's mighty rivers are the lifeblood of the Pacific Northwest which immeasurably add to the state's economy and the quality of life enjoyed by all the state's citizens; and

WHEREAS, Washington's rivers provide an abundant supply of spectacular fish including steelhead, salmon, and chinook, recognized delicacies throughout the United States and the world; and

WHEREAS, The Columbia, Snake, and Yakima Rivers offer unique water resources with enormous potential as tourist attractions and recreational venues; and

WHEREAS, A year-long celebration is planned by the Tri-Cities communities of Kennewick, Pasco, and Richland to encourage extended use of the river parks and waterfront areas for special events and celebrations to highlight these rivers as great assets; and

WHEREAS, The celebration will accelerate the completion of river-related public works projects and amenities to enhance the riverfront areas, increase tourism, and foster economic diversity;

NOW, THEREFORE, BE IT RESOLVED, By the Senate of the state of Washington, that the Washington State Senate recognizes and applauds the Tri-Cities communities of Kennewick, Pasco, and Richland for making this year "The Year of the River."

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Tri-Cities communities of Kennewick, Pasco and Richland, who were seated in the gallery.

HONOR AWARDED TO PRESIDENT

Senator Hale announced that President Owen was named as an Honorary Tri-Citian by the Tri-Cities delegation at a meeting last night.

MOTION

On motion of Senator Prentice, the following resolution was adopted:

SENATE RESOLUTION 1998-8687

By Senators Prentice, McDonald, Winsley, Sellar, Snyder, Heavey, Hale, Haugen, Fairley, Wood, Bauer, Johnson, Roach, Anderson, Kohl and Rasmussen

WHEREAS, Stanley O. McNaughton was a widely respected businessman and community leader until his sudden death on January 19, 1998; and

WHEREAS, Stanley O. McNaughton served with distinction in the United States Army as the flight commander of the backup crew for the Enola Gay; and

WHEREAS, Stanley O. McNaughton rose from modest surroundings in a small, British Columbia mining town, to the prestigious position of Chief Executive Officer of PEMCO Financial Services; and

WHEREAS, Stanley O. McNaughton exemplified the best characteristics of an employer and community leader by his constant concern and activities for those employed by him and others in the community; and

WHEREAS, Stanley O. McNaughton left a legacy of goodwill, through not only his own philanthropic acts but also through donating a significant portion of PEMCO's pretax income to charities, particularly those that benefitted people disadvantaged through no fault of their own; and

WHEREAS, Stanley O. McNaughton served the community through board positions with Seattle Schools Fund for Excellence, Junior Achievement of Greater Seattle, KCTS/Channel 9 Public Television, King County Boys and Girls Clubs, the Museum of Flight, Evergreen Safety Council, Economics America, and several others; and

WHEREAS, Mr. McNaughton was the recipient of many awards, including the Seattle-King County First Citizen in 1996 and the Seattle University Alumnus of the Year in 1986; and

WHEREAS, Stanley O. McNaughton was a forward-looking leader who established the Washington Credit Union Share Guaranty Association in 1976, providing member credit unions protection for each other before federal insurance was available; and

WHEREAS, Stanley O. McNaughton often recognized citizens who helped resolve community problems; and

WHEREAS, The highest honor the state of Washington can give is the Medal of Merit. Last week the Governor, Lieutenant Governor, Secretary of State, Speaker of the House and Chief Justice met to decide this biennium nominee. Mr. Stanley O. McNaughton was nominated and selected unanimously. Unfortunately, the day after the selection was made and before Mr. McNaughton was notified, he passed away. His family will receive his award posthumously here at the Capitol in mid-February; and

WHEREAS, Stanley O. McNaughton will long be remembered for his ideals, principles, and commitment to helping improve the lives of others;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor Stanley O. McNaughton's lifetime of achievements and selfless service with a minute of silence.

Senators Prentice, McDonald, Winsley, Sellar, Heavey and Snyder spoke to Senate Resolution 1998-8687.

#### MOMENT OF SILENCE

The Senate stood for a moment of silence in memory of Stanley O. McNaughton.

#### HAPPY BIRTHDAY TO SENATOR SELLAR

The President suggested that the Senate extend a "Happy Birthday" wish to Senator Sellar.

#### MOTION

At 10:29 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:06 a.m. by President Owen.

#### MOTION

At 11:06 a.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Monday, January 26, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

TWELFTH DAY, JANUARY 23, 1998

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**FIFTEENTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Monday, January 26, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Washington State National Guard Color Guard, consisting of Master Sergeant Timothy Small, Staff Sergeant Alicia Burgett, Officer Candidate Jaime Quintanilla and Officer Candidate Roy Habedank, presented the Colors. Reverend Doug Dornhecker, pastor of the First Christian Church of Olympia, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**REPORTS OF STANDING COMMITTEES**

January 23, 1998

SB 5946 Prime Sponsor, Senator Anderson: Revising property tax exemptions for persons confined in adult family homes and certain boarding homes. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Strannigan.

Referred to Committee on Ways and Means.

January 23, 1998

SB 6015 Prime Sponsor, Senator Deccio: Repealing water recreation facilities. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6015 be substituted therefor, and the second substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Strannigan.

Passed to Committee on Rules for second reading.

January 22, 1998

SB 6182 Prime Sponsor, Senator Johnson: Allowing for interstate professional services corporations. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6182 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

January 22, 1998

SB 6213 Prime Sponsor, Senator McCaslin: Extending the long arm statute to district court civil cases. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

January 23, 1998

SB 6330 Prime Sponsor, Senator Oke: Modifying provisions concerning recreational fish and wildlife licenses. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6330 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel, Stevens and Swecker.

Referred to Committee on Ways and Means.

January 23, 1998

SB 6354 Prime Sponsor, Senator Deccio: Requiring that moneys received through settlements with the tobacco industry be deposited into the health services account. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Benton, Fairley and Strannigan.

Referred to Committee on Ways and Means.

January 23, 1998

SB 6493 Prime Sponsor, Senator Wood: Regulating in-home care providers and workers. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That the bill be referred to Committee on Ways and Means without recommendation. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Strannigan.

Referred to Committee on Ways and Means.

January 23, 1998

SB 6509 Prime Sponsor, Senator Hochstatter: Requiring training for reading instruction. Reported by Committee on Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6509 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson, Rasmussen and Zarelli.

Referred to Committee on Ways and Means.

January 23, 1998

SB 6514 Prime Sponsor, Senator Deccio: Allowing certain school district employees to refuse to perform bladder catheterizations. Reported by Committee on Health and Long-Term Care



MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Strannigan.

Passed to Committee on Rules for second reading.

January 21, 1998

EHB 1254 Prime Sponsor, Representative Sterk: Prohibiting destruction of driving records for alcohol or drug-related offenses.  
Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Johnson, Senate Bill No. 5946 was referred to the Committee on Ways and Means.

#### MESSAGE FROM THE GOVERNOR GUBERNATORIAL APPOINTMENT

January 7, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Holly Parker Jensen, appointed January 7, 1998, for a term ending January 1, 2000, as a member of the Board of Trustees for the State School for the Deaf.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Education.

#### INTRODUCTION AND FIRST READING

SB 6641 by Senators Wood, Fairley, Swecker and Winsley

AN ACT Relating to a pilot project for third-party accreditation of boarding homes; and creating a new section.  
Referred to Committee on Health and Long-Term Care.

SB 6642 by Senators Wood, Winsley, Bauer, Hale, Prince and West

AN ACT Relating to protection of research data; and reenacting and amending RCW 42.17.310.  
Referred to Committee on Higher Education.

SB 6643 by Senator Oke

AN ACT Relating to the name of record on a driver's license; and amending RCW 46.20.035, 46.20.091, 46.20.161, and 46.20.205.  
Referred to Committee on Transportation.

SB 6644 by Senators Hargrove, Long, McCaslin and Oke

AN ACT Relating to probation services; and adding a new section to chapter 9.95 RCW.  
Referred to Committee on Law and Justice.

SB 6645 by Senators Johnson, Haugen and McCaslin

AN ACT Relating to the office of public defense; and amending RCW 2.70.010.  
Referred to Committee on Law and Justice.

SB 6646 by Senators Finkbeiner and Jacobsen (by request of Department of Health)

AN ACT Relating to revision of public water systems fees; amending RCW 70.119A.110; and creating a new section.  
Referred to Committee on Energy and Utilities.

SB 6647 by Senator Finkbeiner

AN ACT Relating to household water supply information on the real estate seller's disclosure form; and amending RCW 64.06.020.  
Referred to Committee on Government Operations.

SB 6648 by Senators Schow, Newhouse, Horn and Heavey

AN ACT Relating to permitting the licensing of retail alcoholic beverage businesses in which no manufacturer, importer, or wholesaler has a direct or indirect interest; amending RCW 66.28.010; and providing an effective date.  
Referred to Committee on Commerce and Labor.

SB 6649 by Senators Hochstatter and McAuliffe

AN ACT Relating to school director positions, residency, and vacancies; and amending RCW 28A.315.490.  
Referred to Committee on Education.

SB 6650 by Senators Hochstatter and McAuliffe

AN ACT Relating to employment contract exceptions to school district officers' conflicts of interest; amending RCW 28A.330.240; adding a new section to chapter 28A.320 RCW; and recodifying RCW 28A.330.240.  
Referred to Committee on Education.

SB 6651 by Senators Wood, Franklin and Winsley

AN ACT Relating to electronic transfer of prescription information; amending RCW 69.41.010 and 69.50.101; adding a new section to chapter 69.41 RCW; and adding a new section to chapter 69.50 RCW.  
Referred to Committee on Health and Long-Term Care.

SB 6652 by Senators Prentice, Winsley and Oke

AN ACT Relating to repairs to residential rental property; and amending RCW 59.18.070, 59.18.100, and 59.18.115.  
Referred to Committee on Law and Justice.

SB 6653 by Senators Roach, Fairley, Wojahn and Rasmussen

AN ACT Relating to communications between victims of domestic violence and victims' advocates; and amending RCW 5.60.060.  
Referred to Committee on Law and Justice.

SB 6654 by Senators Morton and Roach

AN ACT Relating to salaries of district court judges; amending RCW 3.58.010, 3.58.020, 43.03.012, and 43.03.310; and providing an effective date.  
Referred to Committee on Law and Justice.

SB 6655 by Senators West and Brown

AN ACT Relating to institutions of higher education; amending RCW 28B.25.020; adding a new chapter Title 28B RCW; and repealing RCW 28B.10.060.  
Referred to Committee on Higher Education.

SB 6656 by Senators West and Strannigan

AN ACT Relating to moneys received by the state in regulatory and enforcement actions and settlements; amending RCW 43.79.270, 9.46.100, 15.13.470, 15.36.441, 15.36.471, 18.160.050, 19.146.228, 22.09.411, 28C.10.082, 43.10.200, 43.10.220, 43.23.230, 43.320.110, 43.320.120, 43.70.340, 59.21.050, 70.47.030, 76.04.630, and 77.21.080; reenacting and amending RCW 22.09.830; adding new sections to chapter 43.88 RCW; creating a new section; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6657 by Senators West, Strannigan, Benton, Finkbeiner, McDonald, Hale, Swecker, Long, Newhouse, Rossi, Deccio, Zarelli, Schow, Roach, McCaslin, Johnson, Morton, Sellar, Hochstatter, Wood, Stevens, Oke and Anderson

AN ACT Relating to the reallocation of general fund and motor vehicle excise tax resources; amending RCW 82.44.020, 82.44.041, 82.44.110, 82.44.150, 82.14.310, 82.14.330, 43.135.060, 82.50.410, 82.50.510, 35.58.273, 35.58.410, 46.16.068, 70.94.015, 81.100.060, 82.08.020, 82.14.046, 82.44.023, 82.44.025, 82.44.155, 82.44.180, and 84.44.050; reenacting and amending RCW 69.50.520, 82.14.320, and 81.104.160; adding a new section to chapter 82.44 RCW; adding a new section to chapter 43.135 RCW; creating new sections; providing effective dates; providing a contingent effective date; and providing for submission of certain sections of this act to a vote of the people.  
Referred to Committee on Ways and Means.

SB 6658 by Senators Benton, Snyder, Finkbeiner, Zarelli, West, Bauer, Oke and Rasmussen

AN ACT Relating to increasing funding for common school transportation; amending 1997 c 454 s 503 (uncodified); and amending 1997 c 149 s 505 (uncodified).  
Referred to Committee on Ways and Means.

SB 6659 by Senators Benton and Oke

AN ACT Relating to property taxes; adding new sections to chapter 84.36 RCW; adding a new section to chapter 84.40 RCW; and creating new sections.  
Referred to Committee on Ways and Means.

SB 6660 by Senators Wojahn, McCaslin, Prentice, Winsley, Fairley and T. Sheldon

AN ACT Relating to child support collection and enforcement; and adding a new section to chapter 74.08A RCW.  
Referred to Committee on Health and Long-Term Care.

SB 6661 by Senators Fraser, Spanel, Fairley, Jacobsen, Snyder, Thibaudeau, Franklin, Bauer, Wojahn, Kline, Patterson, Rasmussen, Heavey, Prentice, Haugen, Kohl and McAuliffe

AN ACT Relating to funding salmon restoration; amending RCW 43.155.070; amending 1997 c 235 s 393 (uncodified); amending 1997 c 235 s 113 (uncodified); amending 1997 c 235 s 305 (uncodified); amending 1997 c 235 s 352 (uncodified); reenacting and amending RCW 43.155.050; creating a new section; and making appropriations.  
Referred to Committee on Ways and Means.

SJM 8025 by Senators Jacobsen, Oke, Fraser, Kline, Spanel and Rasmussen

Regarding the "Teaming With Wildlife" campaign.

Referred to Committee on Natural Resources and Parks.

SJR 8215 by Senators West, Brown, Morton, Spanel, Hochstatter, Winsley and Oke

Amending the state Constitution to allow school districts to impose levies equal to taxes refunded due to valuation appeals.

Referred to Committee on Ways and Means.

SJR 8216 by Senators Benton and Oke

Amending the state Constitution to allow real property tax relief.

Referred to Committee on Ways and Means.

#### MOTION

On motion of Senator West, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8685

By Senators West, Roach, Long, Prentice, Stevens, Kohl, Hargrove, Franklin, Rossi, Wood, Strannigan, Hochstatter, Thibaudeau, Fraser, Brown, Rasmussen, Johnson, Winsley, Wojahn, B. Sheldon, Horn, Patterson, Newhouse, Kline, Benton, Zarelli, Anderson, Finkbeiner, Sellar, Haugen, Heavey, Loveland, Snyder, Jacobsen, Spanel, Fairley, McAuliffe, Oke, Bauer and Hale

WHEREAS, Over eight thousand eight hundred men and women of the Washington National Guard consisting of the Army National Guard and the Air National Guard continue to serve the country as a key part of our national defense; and

WHEREAS, The Washington National Guard is composed of citizen soldiers and airmen who, in the noble and time-honored tradition of the Minutemen, from the Massachusetts Bay Colony in 1636, stand ready at a moments notice to answer the call of need from their state or country to protect and guaranty the blessings of liberty and providence or to respond to calamity or natural disaster; and

WHEREAS, The Guard is active in promoting positive activities for the youth of our state through active involvement in the Guard's helicopter outreach programs, drug demand reduction presentations at local schools, and Camp Minuteman, a motivational summer youth experience at Camp Murray; and

WHEREAS, The Guard makes a major contribution to our state's counter drug effort by providing over seventy soldiers and airmen on duty throughout the year in twenty-six different local, state, and federal law enforcement agencies; and

WHEREAS, In communities throughout the state, the Guard continues to be an essential source of social support for our communities by making armories available for public use as classrooms, food banks, and centers for community and youth activities. The Guard also answered numerous calls for assistance from local communities for missions varying from traditional color guards to hauling food in support of anti-hunger initiatives; and

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate expresses its appreciation to the families and employers of our Guard soldiers and airmen for their support without which the Guard's mission could not be successful; and

BE IT FURTHER RESOLVED, That the Senate specifically and particularly recognize the value of a strong Washington National Guard to the economy and well-being of this state, both through the performance of its state disaster relief mission, and through the ongoing benefit to local communities by the presence of productively employed, drug free, and efficiently trained Guard members and the armories that house them; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted to the Adjutant General of the Washington National Guard, the Governor of the state of Washington, the Secretary of the Army, the Secretary of Defense, the Secretary of the Air Force, and to the President of the United States, the Honorable Bill Clinton.

Senators West, Morton, Haugen and Betti Sheldon spoke to Senate Resolution 1998-8685.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the members of the Army and Air National Guard, who were seated in the gallery.

#### ENGAGEMENT ANNOUNCED

The President extended congratulations to Senator Goings upon his recent engagement to Amy Morrison, a former Senate employee.

#### MOTION

At 10:16 a.m., on motion of Senator Johnson, the Senate recessed until 10:45 a.m.

The Senate was called to order at 11:03 a.m. by President Owen.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the seventh order of business.

#### THIRD READING

SENATE BILL NO. 5064, by Senators Roach, Haugen, Johnson, Winsley and Rossi (by request of Secretary of State Munro)

Regulating the dissolution of limited partnerships.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5064.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5064 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn - 49. SENATE BILL NO. 5064, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SENATE BILL NO. 5742, by Senators Wood, Winsley and West

Rescinding a retirement allowance agreement.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5742.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5742 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn - 49. SENATE BILL NO. 5742, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5634, Senate Committee on Health and Long-Term Care (originally sponsored by Senators Wojahn, Deccio, Winsley, Long, Horn and Kohl)

Providing for osteoporosis prevention and treatment education.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5634.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5634 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn - 49. SUBSTITUTE SENATE BILL NO. 5634, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5355, by Senate Committee on Ways and Means (originally sponsored by Senators Benton, Brown, Swecker, Finkbeiner, Patterson, Rossi and Winsley)

Exempting certain property donated to charitable organizations.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5355.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5355 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn - 49. SUBSTITUTE SENATE BILL NO. 5355, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5035, by Senate Committee on Law and Justice (originally sponsored by Senator Roach)

Establishing the crime of mail theft or receipt of stolen mail.

### MOTION

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 5035 was returned to second reading and read the second time.

### MOTION

Senator Roach moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorized depository" means a mailbox, post office box, or rural box used by postal customers to deposit outgoing mail or used by the postal service to deliver incoming mail.

(2) "Letter box" means a receptacle intended or used for the receipt or delivery of mail on a mail route.

(3)(a) "Mail" means a letter, card, parcel, or other material that:

(i) Is sent or delivered by means of the postal service;

(ii) Has postage affixed by the postal customer or postal service; and

(iii) Is placed in an authorized depository or mail receptacle.

(b) "Mail" includes articles contained in mail.

(4) "Mail receptacle" means a place used by the postal service or postal customers to place outgoing mail or receive incoming mail.

(5) "Postage" means a postal service stamp, permit imprint, meter strip, or other authorized indication of prepayment for service provided by the postal service for collection and delivery of mail.

(6) "Postal service" means the United States postal service.

**NEW SECTION. Sec. 2.** (1) A person commits the crime of obstruction of mails if the person intentionally obstructs or delays:

(a) The passage of the mail; or

(b) A carrier or conveyance carrying the mail.

(2) Obstruction of mails is a gross misdemeanor.

**NEW SECTION. Sec. 3.** (1) A person commits the crime of destruction of letter boxes or mail if the person knowingly:

(a) Tears down or destroys a letter box belonging to another;

(b) Breaks open a letter box belonging to another; or

(c) Injures, destroys, or defaces mail, belonging to another, that has been deposited in a letter box.

(2) Destruction of letter boxes or mail is a class C felony.

**NEW SECTION. Sec. 4.** (1) A person commits the crime of mail theft or receipt of stolen mail if the person knowingly:

(a) Takes or, by fraud or deception, obtains mail from a mail receptacle, authorized depository, or mail carrier;

(b) Secretes, embezzles, or destroys mail;

(c) Takes or, by fraud or deception, obtains mail that has been left for collection on or adjacent to an authorized depository or mail receptacle; or

(d) Buys, receives, conceals, or unlawfully possesses mail knowing that the mail was taken, obtained, or embezzled as described in this subsection.

(2) When a person has in his or her possession or control stolen mail addressed to two or more different addresses, he or she is presumed to know that the mail is stolen. This presumption may be rebutted by evidence raising a reasonable inference that the possession of such stolen mail was without knowledge that the mail was stolen.

**NEW SECTION. Sec. 5.** (1) A person is guilty of mail theft or receipt of stolen mail in the first degree if he or she possesses mail addressed to five or more different addresses.

(2) Mail theft or receipt of stolen mail in the first degree is a class B felony.

**NEW SECTION. Sec. 6.** (1) A person is guilty of mail theft or receipt of stolen mail in the second degree if he or she possesses mail addressed to four or less different addresses.

(2) Mail theft or receipt of stolen mail in the second degree is a class C felony.

**NEW SECTION. Sec. 7.** In a prosecution under this chapter, it is a defense that the defendant acted under an honest claim of right in that:

(1) The defendant was unaware that the property was that of another person;

(2) The defendant reasonably believed that the defendant was entitled to the property involved or had a right to acquire or dispose of it as the defendant did; or

(3) The property involved was that of the defendant's minor child or spouse, unless the parties were not living together as husband and wife and were living in separate abodes at the time of the alleged offense.

**NEW SECTION. Sec. 8.** Sections 1 through 7 of this act constitute a new chapter in Title 9A RCW.

**Sec. 9.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each reenacted and amended to read as follows:

#### TABLE 2

#### CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV Aggravated Murder 1 (RCW 10.95.020)

XIV Murder 1 (RCW 9A.32.030)

Homicide by abuse (RCW 9A.32.055)

Malicious explosion 1 (RCW 70.74.280(1))

XIII Murder 2 (RCW 9A.32.050)

Malicious explosion 2 (RCW 70.74.280(2))

Malicious placement of an explosive 1 (RCW 70.74.270(1))

XII Assault 1 (RCW 9A.36.011)

Assault of a Child 1 (RCW 9A.36.120)

Rape 1 (RCW 9A.44.040)

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

Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))

XI Rape 2 (RCW 9A.44.050)

Rape of a Child 2 (RCW 9A.44.076)

Manslaughter 1 (RCW 9A.32.060)

X Kidnapping 1 (RCW 9A.40.020)

Child Molestation 1 (RCW 9A.44.083)

Malicious explosion 3 (RCW 70.74.280(3))

Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406)

Leading Organized Crime (RCW 9A.82.060(1)(a))

Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))

IX Assault of a Child 2 (RCW 9A.36.130)

Robbery 1 (RCW 9A.56.200)

Explosive devices prohibited (RCW 70.74.180)

Malicious placement of an explosive 2 (RCW 70.74.270(2))

Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)



Controlled Substance Homicide (RCW 69.50.415)  
Sexual Exploitation (RCW 9.68A.040)  
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))  
Vehicular Homicide, by being under the influence of intoxicating liquor or any drug  
(RCW 46.61.520)

VIII Arson 1 (RCW 9A.48.020)  
Promoting Prostitution 1 (RCW 9A.88.070)  
Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)  
Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW  
69.50.401(a)(1)(i))  
Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW  
69.50.401(a)(1)(ii))  
Possession of ephedrine or pseudoephedrine with intent to manufacture  
methamphetamine (RCW 69.50.440)  
Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW  
46.61.520)  
Manslaughter 2 (RCW 9A.32.070)

VII Burglary 1 (RCW 9A.52.020)  
Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)  
Introducing Contraband 1 (RCW 9A.76.140)  
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))  
Child Molestation 2 (RCW 9A.44.086)  
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)  
Sending, bringing into state depictions of minor engaged in sexually explicit conduct  
(RCW 9.68A.060)  
Involving a minor in drug dealing (RCW 69.50.401(f))  
Drive-by Shooting (RCW 9A.36.045)  
Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))  
Malicious placement of an explosive 3 (RCW 70.74.270(3))

VI Bribery (RCW 9A.68.010)  
Rape of a Child 3 (RCW 9A.44.079)  
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))  
Incest 1 (RCW 9A.64.020(1))  
Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II  
(except heroin or cocaine) (RCW 69.50.401(a)(1)(i))  
Intimidating a Judge (RCW 9A.72.160)  
Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))  
Theft of a Firearm (RCW 9A.56.300)

V Persistent prison misbehavior (RCW 9.94.070)  
Criminal Mistreatment 1 (RCW 9A.42.020)  
Abandonment of dependent person 1 (RCW 9A.42.060)  
Rape 3 (RCW 9A.44.060)  
Sexual Misconduct with a Minor 1 (RCW 9A.44.093)  
Child Molestation 3 (RCW 9A.44.089)  
Kidnapping 2 (RCW 9A.40.030)  
Extortion 1 (RCW 9A.56.120)  
Incest 2 (RCW 9A.64.020(2))  
Perjury 1 (RCW 9A.72.020)  
Extortionate Extension of Credit (RCW 9A.82.020)  
Advancing money or property for extortionate extension of credit (RCW 9A.82.030)  
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)  
Rendering Criminal Assistance 1 (RCW 9A.76.070)  
Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))

- Sexually Violating Human Remains (RCW 9A.44.105)
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- IV Residential Burglary (RCW 9A.52.025)
  - Theft of Livestock 1 (RCW 9A.56.080)
  - Robbery 2 (RCW 9A.56.210)
  - Assault 2 (RCW 9A.36.021)
  - Escape 1 (RCW 9A.76.110)
  - Arson 2 (RCW 9A.48.030)
  - Commercial Bribery (RCW 9A.68.060)
  - Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
  - Malicious Harassment (RCW 9A.36.080)
  - Threats to Bomb (RCW 9.61.160)
  - Willful Failure to Return from Furlough (RCW 72.66.060)
  - Hit and Run--Injury Accident (RCW 46.52.020(4))
  - Hit and Run with Vessel--Injury Accident (RCW 88.12.155(3))
  - Vehicular Assault (RCW 46.61.522)
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401 (a)(1) (iii) through (v))
  - Influencing Outcome of Sporting Event (RCW 9A.82.070)
  - Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
  - Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal Gang Intimidation (RCW 9A.46.120)
  - Criminal Mistreatment 2 (RCW 9A.42.030)
  - Abandonment of dependent person 2 (RCW 9A.42.070)
  - Extortion 2 (RCW 9A.56.130)
  - Unlawful Imprisonment (RCW 9A.40.040)
  - Assault 3 (RCW 9A.36.031)
  - Assault of a Child 3 (RCW 9A.36.140)
  - Custodial Assault (RCW 9A.36.100)
  - Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
  - Harassment (RCW 9A.46.020)
  - Promoting Prostitution 2 (RCW 9A.88.080)
  - Willful Failure to Return from Work Release (RCW 72.65.070)
  - Burglary 2 (RCW 9A.52.030)
  - Introducing Contraband 2 (RCW 9A.76.150)
  - Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
  - Patronizing a Juvenile Prostitute (RCW 9.68A.100)
  - Escape 2 (RCW 9A.76.120)
  - Perjury 2 (RCW 9A.72.030)
  - Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
  - Intimidating a Public Servant (RCW 9A.76.180)
  - Tampering with a Witness (RCW 9A.72.120)
  - Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))
  - Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
  - Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
    - Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
  - Theft of livestock 2 (RCW 9A.56.080)
  - Securities Act violation (RCW 21.20.400)
- II Mail Theft or Receipt of Stolen Mail 1 (section 5 of this act)

Unlawful Practice of Law (RCW 2.48.180)  
Malicious Mischief 1 (RCW 9A.48.070)  
Possession of Stolen Property 1 (RCW 9A.56.150)  
Theft 1 (RCW 9A.56.030)  
Class B Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))  
Trafficking in Insurance Claims (RCW 48.30A.015)  
Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))  
Health Care False Claims (RCW 48.80.030)  
Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))  
Possession of phencyclidine (PCP) (RCW 69.50.401(d))  
Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))  
Computer Trespass 1 (RCW 9A.52.110)  
Escape from Community Custody (RCW 72.09.310)

I Mail Theft or Receipt of Stolen Mail 2 (section 6 of this act)

Theft 2 (RCW 9A.56.040)  
Class C Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))  
Possession of Stolen Property 2 (RCW 9A.56.160)  
Forgery (RCW 9A.60.020)  
Taking Motor Vehicle Without Permission (RCW 9A.56.070)  
Vehicle Prowl 1 (RCW 9A.52.095)  
Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)  
Malicious Mischief 2 (RCW 9A.48.080)  
Reckless Burning 1 (RCW 9A.48.040)  
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
False Verification for Welfare (RCW 74.08.055)  
Forged Prescription (RCW 69.41.020)  
Forged Prescription for a Controlled Substance (RCW 69.50.403)  
Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine) (RCW 69.50.401(d))

**NEW SECTION. Sec. 10.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately." Debate ensued.

POINT OF INQUIRY

Senator Morton: "Senator Roach, living on a rural route, I am concerned about the wording as I quickly read through the striker, which I believe it is, Senator Fairley. I am concerned about the number of pieces that may be found in the mail when I bring it from my mail box which may be a neighbor's mail. I would, therefore, be subject to possible prosecution, because somewhere in the postal system, they had inadvertently put my neighbor's mail in--which many times happens. How is that addressed--I notice that there are two, four, and I believe five items mentioned. Would you elaborate a little bit? I am very uncomfortable at this point."

Senator Roach: "Thank you, Senator Morton. Of course, you know, that I worked for four and a half years for the U. S. Postal Service and my husband currently works for them, so I am very close to these issues. I also live on a rural route, so I am particularly interested in what you are talking about and I have had--usually it is a substitute driver--on a rural route who will inadvertently take a whole big handful of mail and stick it in your box. It happens once every ten years. When it happens, what you do is, you thumb through it and you call your neighbor and say, 'I've got your mail,' or you walk back down to the box and you put it in yourself.

"The situation that you have just spoken to would probably be resolved that way. Certainly, you would make an effort to get that mail out of your house and the only reason that law enforcement would be in your house is if they had a search warrant based on what?. I think the likelihood of the scenario that you have developed is very, in fact, unlikely and I believe that we need to get to the problem of this mail theft and fraud in Washington State. It is a very good bill; I don't see that what you are talking

about is going to be a very big problem. Remember, the mail is something that is very intrusive and evasive when someone steals it and I think we need to get to the root of the problem."

#### POINT OF INQUIRY

Senator Patterson: "Senator Roach, I probably should have been paying closer attention to this bill last year. Does this bill mean that if this happens in my district and teenage boys will go out and whack mailboxes with sticks or baseball bats, which, of course, we all know is a very bad thing to do, with passage of this bill, would this now make them guilty of a class C felony for being involved in that kind of behavior?"

Senator Roach: "No, it would make it, however, a misdemeanor--a gross misdemeanor--to obstruct the mails. The destruction of letter boxes would be a class C felony. Let me describe what it is like on my rural route. They take their trucks and come by with a board affixed to the front fender and run over these boxes. In fact, some of us have found this not too funny. We don't tell too many people this, but we build a cement foundation for our mail boxes and then put wood around the side, so the next person that comes by--we'll just take the doggone bumper off their car.

"This is a major, major problem and it isn't funny when somebody is messing around with your property, especially when it holds something as near and dear to you as your paycheck, your credit card, your Mother's Day card from you son that has been away for awhile. Heck with them! Let them take the punishment for going out and just destroying somebody's property."

Senator Patterson: "So, the answer to the question is that these teenage boys in my district who behave badly and go out and hit my mailbox with a baseball bat--with the passage of this law--would now become guilty of a class C felony?"

#### MOTION

On motion of Senator Johnson, further consideration of Engrossed Substitute Senate Bill No. 5035 was deferred.

#### MOTION

At 11:32 a.m., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Tuesday, January 27, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

FIFTEENTH DAY, JANUARY 26, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

#### SIXTEENTH DAY

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NOON SESSION

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Senate Chamber, Olympia, Tuesday, January 27, 1998

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

#### REPORTS OF STANDING COMMITTEES

January 19, 1998

SB 6148 Prime Sponsor, Senator Schow: Delaying termination of the center for international trade in forest products. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

January 26, 1998

SB 6242 Prime Sponsor, Senator Wood: Creating the Washington state endowment for higher education. Reported by Committee on Higher Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6242 be substituted therefor, and the substitute bill do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

January 26, 1998

GA 9260 WAYNE H. EHLERS, reappointed September 15, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Western Washington University.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules

January 26, 1998

GA 9264 LARRY L. HANSON, reappointed September 11, 1997, for a term ending June 30, 2001, as a member of the Higher Education Coordinating Board.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 26, 1998

GA 9268 RODNEY KAWAKAMI, reappointed September 9, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Renton Technical College District No. 27.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 26, 1998

GA 9270 GERALD P. LEAHEY, reappointed September 9, 1997, for a term ending September 30, 2001, as a member of the Spokane Joint Center for Higher Education.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 26, 1998

GA 9272 LONNA K. MALONE, reappointed September 9, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Columbia Basin Community College District No.19.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 26, 1998

GA 9275 HOLLY ECHO-HAWK MIDDLETON, reappointed September 9, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Clark Community College District No.14.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 26, 1998

GA 9277 EDITH L. NELSON, reappointed September 11, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Shoreline Community College District No.7.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 26, 1998

GA 9291 DAN C. WILDER, reappointed September 11, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Peninsula Community College District No.1.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 26, 1998

GA 9292 ROGER YOCKEY, reappointed September 9, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Cascadia Community College District No.30.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 26, 1998

GA 9294 DR. FRANK B. BROUILLET, reappointed December 12, 1997, for a term ending June 30, 1999, as a member of the Higher Education Coordinating Board

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 26, 1998

GA 9309 GWEN CHAPLIN, reappointed September 15, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Central Washington University

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed: Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

#### MOTION

On motion of Senator Johnson, Senate Bill No. 6293, which was held on the desk January 23, 1998, was referred to the Committee on Transportation.

#### MESSAGE FROM THE HOUSE

January 23, 1998

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1750,

SUBSTITUTE HOUSE BILL NO. 1805,  
SUBSTITUTE HOUSE BILL NO. 1833,  
SUBSTITUTE HOUSE BILL NO. 1943,  
SUBSTITUTE HOUSE BILL NO. 1971,  
SUBSTITUTE HOUSE BILL NO. 1978,  
SUBSTITUTE HOUSE BILL NO. 2008,  
SUBSTITUTE HOUSE BILL NO. 2028,  
SUBSTITUTE HOUSE BILL NO. 2077,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2019, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING

SB 6662 by Senators Strannigan, T. Sheldon and Schow

AN ACT Relating to business and occupation tax reimbursements and advances received by property management companies for the payment of wages to on-site employees; adding a new section to chapter 82.04 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways and Means.

SB 6663 by Senators Franklin, Winsley, Wojahn, Kohl, Thibaudeau, Snyder, Prentice, Benton, Spanel, Rasmussen, Fairley, Bauer, Heavey, Kline, Patterson, Jacobsen, Brown, McAuliffe, Fraser, Goings and T. Sheldon

AN ACT Relating to the prevention of genetic discrimination; amending RCW 49.60.010, 49.60.020, 49.60.030, 49.60.040, 49.60.175, 49.60.176, 49.60.178, 49.60.180, 49.60.190, 49.60.190, 49.60.215, 49.60.222, and 49.60.223; reenacting and amending RCW 49.60.222; adding a new chapter to Title 70 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Law and Justice.

SB 6664 by Senators Anderson, Rasmussen and Morton

AN ACT Relating to facilitating transfer of forest and open space land to tax-exempt organizations; and amending RCW 84.33.120 and 84.34.250.

Referred to Committee on Ways and Means.

SB 6665 by Senators Roach and Goings

AN ACT Relating to any cause of action based on negligence brought against any accountant licensed under chapter 18.04 RCW; adding a new section to chapter 4.24 RCW; and creating a new section.

Referred to Committee on Law and Justice.

SB 6666 by Senators Goings, Haugen, Rasmussen and Patterson

AN ACT Relating to the duty of a driver in an accident; amending RCW 46.52.020; and prescribing penalties.

Referred to Committee on Transportation.

SB 6667 by Senators B. Sheldon, Winsley, Snyder, T. Sheldon, Fairley, McAuliffe, Brown, Kohl, Rasmussen, Prentice, Patterson, Haugen, Loveland, Hargrove, Kline, Franklin, Wojahn, Jacobsen and Bauer

AN ACT Relating to the Washington gift of life medal; and adding a new chapter to Title 1 RCW.

Referred to Committee on Health and Long-Term Care.

SB 6668 by Senators Heavey, Schow, Anderson, West, T. Sheldon, Rasmussen, Strannigan and Johnson



AN ACT Relating to tax deferrals for new thoroughbred race tracks; and amending RCW 82.66.040.  
Referred to Committee on Commerce and Labor.

SB 6669 by Senators Rossi and T. Sheldon

AN ACT Relating to perpetual timber rights; and adding a new section to chapter 76.09 RCW.  
Referred to Committee on Natural Resources and Parks.

SB 6670 by Senator Roach

AN ACT Relating to the state building code; amending RCW 19.27.015, 19.27.020, 19.27.035, 19.27.040, and 19.27.074; and reenacting and amending RCW 19.27.060.  
Referred to Committee on Government Operations.

SB 6671 by Senator Anderson

AN ACT Relating to religiously affiliated exempt schools; amending RCW 28A.195.010, 28A.225.010, and 28A.195.060; and adding a new section to chapter 28A.195 RCW.  
Referred to Committee on Education.

SB 6672 by Senators Roach, Heavey, Patterson, Stevens, T. Sheldon, Hochstatter, Goings, Schow, McCaslin, Bauer, Rasmussen and Oke

AN ACT Relating to crimes against children; amending RCW 9A.44.073, 9A.44.083, and 9A.32.055; reenacting and amending RCW 9.94A.120 and 9.94A.320; adding a new section to chapter 9.94A RCW; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6673 by Senators Schow, T. Sheldon, Horn, Hochstatter, Hale and Swecker

AN ACT Relating to exempting computer wires and fiber optic cables from electrical wiring requirements; and amending RCW 19.28.010.  
Referred to Committee on Commerce and Labor.

SB 6674 by Senators Fraser, Winsley, Roach, Jacobsen, Goings, Wood, Patterson and Kline

AN ACT Relating to annual salary increases; and amending RCW 41.06.160.  
Referred to Committee on Ways and Means.

SB 6675 by Senator Prentice

AN ACT Relating to physical crimes against children; and amending RCW 26.44.140.  
Referred to Committee on Human Services and Corrections.

SB 6676 by Senators Winsley, Kline, Patterson, Franklin and Deccio

AN ACT Relating to actions against health care providers; and adding a new section to chapter 7.70 RCW.  
Referred to Committee on Health and Long-Term Care.

SB 6677 by Senators Strannigan, T. Sheldon, Hochstatter and Stevens

AN ACT Relating to business and occupation tax exemptions for licensed boarding homes; adding a new section to chapter 82.04 RCW; and creating a new section.  
Referred to Committee on Ways and Means.

SB 6678 by Senators Rasmussen and Franklin

AN ACT Relating to development of a highway access management program for the benefit of motor vehicles; and amending RCW 47.50.010, 47.50.040, and 47.50.080.

Referred to Committee on Transportation.

SB 6679 by Senators Morton, Sellar, Hochstatter and Anderson

AN ACT Relating to verification of information provided on notifications and applications for forest practices; and reenacting and amending RCW 76.09.060.

Referred to Committee on Natural Resources and Parks.

SB 6680 by Senators Haugen, Johnson, Brown and Rossi

AN ACT Relating to damage caused by excavating activity; and adding a new section to chapter 19.122 RCW.

Referred to Committee on Energy and Utilities.

SB 6681 by Senators Snyder, Rasmussen and Oke

AN ACT Relating to creating the fish and wildlife enforcement task force; and creating new sections.

Referred to Committee on Natural Resources and Parks.

SB 6682 by Senators Roach, Kohl, Thibaudeau, Kline, Morton and T. Sheldon

AN ACT Relating to exempting the sale and use of motion picture or video production equipment and supplies from sales and use tax; and amending RCW 82.08.0315 and 82.12.0315.

Referred to Committee on Ways and Means.

SB 6683 by Senators Roach, Fairley, Prentice, Schow and Goings

AN ACT Relating to regulating body art facilities; amending RCW 43.20.050; adding a new section to chapter 70.05 RCW; and creating a new section.

Referred to Committee on Commerce and Labor.

SB 6684 by Senators Haugen, Horn, Goings, Rasmussen, Prentice, Prince and Oke

AN ACT Relating to the powers and duties of commercial vehicle enforcement officers and commercial vehicle officers; and adding a new section to chapter 43.43 RCW.

Referred to Committee on Transportation.

SB 6685 by Senators Haugen, Horn, Goings, Rasmussen, Prince, Prentice and Oke

AN ACT Relating to the powers and duties of commercial vehicle enforcement officers and commercial vehicle officers; and adding a new section to chapter 43.43 RCW.

Referred to Committee on Transportation.

SB 6686 by Senators Oke, Schow, Benton, Horn, Winsley, Morton, Stevens, Prentice, T. Sheldon, Franklin, Rossi, Patterson, Haugen, Rasmussen, Zarelli and Anderson

AN ACT Relating to making minor possession of tobacco a class 3 civil infraction and clarifying penalties for violation of current laws regarding youth access to tobacco; amending RCW 70.155.080; creating a new section; and prescribing penalties.

Referred to Committee on Commerce and Labor.

SB 6687 by Senators Prentice, Winsley, Hale, Kline, Wood and Finkbeiner

AN ACT Relating to mobile home park landlord-tenant relations; amending RCW 59.20.050, 59.20.090, and 59.20.160; reenacting and amending RCW 59.20.060; adding a new section to chapter 59.20 RCW; adding a new chapter to Title 18 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6688 by Senators Johnson, Benton, Strannigan, McAuliffe, Wood, Stevens, Morton, Anderson, Rossi, Hale, Oke, McCaslin, Winsley, McDonald, Schow, Hochstatter, Long, Swecker, Sellar, West, Deccio, Snyder, Loveland, Bauer, Fairley, Fraser, B. Sheldon, Prentice, Rasmussen, Spanel, Thibaudeau, Patterson, Kohl, Haugen and Jacobsen

AN ACT Relating to reducing class size in elementary schools; amending 1997 c 149 s 502 (uncodified); amending 1997 c 454 s 503 (uncodified); and making appropriations.

Referred to Committee on Education.

SB 6689 by Senators Prince, Winsley, Kline, B. Sheldon, Haugen, Goings, Fraser, Fairley, Wood and Thibaudeau

AN ACT Relating to ensuring equal opportunity without quotas in public employment, education, and contracting; and adding a new section to chapter 49.60 RCW.

Referred to Committee on Law and Justice.

SB 6690 by Senators Thibaudeau and Wood

AN ACT Relating to disclosure; and amending RCW 70.129.030.

Referred to Committee on Health and Long-Term Care.

SB 6691 by Senators Jacobsen and Brown

AN ACT Relating to exempting electric generating facilities powered by wind or sun energy from sales and use taxes; amending RCW 82.08.02567 and 82.12.02567; providing an effective date; and providing expiration dates.

Referred to Committee on Energy and Utilities.

SB 6692 by Senators Jacobsen, Brown and Fraser

AN ACT Relating to net metering for certain renewable energy systems; and adding a new chapter to Title 80 RCW.

Referred to Committee on Energy and Utilities.

SB 6693 by Senators Anderson, Rasmussen, Newhouse, Heavey, Morton, Bauer, West and Oke

AN ACT Relating to a sales and use tax exemption on livestock and poultry feed; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and providing an effective date.

Referred to Committee on Agriculture and Environment.

SB 6694 by Senators Patterson, Long, Heavey, Prentice, Haugen, Fraser, Spanel, B. Sheldon, Snyder, Bauer, Wojahn and Schow

AN ACT Relating to newborn screening for exposure to harmful drugs; adding a new chapter to Title 70 RCW; and creating a new section.

Referred to Committee on Health and Long-Term Care.

SB 6695 by Senators Patterson, Heavey, Prentice, Haugen, Franklin, Fraser, Spanel, T. Sheldon, B. Sheldon, Snyder, Loveland, Goings and Wojahn

AN ACT Relating to pregnant or parenting alcohol and drug addicts; and amending RCW 70.83C.020 and 74.50.050.

Referred to Committee on Human Services and Corrections.

SB 6696 by Senators Patterson, Brown and Kline

AN ACT Relating to health care and health insurance benefits for physical injuries resulting from suicide attempts; amending RCW 48.41.110 and 74.09.520; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; creating a new section; and providing an effective date.

Referred to Committee on Health and Long-Term Care.

SB 6697 by Senator McCaslin

AN ACT Relating to renaming the county board of equalization as the county board of tax appeals; and amending RCW 84.48.010, 84.48.014, 84.48.018, 84.48.022, 84.48.034, 84.48.036, 84.48.038, 84.48.042, 84.48.046, 84.48.065, 84.48.080, 84.48.150, 84.48.200, 52.16.030, 68.52.290, 82.03.130, 82.29A.060, 84.08.010, 84.08.020, 84.08.030, 84.08.060, 84.08.130, 84.14.020, 84.14.110, 84.26.130, 84.33.116, 84.33.118, 84.33.120, 84.33.130, 84.33.140, 84.34.035, 84.34.108, 84.36.812, 84.38.040, 84.40.038, 84.40.045, 84.40.085, 84.40.150, 84.40.160, 84.40.320, 84.56.290, 84.56.430, 84.69.020, 84.70.010, and 89.30.394.

Referred to Committee on Government Operations.

SB 6698 by Senator McCaslin

AN ACT Relating to the Washington state salary commission; and amending RCW 43.03.310.

Referred to Committee on Government Operations.

SB 6699 by Senators Schow, Anderson, Newhouse, Zarelli, Horn, Winsley, Stevens, Benton, Rossi, Long, Sellar and Oke

AN ACT Relating to information provided by former or current employers to a prospective employer; adding a new section to chapter 4.24 RCW; and creating a new section.

Referred to Committee on Commerce and Labor.

SJM 8026 by Senators Loveland, Rasmussen, Prentice, Hale, Prince, Newhouse, Morton, Winsley, Hochstatter, Goings, Zarelli, McCaslin, Sellar and West

Urging Congress to not breach dams.

Referred to Committee on Agriculture and Environment.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1750 by House Committee on Government Administration (originally sponsored by Representatives D. Sommers, Sterk and Sheldon)

Protecting existing functional mobile home park septic systems.

Referred to Committee on Financial Institutions, Insurance and Housing.

SHB 1805 by House Committee on Health Care (originally sponsored by Representatives Backlund, Dyer, L. Thomas, Sump, Crouse, Smith, Sherstad, Zellinsky, Talcott, Lambert, Bush, Mulliken, Thompson, Johnson, Buck, Skinner, Boldt, D. Schmidt, Sterk, Clements, Hickel, Koster, Cooke, Mastin and Carrell)

Requiring the health care authority to offer health care savings accounts to unsubsidized basic health plan enrollees.

Referred to Committee on Health and Long-Term Care.

SHB 1833 by House Committee on Capital Budget (originally sponsored by Representatives Van Luven, Sheldon, Dunn and Kessler) (by request of Department of Community, Trade, and Economic Development)

Assisting existing economic development revolving loan funds.

Referred to Committee on Ways and Means.

SHB 1943 by House Committee on Government Administration (originally sponsored by Representatives Reams, Scott, D. Schmidt, Kessler and Schoesler)

Increasing special district commissioner per diem compensation.

Referred to Committee on Government Operations.

SHB 1971 by House Committee on Appropriations (originally sponsored by Representatives Bush, Lambert, Carrell, Talcott, Johnson, Hickel, Cody, Linville, Mitchell, Delvin, Mulliken, Veloria, Zellinsky, Thompson, Smith, Tokuda, Koster, Sherstad, Cole, Mastin, D. Schmidt and Backlund)

Preventing double payment for insurance benefits for teachers who are legislators.

Referred to Committee on Ways and Means.

SHB 1978 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Mitchell and O'Brien) (by request of Washington State Patrol)

Providing alternative methods for the disposal of firearms in the possession of the state patrol.

Referred to Committee on Law and Justice.

SHB 2008 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Sterk, Crouse and Costa)

Authorizing law enforcement officers to impound the vehicles of persons who are patronizing prostitutes.

Referred to Committee on Law and Justice.

E2SHB 2019 by House Committee on Appropriations (originally sponsored by Representatives Quall, Talcott, Linville, Johnson, Mason, Sterk, Romero, Smith, Hatfield, Koster, Chopp, Dickerson, Sheahan, Doumit, D. Sommers, Poulsen, Thompson, Veloria, Honeyford, Kastama, Sehlin, Wood, Delvin, O'Brien, Boldt, Anderson, Mitchell, Ogden, Benson, Morris, Huff, Sump, Scott, Lantz, Mastin, Buck, Dunshee, Costa, Tokuda, Sullivan, Regala, Backlund, Grant, Kessler, Kenney, Cody, Crouse, Radcliff, Mielke, Bush, Alexander, Sherstad, Hankins, Pennington, Sheldon, Gombosky, Murray, D. Schmidt, Wensman, Appelwick, Cooke, Zellinsky, Wolfe, Carlson, Hickel, Dunn, B. Thomas, L. Thomas, Van Luven, Keiser and Blalock)

Authorizing charter schools.

Referred to Committee on Education.

SHB 2028 by House Committee on Natural Resources (originally sponsored by Representatives Regala, Anderson, Doumit, Alexander, Cooper, Morris, Blalock and Costa)

Establishing a fish seller's license.

Referred to Committee on Natural Resources and Parks.

SHB 2077 by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Scott and D. Sommers)

Providing uniform exemptions to competitive bidding procedures utilized by municipalities when awarding contracts for public works and contracts for purchases.

Referred to Committee on Government Operations.

MOTION

At 12:02 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Wednesday, January 28, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

SIXTEENTH DAY, JANUARY 27, 1998

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**SEVENTEENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, January 28, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard, consisting of Pages Sandra Feng and Rachel Jordon, presented the Colors. Reverend Doug Dornhecker, pastor of the First Christian Church of Olympia, offered the prayer.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Rasmussen, the following resolution was adopted:

SENATE RESOLUTION 1998-8686

By Senators Rasmussen, Morton, Spanel, Strannigan, Roach and Kohl

WHEREAS, Washington is home to eight hundred and eighteen dairy farms and 264,000 dairy cows; and

WHEREAS, Washington's dairy cows are the eighth most productive in America, averaging more than 3,400 pounds of milk per cow above the national average; and

WHEREAS, In the latest statistics, the total annual milk production in Washington was 5.2 billion pounds in 1996; and  
WHEREAS, Washington's livestock and livestock products established an all-time record high value, with milk as the number-one commodity in the category; and

WHEREAS, Our state's dairy farmers contributed approximately \$800 million to the state's economy in 1996, a fifteen percent increase over the previous year; and

WHEREAS, Milk production ranks second in dollar value among all of Washington's bountiful agricultural commodities; and

WHEREAS, In addition, many of Washington's manufactured dairy products, such as butter, cheeses, and ice cream, have seen remarkable increases in production and value in recent years; and

WHEREAS, Washington's dairy industry is actually older than the state itself; and

WHEREAS, The first creamery in Washington was started at Cheney in 1880, at a time when cattle outnumbered territorial residents by more than two-to-one; and

WHEREAS, Citizens throughout the state today honor this special industry with the annual Dairy Day celebration at the State Capitol; and

WHEREAS, The Washington State Dairy Federation is the proud sponsor of this observance; and

WHEREAS, Karen Olson, a graduate of W.F. West High School in Chehalis, is representing the dairy industry with distinction as the reigning Washington State Dairy Ambassador, as well as serving an eleven month internship with the Washington Dairy Products Commission; and

WHEREAS, Her alternates are Kristina Rasmussen of La-Center, who represents Clark County dairy farmers; and Christina Streuli of Enumclaw, a freshman at the University of Washington, who represents King and Pierce Counties' dairy farmers; and

WHEREAS, Ben and Carol Krause of Everett, Maynard and Kay Axelson of Mount Vernon, and Bill and Lisa DeRuyter of Sunnyside, are admirably representing the dairy farmers of Washington as the 1998 Washington State Dairy Families of the Year;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate acknowledge and honor the women and men whose work on dairy farms throughout Washington has contributed so much to the strength and vitality of our state and its economy, the character of our communities, and the general well-being of our citizens; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Washington State Dairy Ambassador Karen Olson, alternates Kristina Rasmussen and Christina Streuli, and to Ben and Carol Krause, Maynard and Kay Axelson, and Bill and Lisa DeRuyter.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Karen Olson, the Washington State Dairy Ambassador and Alternate Ambassadors Kristina Rasmussen and Christina Streuli, who were seated on the rostrum.

With permission of the Senate, business was suspended to permit Dairy Ambassador Karen to address the Senate.

The President also welcomed and introduced the Ben and Carol Krause family of Everett, the Maynard and Kay Axelson family of Mount Vernon and the Bill and Lisa DeRuyter family of Sunnyside, the 1998 Dairy Families of the Year, who were seated in the gallery.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the first order of business.

#### REPORTS OF STANDING COMMITTEES

January 27, 1998

SB 5853 Prime Sponsor, Senator Goings: Providing for fire protection district finance officers. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 5853 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6117 Prime Sponsor, Senator Morton: Creating a salmon license buyback program. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Referred to Committee on Ways and Means.

January 27, 1998

SB 6130 Prime Sponsor, Senator Swecker: Regulating underground storage tanks. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6130 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6149 Prime Sponsor, Senator Swecker: Requiring the regional fisheries enhancement group advisory board to make recommendations on certain fiscal matters. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 27 1998

SB 6150 Prime Sponsor, Senator Swecker: Requiring recommendations concerning selective fishing strategies. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6150 be substituted therefor, and the substitute bill do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6168 Prime Sponsor, Senator Prentice: Developing housing for temporary workers. Reported by Committee on Agriculture and Environment



MAJORITY Recommendation: That Substitute Senate Bill No. 6168 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Referred to Committee on Ways and Means.

January 27, 1998

SB 6195 Prime Sponsor, Senator Long: Correcting statutory references. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6195 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6216 Prime Sponsor, Senator Horn: Allowing the department of social and health services to recover revenue from vendors that have been overpaid. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6216 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove and Stevens.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6219 Prime Sponsor, Senator McDonald: Making technical corrections to the Revised Code of Washington concerning reports to the legislature that are no longer necessary. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6223 Prime Sponsor, Senator McCaslin: Revising provisions for filing with the state tax board. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6278 Prime Sponsor, Senator Horn: Specifying the number of signatures required on a petition to place on the ballot the question of changing the name of a port district. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6284 Prime Sponsor, Senator Hochstatter: Prescribing mandatory titles in school excess-levy titles. Reported by Committee on Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6284 be substituted therefor, and the substitute bill do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Goings, McAuliffe and Rasmussen.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6326 Prime Sponsor, Senator Show: Regulating disclosure of students' social security numbers. Reported by Committee on Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6326 be substituted therefor, and the substitute bill do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson, Rasmussen and Zarelli.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6348 Prime Sponsor, Senator Hale: Eliminating requirements for filing certificates or annual summaries for sales and use tax exemptions on manufacturing machinery and equipment. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6451 Prime Sponsor, Senator Deccio: Resolving conflicts in lodging tax statutes enacted in 1997. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6513 Prime Sponsor, Senator Jacobsen: Providing open government through unedited televised coverage of state government proceedings. Reported by Committee on Government Operations

MAJORITY Recommendation: That the bill be referred to Committee on Ways and Means without recommendation. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Patterson and T. Sheldon.

Referred to Committee on Ways and Means.

January 27, 1998

SB 6551 Prime Sponsor, Senator Horn: Providing a process to site boarding homes and adult family homes in cities. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That the bill be referred to Committee on Government Operations without recommendation. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin and Wojahn.

Referred to Committee on Government Operations.

#### MOTION

On motion of Senator Johnson, Senate Bill No. 6130 was referred to the Committee on Rules.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

January 27, 1998

GA 9266 TOM HILYARD, appointed October 1, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Bates Technical College, District No. 28.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 27, 1998

GA 9273 THOMAS W. MALONE, appointed October 1, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Seattle, South Seattle and North Seattle Community Colleges District No. 6.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

January 27, 1998

GA 9300 WILLIAM MARLER, appointed December 15, 1997, for a term ending September 30, 2003, as a member of the Board of Regents for Washington State University.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

There being no objection, the President advanced the Senate to the third order of business.

#### MESSAGES FROM THE GOVERNOR

GUBERNATORIAL APPOINTMENTS

September 15, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

RuthAnn Kurose, reappointed September 15, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Bellevue Community College District No. 8.

Sincerely

GARY LOCK, Governor

Referred to Committee on Higher Education.

December 22, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Esther L. Patrick, reappointed December 22, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Highline Community College District No. 9.

Sincerely

GARY LOCK, Governor

Referred to Committee on Higher Education.

January 7, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Jesus "Jess" del Bosque, appointed January 7, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Skagit Valley Community College District No. 4.

Sincerely

GARY LOCK, Governor

Referred to Committee on Higher Education.

There being no objection, the President advanced the Senate to the fourth order of business.

MESSAGES FROM THE HOUSE

January 26, 1998

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1150,

ENGROSSED HOUSE BILL NO. 1508,

HOUSE BILL NO. 1638,

ENGROSSED HOUSE BILL NO. 2302,

SUBSTITUTE HOUSE BILL NO. 2321, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

January 26, 1998

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE HOUSE BILL NO. 1065, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

There being no objection, the President advanced the Senate to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SB 6700 by Senators Thibaudeau, Fraser, Kline and Kohl

AN ACT Relating to environmental protection of vulnerable subpopulations; amending RCW 70.94.011, 70.94.030, 70.105.005, 70.105.010, 70.105D.010, 70.105D.020, 90.48.010, and 90.48.020; adding new sections to chapter 70.94 RCW; adding new sections to chapter 70.105 RCW; adding new sections to chapter 70.105D RCW; and adding new sections to chapter 90.48 RCW.

Referred to Committee on Agriculture and Environment.

SB 6701 by Senators Fairley, Long, Kline and Thibaudeau

AN ACT Relating to actions for injuries resulting from health care; amending RCW 4.16.350; and creating a new section.

Referred to Committee on Law and Justice.

SB 6702 by Senators Long, Hargrove, Stevens, Winsley and Oke

AN ACT Relating to treatment and housing for persons with both substance abuse problems and mental disorders; and creating a new section.

Referred to Committee on Human Services and Corrections.

SB 6703 by Senators McDonald, Fairley, Deccio, Kline, Winsley, Bauer, Rasmussen, Stevens, Prentice, Long, Finkbeiner, Wojahn and Kohl

AN ACT Relating to establishing a public/private endowment for developmental disabilities services; reenacting and amending RCW 43.79A.040; adding a new chapter to Title 71A RCW; creating a new section; and making appropriations.

Referred to Committee on Health and Long-Term Care.

SB 6704 by Senators Anderson, Haugen, Fraser, Swecker and Rasmussen

AN ACT Relating to promoting flood safety through local planning; amending RCW 86.12.010, 86.12.020, 86.12.030, 86.12.034, 86.12.200, 86.12.210, 86.12.220, 36.70A.150, 36.70A.160, 64.06.020, and 86.26.007; adding new sections to chapter 86.12 RCW; adding a new section to chapter 36.70A RCW; adding a new section to chapter 43.21C RCW; and creating new sections.

Referred to Committee on Natural Resources and Parks.

SB 6705 by Senators Wood, Haugen, Benton, Goings, B. Sheldon, Jacobsen, Bauer, Strannigan, Deccio, Rasmussen, Oke, Morton, Horn, Schow, Stevens and Spanel

AN ACT Relating to restrictions on hazardous material on state ferries; and amending RCW 47.60.135.

Referred to Committee on Transportation.

SB 6706 by Senators Fairley and Winsley

AN ACT Relating to live adult entertainment; adding a new chapter to Title 19 RCW; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6707 by Senators Schow and Roach (by request of Department of Revenue)

AN ACT Relating to public utility tax on motor transportation business; amending RCW 82.16.010 and 82.16.020; and providing an effective date.  
Referred to Committee on Ways and Means.

SB 6708 by Senators Franklin, Hargrove, Fairley, Patterson, Heavey and Winsley

AN ACT Relating to road rage; amending RCW 9.94A.390 and 13.40.150; reenacting and amending RCW 46.63.020; adding a new section to chapter 46.61 RCW; creating a new section; prescribing penalties; and providing an effective date.  
Referred to Committee on Law and Justice.

SB 6709 by Senators Wood, Haugen, Winsley, Patterson and Heavey

AN ACT Relating to requiring regional transit authority train sets and rolling stock to be from manufacturers based in Washington and primarily made in Washington; and adding a new section to chapter 81.104 RCW.  
Referred to Committee on Transportation.

SB 6710 by Senators Haugen, Goings, Horn and Rasmussen

AN ACT Relating to the powers and duties of commercial vehicle enforcement officers and commercial vehicle officers; and adding a new section to chapter 43.43 RCW.  
Referred to Committee on Transportation.

SB 6711 by Senators Haugen, Goings, Horn and Rasmussen

AN ACT Relating to the powers and duties of commercial vehicle enforcement officers and commercial vehicle officers; and adding a new section to chapter 43.43 RCW.  
Referred to Committee on Transportation.

SB 6712 by Senators Roach and Rasmussen

AN ACT Relating to criminal mistreatment; amending RCW 43.43.830; adding a new section to chapter 9A.42 RCW; and prescribing penalties.  
Referred to Committee on Law and Justice.

SB 6713 by Senators McCaslin, Haugen, Hale and Winsley

AN ACT Relating to proposed bond issues; amending RCW 7.25.010, 7.25.020, 7.25.030, and 7.25.040; and adding a new section to chapter 7.25 RCW.  
Referred to Committee on Law and Justice.

SB 6714 by Senators Anderson, Heavey, Strannigan, Rasmussen, Rossi, Finkbeiner, Stevens, Goings, Roach, T. Sheldon, Long, Hargrove, Deccio, Franklin, Johnson, Schow, Swecker, Oke, Winsley and Kline

AN ACT Relating to real estate excise tax revenues related to construction of capital improvements to public schools; adding a new section to chapter 82.45 RCW; and adding a new section to chapter 43.09 RCW.  
Referred to Committee on Government Operations.

SB 6715 by Senators Winsley, Wood and Rasmussen

AN ACT Relating to the termination of rental agreements under the mobile home landlord-tenant act; and amending RCW 59.20.090.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6716 by Senators Kohl, Long, Winsley, Kline, Prentice and Rasmussen (by request of Department of Social and Health Services)

AN ACT Relating to background checks for persons being authorized to care for children; and amending RCW 74.15.030.

Referred to Committee on Human Services and Corrections.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

2SHB 1065 by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas, Wolfe and Mason ) (by request of Insurance Commissioner Senn)

Filing certain insurance related corporate documents.

Referred to Committee on Financial Institutions, Insurance and Housing.

SHB 1150 by House Committee on Law and Justice (originally sponsored by Representatives Cairnes, Cooper, L. Thomas, Sterk, Zellinsky, Radcliff, Wood, Hankins, Clements, Skinner, McMorris, Wensman, D. Schmidt, DeBolt, Keiser, Thompson, Carlson, O'Brien, Quall and Anderson)

Making assault of a school employee or sports official an aggravating factor for sentencing.

Referred to Committee on Law and Justice.

EHB 1508 by Representatives Wensman, D. Schmidt, Cooper, Chopp, Doumit, Blalock, Dickerson, B. Thomas and Thompson

Maintaining a list of absentee ballots.

Referred to Committee on Government Operations.

HB 1638 by Representative Kessler (by request of Secretary of State Munro)

Permitting an absentee ballot request on the election or primary day.

Referred to Committee on Government Operations.

EHB 2302 by Representatives Honeyford, Lisk, Wolfe, Scott, Gardner and Hankins

Authorizing counties that hold money in trust for school purposes to distribute the money to school districts.

Referred to Committee on Government Operations.

SHB 2321 by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas, Smith and Wolfe)

Allowing consumer loan companies to charge borrowers fees for services provided by third parties.

Referred to Committee on Financial Institutions, Insurance and Housing.

MOTION

At 10:18 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 10:53 a.m. by President Owen.

There being no objection, the President advanced the Senate to the seventh order of business.

MOTION

On motion of Senator Hale, Senator Swecker was excused.

THIRD READING

SUBSTITUTE SENATE BILL NO. 5636, by Senate Committee on Natural Resources and Parks (originally sponsored by Senators Oke, Swecker, Rossi and Horn)

Revising health inspection warrants for local health officers in response to pollution in commercial or recreational shellfish harvesting areas.

The bill was read the third time.

Debate ensued

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5636.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5636 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Snyder, Spanel, Stevens, Strannigan, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senators Heavey, Sheldon, T. and Thibaudeau - 3. Excused: Senator Swecker - 1. SUBSTITUTE SENATE BILL NO. 5636, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

THIRD READING

SENATE BILL NO. 5065, by Senators Roach, Haugen, Johnson and Winsley (by request of Secretary of State Munro)

Regulating naming of businesses.

MOTION

On motion of Senator Roach, the rules were suspended, Senate Bill No. 5065 was returned to second reading and read the second time.

MOTION

Senator Roach moved that the following amendment by Senator Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 23B.04.010 and 1994 c 211 s 1304 are each amended to read as follows:

(1) A corporate name:



(a) Must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd.,"

(b) Must not contain language stating or implying that the corporation is organized for a purpose other than those permitted by RCW 23B.03.010 and its articles of incorporation;

(c) Must not contain any of the following words or phrases:

"Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more of the words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state; and

(d) Except as authorized by subsections (2) and (3) of this section, must be distinguishable upon the records of the secretary of state from:

(i) The corporate name of a corporation incorporated or authorized to transact business in this state;

(ii) A corporate name reserved or registered under (~~RCW 23B.04.020 or 23B.04.030~~) chapter 23B.04 RCW;

(iii) The fictitious name adopted (~~pursuant to~~) under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(iv) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;

(v) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;

(vi) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter (~~25.08 or~~) 25.10 RCW; (~~and~~

~~(vii)~~) (vii) The name or reserved name of (~~any~~) a limited liability company organized or registered under chapter 25.15 RCW; and

(viii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.

(2) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (1) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(3) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, (~~or of another domestic or foreign~~) limited liability company, (~~or of a domestic or foreign~~) limited partnership, or limited liability partnership, that is used in this state if the other (~~corporation is incorporated or authorized to transact business in this state, or if the limited liability company is organized or authorized to transact business in this state, or if the limited partnership~~) entity is formed or authorized to transact business in this state, and the proposed user corporation:

(a) Has merged with the other corporation, limited liability company, or limited partnership; or

(b) Has been formed by reorganization of the other corporation.

(4) This title does not control the use of assumed business names or "trade names."

(5) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in (~~the designation, under subsection (1)(a) of this section, used for the same name~~) any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "Ltd.," "LP.," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.,"

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

**Sec. 2.** RCW 23B.15.060 and 1989 c 165 s 174 are each amended to read as follows:

(1) No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(a) Contains the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd.,"

(b) Does not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RCW 23B.03.010 and its articles of incorporation;

(c) Does not contain any of the following words or phrases: "Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state; and

(d) Except as authorized by subsections ~~((3))~~ (4) and ~~((4))~~ (5) of this section, is distinguishable upon the records of the secretary of state from:

(i) The corporate name of a corporation incorporated or authorized to transact business in this state;

(ii) A corporate name reserved or registered under ~~((RCW 23B.04.020 or 23B.04.030))~~ chapter 23B.04 RCW;

(iii) The fictitious name adopted pursuant to subsection ~~((2))~~ (3) of this section by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(iv) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW; ~~((and))~~

(v) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;

(vi) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;

(vii) The name or reserved name of any limited liability company organized or registered under chapter 25.15 RCW;

and  
(viii) The name or reserved name of any limited liability partnership registered under chapter 25.04 RCW.

(2) A name shall not be considered distinguishable under the same grounds as provided under RCW 23B.04.010.

(3) If the corporate name of a foreign corporation does not satisfy the requirements of subsection (1) of this section, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state:

(a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd.," to its corporate name for use in this state; or

(b) May use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

~~((3))~~ (4) A foreign corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (1)(d) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

~~((4))~~ (5) A foreign corporation may use in this state the name, including the fictitious name, of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation:

(a) Has merged with the other corporation; or

(b) Has been formed by reorganization of the other corporation.

~~((5))~~ (6) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of subsection (1) of this section, it may not transact business in this state under the changed name until it adopts a name satisfying such requirements and obtains an amended certificate of authority under RCW 23B.15.040.

**Sec. 3.** RCW 24.03.045 and 1994 c 211 s 1305 are each amended to read as follows:

The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) ~~((Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under any act of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, any foreign or domestic limited liability company on file with the secretary of state, any domestic or foreign limited partnership on file with the secretary, or a limited partnership existing under chapter 25.10 RCW, or a corporate name reserved or registered as permitted by the laws of this state. This subsection shall not apply if the applicant files with the secretary of state either of the following: (a) The written consent of the other corporation, limited liability company, limited partnership, or holder of a reserved name to use the same or deceptively similar name and one or more words are added or~~

deleted to make the name distinguishable from the other name as determined by the secretary of state, or (b) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.)

(a) Except as provided in (b) and (c) of this subsection, must be distinguishable upon the records of the secretary of state from:

(i) The corporate name or reserved name of a corporation or domestic corporation organized or authorized to transact business under this chapter;

(ii) A corporate name reserved or registered under chapter 23B.04 RCW;

(iii) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(iv) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;

(v) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;

(vi) The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW; and

(vii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.

(b) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in (a) of this subsection. The secretary of state shall authorize use of the name applied for if:

(i) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(ii) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(c) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership, that is used in this state if the other entity is formed or authorized to transact business in this state, and the proposed user corporation:

(i) Has merged with the other corporation, limited liability company, or limited partnership; or

(ii) Has been formed by reorganization of the other corporation.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

(4) Shall not include or end with "incorporated," "company," "corporation," "partnership," "limited partnership," or "Ltd.," or any abbreviation thereof, but may use "club," "league," "association," "services," "committee," "fund," "society," "foundation," ". . . . .", a nonprofit corporation," or any name of like import.

(5) May only include the term "public benefit" or names of like import if the corporation has been designated as a public benefit nonprofit corporation by the secretary in accordance with this chapter.

(6) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "Ltd.," "LP.," "L.P.," "LLP.," "L.L.P.," "LLC.," or "L.L.C.;"

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(7) This title does not control the use of assumed business names or "trade names."

**Sec. 4.** RCW 24.06.045 and 1995 c 337 s 22 are each amended to read as follows:

The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) (~~Shall not be the same as, or deceptively similar to, the name of any corporation existing under any act of this state, or any foreign corporation authorized to transact business or conduct affairs in this state under any act of this state, or the name of any limited liability company organized or authorized to transact business under any act of this state, the name of a domestic or foreign limited partnership on file with the secretary, or a corporate name reserved or registered as permitted by the laws of this state. This subsection shall not apply if the applicant files with the secretary of state either of the following: (a) The written consent of the other corporation, limited liability company, limited partnership, or holder of a reserved name to use the same or deceptively similar name and one or more words are added or deleted to make the name distinguishable from the other name as determined by the secretary of state, or (b) a certified copy of a final decree of a court of competent jurisdiction establishing the~~

~~prior right of the applicant to the use of the name in this state.~~) (a) Except as provided in (b) and (c) of this subsection, must be distinguishable upon the records of the secretary of state from:

(i) The corporate name of a corporation organized or authorized to transact business in this state;

(ii) A corporate name reserved or registered under chapter 23B.04 RCW;

(iii) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under this chapter;

(iv) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(v) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;

(vi) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;

(vii) The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW; and

(viii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.

(b) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in (a) of this subsection. The secretary of state shall authorize use of the name applied for if:

(i) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(ii) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(c) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership, that is used in this state if the other entity is incorporated, organized, formed, or authorized to transact business in this state, and the proposed user corporation:

(i) Has merged with the other corporation, limited liability company, or limited partnership; or

(ii) Has been formed by reorganization of the other corporation.

(3) Shall be transliterated into letters of the English alphabet if it is not in English.

(4) The name of any corporation formed under this section shall not include nor end with "incorporated", "company", or "corporation" or any abbreviation thereof, but may use "club", "league", "association", "services", "committee", "fund", "society", "foundation", ". . . . ., a nonprofit mutual corporation", or any name of like import.

(5) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "Ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.;"

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(6) This title does not control the use of assumed business names or "trade names."

**Sec. 5.** RCW 25.04.710 and 1995 c 337 s 3 are each amended to read as follows:

(1) To become and to continue as a limited liability partnership, a partnership shall file with the secretary of state an application stating the name of the partnership; the address of its principal office; if the partnership's principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state which the partnership will be required to maintain; the number of partners; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby applies for status as a limited liability partnership.

(2) The application shall be executed by a majority in interest of the partners or by one or more partners authorized to execute an application.

(3) The application shall be accompanied by a fee of one hundred seventy-five dollars for each partnership.

(4) The secretary of state shall register as a limited liability partnership any partnership that submits a completed application with the required fee and the name of which complies with RCW 25.04.715.

(5) A partnership registered under this section shall pay an annual fee, in each year following the year in which its application is filed, on a date and in an amount specified by the secretary of state. The fee must be accompanied by a notice, on a

form provided by the secretary of state, of the number of partners currently in the partnership and of any material changes in the information contained in the partnership's application for registration.

(6) Registration is effective immediately after the date an application is filed, and remains effective until: (a) It is voluntarily withdrawn by filing with the secretary of state a written withdrawal notice executed by a majority in interest of the partners or by one or more partners authorized to execute a withdrawal notice; or (b) thirty days after receipt by the partnership of a notice from the secretary of state, which notice shall be sent by certified mail, return receipt requested, that the partnership has failed to make timely payment of the annual fee specified in subsection (5) of this section, unless the fee is paid within such a thirty-day period.

(7) The status of a partnership as a limited liability partnership, and the liability of the partners thereof, shall not be affected by: (a) Errors in the information stated in an application under subsection (1) of this section or a notice under subsection (5) of this section; or (b) changes after the filing of such an application or notice in the information stated in the application or notice.

(8) The secretary of state may provide forms for the application under subsection (1) of this section or a notice under subsection (5) of this section.

**Sec. 6.** RCW 25.04.715 and 1995 c 337 s 4 are each amended to read as follows:

(1) The name of a limited liability partnership shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

(2) Except as provided in subsections (3) and (4) of this section, the name must be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation organized or authorized to transact business in this state;

(b) A corporate name reserved or registered under chapter 23B.04 RCW;

(c) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;

(d) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(e) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;

(f) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;

(g) The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW; and

(h) The name of a limited liability partnership registered under chapter 25.04 RCW.

(3) A limited liability partnership may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (2) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other holder consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A limited liability partnership may use the name, including the fictitious name, of another domestic or foreign corporation, or of another domestic or foreign limited liability company or of a domestic or foreign limited partnership or domestic or foreign limited liability partnership, that is used in this state if the other corporation is incorporated or authorized to transact business in this state, or if the limited liability company is organized or authorized to transact business in this state, or if the limited partnership is incorporated, organized, formed, or authorized to transact business in this state, and the proposed user corporation:

(a) Has merged with the other corporation, limited liability company, or limited partnership; or

(b) Has been formed by reorganization of the other corporation.

(5) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.":

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(6) This chapter does not control the use of assumed business names or "trade names."

**NEW SECTION. Sec. 7.** A new section is added to chapter 25.04 RCW, to be codified to follow RCW 25.04.715 immediately, to read as follows:

(1) The exclusive right to the use of a name may be reserved by:

- (a) A person intending to organize a limited liability partnership under this chapter and to adopt that name;
- (b) A domestic or foreign limited liability partnership registered in this state which intends to adopt that name;
- (c) A foreign limited liability partnership intending to register in this state and to adopt that name; and
- (d) A person intending to organize a foreign limited liability partnership and intending to have it registered in this state and adopt that name.

(2) The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name, accompanied by a fee established by the secretary of state by rule. If the secretary of state finds that the name is available for use by a domestic or foreign limited liability partnership, the secretary of state shall reserve the name for the exclusive use of the applicant for a period of one hundred eighty days. The reservation is limited to one filing and is nonrenewable.

A person or partnership may transfer the right to the exclusive use of a reserved name to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

**Sec. 8.** RCW 25.10.020 and 1996 c 76 s 1 are each amended to read as follows:

(1) The name of each limited partnership formed pursuant to this chapter as set forth in its certificate of limited partnership:

- (a) Shall contain the words "limited partnership" or the abbreviation "LP" or "L.P.";
- (b) May not contain the name of a limited partner unless (i) it is also the name of a general partner, or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(c) May not contain any of the following words or phrases: "Bank", "banking", "banker", "trust", "cooperative"; or any combination of the words "industrial" and "loan"; or any combination of any two or more of the words "building", "savings", "loan", "home", "association" and "society"; or any other words or phrases prohibited by any statute of this state;

(d) Except as authorized by subsections (2) and (3) of this section, must be distinguishable upon the records of the secretary of state from:

- (i) The name or reserved name of a foreign or domestic limited partnership;
- (ii) The name of ~~((any))~~ a limited liability company reserved, registered, or formed under the laws of this state or qualified to do business as a foreign limited liability company in this state under chapter 25.15 RCW;
- (iii) The corporate name of a corporation incorporated or authorized to transact business in this state;
- (iv) A corporate name reserved or registered under ~~((RCW 23B.04.020 or 23B.04.030))~~ chapter 23B.04 RCW;
- (v) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;

(vi) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;

(vii) The fictitious name adopted ~~((pursuant to))~~ under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable; and

~~(((vi) The corporate name of a not for profit corporation incorporated or authorized to conduct affairs in this state.))~~

(viii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.

(2) A limited partnership may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (1) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other limited partnership, company, corporation, limited liability partnership, or holder consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited partnership; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(3) A limited partnership may use the name, including the fictitious name, of another domestic or foreign limited partnership, limited liability company, limited liability partnership, or corporation that is used in this state if the other ~~((limited partnership, limited liability company, or corporation))~~ entity is organized, incorporated, formed, or authorized to transact business in this state and the proposed user limited partnership:

(a) Has merged with the other limited partnership, limited liability company, limited liability partnership, or corporation; or

(b) Results from reorganization with the other limited partnership, limited liability company, or corporation.

(4) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in (~~the designation, under subsection (1)(a) of this section, used for the same name~~) any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "Ltd.," "LP.," "L.P.," "LLP," "L.L.P.," "LLC." or "L.L.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(5) This (~~title~~) chapter does not control the use of assumed business names or "trade names."

**Sec. 9.** RCW 25.15.010 and 1996 c 231 s 5 are each amended to read as follows:

(1) The name of each limited liability company as set forth in its certificate of formation:

(a) Must contain the words "Limited Liability Company," the words "Limited Liability" and abbreviation "Co.," or the abbreviation "L.L.C." or "LLC";

(b) Except as provided in subsection (1)(d) of this section, may contain the name of a member or manager;

(c) Must not contain language stating or implying that the limited liability company is organized for a purpose other than those permitted by RCW 25.15.030;

(d) Must not contain any of the words or phrases: "Bank," "banking," "banker," "trust," "cooperative," "partnership," "corporation," "incorporated," or the abbreviations "corp.," "Ltd.," or "inc.," or "LP.," "L.P.," "LLP," "L.L.P.," or any combination of the words "industrial" and "loan," or any combination of any two or more of the words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state; and

(e) Must be distinguishable upon the records of the secretary of state from the names described in RCW 23B.04.010(1)(d) and 25.10.020(1)(d), and the names of any limited liability company reserved, registered, or formed under the laws of this state or qualified to do business as a foreign limited liability company in this state.

(2) A limited liability company may apply to the secretary of state for authorization to use any name which is not distinguishable upon the records of the secretary of state from one or more of the names described in subsection (1)(e) of this section. The secretary of state shall authorize use of the name applied for if the other corporation, limited partnership, limited liability partnership, or limited liability company consents in writing to the use and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited liability company.

(3) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in (~~the designation, under subsection (1)(a) of this section, used for the same name~~) any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "Ltd.," "LP.," "L.P.," "LLP," "L.L.P.," "LLC." or "L.L.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(4) This chapter does not control the use of assumed business names or "trade names."

**Sec. 10.** RCW 25.15.325 and 1996 c 231 s 10 are each amended to read as follows:

(1) A foreign limited liability company may register with the secretary of state under any name (whether or not it is the name under which it is registered in the jurisdiction of its formation) that includes the words "Limited Liability Company," the words "Limited Liability" and the abbreviation "Co.," or the abbreviation "L.L.C." or "LLC" and that could be registered by a domestic limited liability company. A foreign limited liability company may apply to the secretary of state for authorization to use a name which is not distinguishable upon the records of the office of the secretary of state from the names described in RCW 23B.04.010(~~(1)(d)~~) and 25.10.020, and the names of any domestic or foreign limited liability company reserved, registered, or formed under the laws of this state. The secretary of state shall authorize use of the name applied for if the other corporation, limited liability company, limited liability partnership, or limited partnership consents in writing to the use and files with the secretary of state documents necessary to change its name, or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying foreign limited liability company.

(2) Each foreign limited liability company shall continuously maintain in this state:

(a) A registered office, which may but need not be a place of its business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in the same city as the registered office in conjunction with the registered office address if the foreign limited liability company also maintains on file the specific geographic address of the registered office where personal service of process may be made;

(b) A registered agent for service of process on the foreign limited liability company, which agent may be either an individual resident of this state whose business office is identical with the foreign limited liability company's registered office, or a domestic corporation, a limited partnership or limited liability company, or a foreign corporation authorized to do business in this state having a business office identical with such registered office; and

(c) A registered agent who shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filled with or as a part of the document first appointing a registered agent. In the event any individual, limited liability company, limited partnership, or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

(3) A foreign limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the foreign limited liability company;

(b) If the current registered office is to be changed, the street address of the new registered office in accord with subsection (2)(a) of this section;

(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(4) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any foreign limited liability company for which the agent is the registered agent by notifying the foreign limited liability company in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (3) of this section and recites that the foreign limited liability company has been notified of the change.

(5) A registered agent of any foreign limited liability company may resign as agent by signing and delivering to the secretary of state for filing a statement that the registered office is also discontinued. After filing the statement the secretary of state shall mail a copy of the statement to the foreign limited liability company at its principal (~~office address shown in its most recent annual report, or the address of its principal~~) place of business shown in its application for certificate of registration if no annual report has been filed. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

**Sec. 11.** RCW 25.15.015 and 1994 c 211 s 103 are each amended to read as follows:

(1) Reserved Name.

(a) A person may reserve the exclusive use of a limited liability company name by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the limited liability company name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred eighty-day period.

(b) The owner of a reserved limited liability company name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

(2) Registered Name.

(a) A foreign limited liability company may register its name if the name is distinguishable upon the records of the secretary of state from the names specified in RCW 25.15.010(~~(+)(e)~~).

(b) A foreign limited liability company registers its name by delivering to the secretary of state for filing an application that:

(i) Sets forth its name and the state or country and date of its organization; and

(ii) Is accompanied by a certificate of existence, or a document of similar import, from the state or country of organization.

(c) The name is registered for the applicant's exclusive use upon the effective date of the application and until the close of the calendar year in which the application for registration is filed.



(d) A foreign limited liability company whose registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of (b) of this subsection, between October 1st and December 31st of the preceding year. The renewal application when filed renews the registration for the following calendar year.

(e) A foreign limited liability company whose registration is effective may thereafter qualify as a foreign limited liability company under the registered name, or consent in writing to the use of that name by a limited liability company thereafter organized under this chapter, by a corporation thereafter formed under Title 23B RCW, by a limited partnership thereafter formed under chapter 25.10 RCW, or by another foreign limited liability company, foreign corporation, or foreign limited partnership thereafter authorized to transact business in this state. The registration terminates when the domestic limited liability company is organized, the domestic corporation is incorporated, or the domestic limited partnership is formed, or the foreign limited liability company qualifies or consents to the qualification of another foreign limited liability company, corporation, or limited partnership under the registered name."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Stevens to Senate Bill No. 5065.

The motion by Senator Roach carried and the striking amendment was adopted by voice vote.

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted: On page 1, line 1 of the title, after "organizations;" strike the remainder of the title and insert "amending RCW 23B.04.010, 23B.15.060, 24.03.045, 24.06.045, 25.04.710, 25.04.715, 25.10.020, 25.15.010, 25.15.325, and 25.15.015; and adding a new section to chapter 25.04 RCW." On motion of Senator Roach, the rules were suspended, Engrossed Senate Bill No. 5065 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Franklin, Senator Fraser was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 5065.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5065 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Fraser and Swecker - 2. ENGROSSED SENATE BILL NO. 5065, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SENATE BILL NO. 5164, by Senators Haugen, Long, Goings, Patterson, Franklin and Bauer

Removing certain tenants and occupants from a mobile home park.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5164.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5164 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, West, Winsley, Wood and Zarelli - 43. Voting nay: Senators Fairley, Heavey, Kohl, Thibaudeau and Wojahn - 5. Excused: Senator Swecker - 1. SENATE BILL NO. 5164, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SECOND SUBSTITUTE SENATE BILL NO. 5084, by Senate Committee on Ways and Means (originally sponsored by Senators Roach, Schow, Benton, Swecker, Zarelli, Morton, Hochstatter, Johnson, McCaslin, Winsley, Stevens and Oke)

Modifying the definition of a qualified party and the amount of attorneys' fees they may recover in an action appealing a state agency directive.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 5084.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5084 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, West, Winsley, Wood and Zarelli - 37. Voting nay: Senators Fairley, Franklin, Fraser, Heavey, Jacobsen, Kline, Kohl, Prentice, Spanel, Thibaudeau and Wojahn - 11. Excused: Senator Swecker - 1. SECOND SUBSTITUTE SENATE BILL NO. 5084, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5196, by Senate Committee on Ways and Means (originally sponsored by Senators Strannigan, West, Bauer, Heavey, Prentice and Wood)

Allowing a business and occupation tax deduction for certain amusement devices.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute Senate Bill No. 5196 was returned to second reading and read the second time.

#### MOTIONS

On motion of Senator Strannigan, the following amendment was adopted:

On page 1, line 11, strike "January" and insert "July" On motion of Senator West, the rules were suspended, Engrossed Substitute Senate Bill No. 5196 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5196.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5196 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, West, Winsley, Wojahn, Wood and Zarelli - 41. Voting nay: Senators Fairley, Fraser, Prentice, Snyder, Spanel and Thibaudeau - 6. Absent: Senator Goings - 1. Excused: Senator Swecker - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 5196, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5479, by Senate Committee on Education (originally sponsored by Senators Benton, West, Hochstatter, Swecker, McDonald and Oke)

Changing time periods for provisional status for certificated employees.

The bill was read the third time.  
Debate ensued.

## MOTION

On motion of Senator Johnson, further consideration of Engrossed Substitute Senate Bill No. 5479 was deferred.

## THIRD READING

SENATE BILL NO. 5622, by Senators Long, Strannigan and Winsley

Removing the expiration of tax exemptions for new construction of alternative housing for youth in crisis.

The bill was read the third time.  
Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5622.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5622 and the bill passed the Senate by the following vote:

Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Swecker - 1. SENATE BILL NO. 5622, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## THIRD READING

SUBSTITUTE SENATE BILL NO. 6050, by Senate Committee on Ways and Means (originally sponsored by Senator Oke)

Providing tax exemptions for state route number 16 corridor improvements constructed under chapter 47.46 RCW.

## MOTIONS

On motion of Senator Oke, the rules were suspended, Substitute Senate Bill No. 6050 was returned to second reading and read the second time.

Senator Oke moved that the following amendment by Senators Oke and West be adopted:

On page 1, after line 4, strike all of section 1 and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds and declares that tax exemptions and deferrals on state route number 16 corridor improvements, constructed under the public-private initiatives in transportation program, would decrease both the initial cost of the project and the operating costs of the facility once it is in operation. A sales and use tax deferral and leasehold tax exemptions would lower initial toll levels charged to users of the facility, reduce the need for toll increases, and reduce the length of time tolls are imposed. Lower toll rates increase the likelihood of favorable voter response to the advisory vote required under chapter 47.46 RCW on the state route number 16 corridor improvements project.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.46 RCW to read as follows:

(1) A private entity that is party to an agreement under this chapter may apply for deferral of taxes on the site preparation for, the construction of, the acquisition of any related machinery and equipment which will become a part of, and the rental of equipment for use in the state route number 16 corridor improvements project under this chapter. Application shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application shall contain information regarding estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within sixty days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on the project. The use of the certificate shall be governed by rules established by the department of revenue.

(3) A private entity granted a deferral under this section shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the project is operationally complete. The first payment is due on December 31st of the fifth calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years. Each payment shall equal twenty percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of a private entity granted a deferral under this section.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of the private entity.

(6) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section."

Renumber the sections consecutively.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Oke and West on page 1, after line 4, to Substitute Senate Bill No. 6050.

The motion by Senator Oke carried and the amendment was adopted.

## MOTION

Senator Fraser moved that the following amendment by Senators Fraser, Loveland, Spanel, Rasmussen and Goings be adopted:

On page 1, after line 4, strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds and declares that state tax exemptions and deferrals on state route number 16 corridor improvements, constructed under the public-private initiatives in transportation program, would decrease both the initial cost of the project and the operating costs of the facility once it is in operation. A state sales and use tax deferral and leasehold tax exemptions would lower initial toll levels charged to users of the facility, reduce the need for toll increases, and reduce the length of time tolls are imposed. Lower toll rates increase the likelihood of favorable voter response to the advisory vote required under chapter 47.46 RCW on the state route number 16 corridor improvements project.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.46 RCW to read as follows:

(1) A private entity that is party to an agreement under this chapter may apply for deferral of state taxes on the site preparation for, the construction of, the acquisition of any related machinery and equipment which will become a part of, and the

rental of equipment for use in the state route number 16 corridor improvements project under this chapter. Application shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application shall contain information regarding estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within sixty days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08 and 82.12 RCW on the project. The project is subject to local tax under chapter 82.14 RCW. The use of the certificate shall be governed by rules established by the department of revenue.

(3) A private entity granted a state tax deferral under this section shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the project is operationally complete. The first payment is due on December 31st of the fifth calendar year after such certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal ten percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of a private entity granted a deferral under this section.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of the private entity.

(6) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 82.29A RCW to read as follows:

All leasehold interests in the state route number 16 corridor improvements project constructed and operated under chapter 47.46 RCW are exempt from state tax under RCW 82.29A.030." Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

#### POINT OF INQUIRY

Senator Betti Sheldon: "Senator Oke, how much do you think the toll will be reduced by this leasehold extension and the state sales tax deferral?"

Senator Oke: "Well, at this point in time, there really is no way to tell, because we estimate right now that the bridge would cost three hundred and two million dollars--and it has been suggested to me that what we are doing could save the toll as much as fifty cents from the exemptions we are making."

Senator Betti Sheldon: "Fifty cents--and that would be from about what level to what level then?"

Senator Oke: "Right now, with this exemption in place, we are trying to keep it at three dollars. With the passage of this amendment, I think it would possibly go up considerably over that. The whole package we put together, as it has been shared with me by the folks that figured this out, would amount to about fifty cents. I know you are trying to cut into a portion of it, but I guess my real intent right now is to get this bill to the House side. We are going to see it again; they are going to make some changes to it over there. So, this isn't the last day, but I want to get it moving to the House to make sure we get it through over there. Last time, we had it through here quickly, but it didn't make it through the other side."

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senators Fraser, Loveland, Spanel, Rasmussen and Goings on page 1, after line 4, to Substitute Senate Bill No. 6050.

#### ROLL CALL

The Secretary called the roll and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.

#### MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, on line 3 of the title, after "82.29A.130;," insert "adding a new section to chapter 47.46 RCW;" On motion of Senator West, the rules were suspended, Engrossed Substitute Senate Bill No. 6050 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6050.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6050 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 36. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Kline, Kohl, Loveland, McAuliffe, Patterson, Spanel, Thibaudeau and Wojahn - 13. ENGROSSED SUBSTITUTE SENATE BILL NO. 6050, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 12:05 p.m., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Thursday, January 29, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

SEVENTEENTH DAY, JANUARY 28, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

#### EIGHTEENTH DAY

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NOON SESSION

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Senate Chamber, Olympia, Thursday, January 29, 1998

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

#### MOTION

On motion of Senator Sellar, the reading of the Journal of the previous day was dispensed with and it was approved.

#### REPORTS OF STANDING COMMITTEES

January 27, 1998

SSB 5727 Prime Sponsor, Senate Committee on Transportation: Requiring rearview mirrors on certain delivery trucks.

Reported by Committee on Transportation

MAJORITY Recommendation: That Second Substitute Senate Bill No. 5727 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke, Patterson, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6123 Prime Sponsor, Senator Morton: Regulating animal health. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6169 Prime Sponsor, Senator Winsley: Regulating third-party appraisals. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6171 Prime Sponsor, Senator Strannigan: Authorizing loans for projects recommended by the public works board. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Roach, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6181 Prime Sponsor, Senator Johnson: Regulating probate, trusts, and estates. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6181 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6192 Prime Sponsor, Senator Sellar: Providing for the operation of the state investment board. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Hale, Kline and Prentice.

MINORITY Recommendation: Do not pass. Signed by Senator Heavey.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6222 Prime Sponsor, Senator Brown: Enhancing traffic safety by the Cooper Jones Act. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6222 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6226 Prime Sponsor, Senator Haugen: Funding airport development. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Prince, Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senator Benton, Vice Chair.

Referred to Committee on Ways and Means.

January 27, 1998

SB 6227 Prime Sponsor, Senator Haugen: Adjusting aircraft registration fees and tax distribution. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

Referred to Committee on Ways and Means.

January 27, 1998

SB 6228 Prime Sponsor, Senator Haugen: Adjusting aircraft dealers' license fees and their distribution. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senator Benton, Vice Chair.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6229 Prime Sponsor, Senator Haugen: Enhancing compliance with aircraft registration laws. Reported by Committee on Transportation



MAJORITY Recommendation: That Substitute Senate Bill No. 6229 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6276 Prime Sponsor, Senator Winsley: Participating in the linked deposit program. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6276 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6279 Prime Sponsor, Senator Long: Imposing an additional assessment for persons entering diversion agreements in regard to prostitution offenses. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6337 Prime Sponsor, Senator Winsley: Modifying property tax exemptions for nonprofit organizations. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6355 Prime Sponsor, Senator Winsley: Regulating share insurance for credit unions. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6475 Prime Sponsor, Senator Roach: Revising provisions relating to driving while under the influence. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6475 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens and Thibaudeau.

HOLD.

January 27, 1998

SB 6516 Prime Sponsor, Senator Roach: Providing for the possibility of life imprisonment for first degree murder. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6516 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Fairley, Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

January 27, 1998

SB 6517 Prime Sponsor, Senator Roach: Making the deadly weapon sentencing enhancement the same as the firearm sentencing enhancement. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Fairley and Kline.

Referred to Committee on Ways and Means.

January 28, 1998

SB 6667 Prime Sponsor, Senator B. Sheldon: Establishing the Washington gift of life medal. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That the bill be referred to be referred to Committee on Government Operations without recommendation. Signed by Senators Deccio, Chair; Wood, Vice Chair; Franklin and Wojahn.

Referred to Committee on Government Operations.

#### MOTIONS

On motion of Senator Sellar, Senate Bill No. 6517 was referred to the Committee on Ways and Means.

On motion of Senator Sellar, Senate Bill No. 6475 was held at the desk.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

January 27, 1998

GA 9126 RICHARD THOMPSON, appointed January 15, 1997, for a term ending at the pleasure of the Governor, as Director of the Office of Finance Management.

Reported by Committee on Ways and Means

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators West, Chair; Strannigan, Vice Chair; Brown, Fraser, Kohl, Long, Loveland, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules.

January 27, 1998

GA 9227 FREDERICK C. KIGA, appointed February 3, 1997, for a term ending at the pleasure of the Governor, as Director of the Department of Revenue.

Reported by Committee on Ways and Means

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Brown, Fraser, Hochstatter, Kohl, Long, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules.

MESSAGE FROM STATE OFFICE

STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
Olympia, WA 98504-5000

January 23, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
P. O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. O'Connell:

Enclosed is the division of Alcohol and Substance Abuse Report to the Legislature entitled "Determining the Value of Opiate Substitution Treatment." This report is mandated under RCW 70.96A.420(3).

If you have any questions, about the report, please call Doug Allen at 438-8060.

Sincerely,

LYLE QUASIM, Secretary

The Department of Social and Health Services Report on Determining the Value of Opiate Substitution Treatment is on file in the Office of the Secretary of Senate.

INTRODUCTION AND FIRST READING

SB 6717 by Senators West, Prince and Hale

AN ACT Relating to institutions of higher education; amending RCW 28B.45.050, 28B.10.029, 28B.130.020, and 43.01.236; adding new sections to chapter 28B.35 RCW; creating a new section; and repealing RCW 28B.25.010, 28B.25.020, 28B.25.030, 28B.25.033, 28B.15.037, 28B.25.040, 28B.25.050, 28B.25.070, 28B.25.075, 28B.25.090, 28B.25.100, and 28B.25.900.

Referred to Committee on Higher Education.

SB 6718 by Senators Finkbeiner, Hochstatter and Oke

AN ACT Relating to immunity for state and local government agencies and their employees for harm caused by incorrectly calculated or interpreted dates associated with year 2000 date changes processed by electronic computing devices; adding a new section to chapter 4.24 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Energy and Utilities.

SB 6719 by Senators Finkbeiner, Johnson, Rossi, McDonald, Hochstatter and Oke

AN ACT Relating to retail electrical customers; amending RCW 42.30.110, 54.16.040, 54.16.070, 54.16.090, 54.16.180, 54.24.020, 54.24.030, 54.24.050, and 54.24.090; adding a new chapter to Title 18 RCW; and creating new sections.

Referred to Committee on Energy and Utilities.

SB 6720 by Senators Strannigan and Anderson

AN ACT Relating to intermediate drivers' licenses; amending RCW 46.20.031, 46.20.100, 46.20.105, and 46.20.120; adding a new section to chapter 46.20 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Transportation.

SB 6721 by Senators Winsley, Oke, Wojahn, Goings, Kohl, Rasmussen and Bauer

AN ACT Relating to a study of the student transportation allocation; creating a new section; and making an appropriation.

Referred to Committee on Education.

SB 6722 by Senators Kline, Kohl, Brown, Patterson and Bauer (by request of Insurance Commissioner Senn)

AN ACT Relating to discrimination by insurance companies against victims of abuse and shelters for the protection of subjects of abuse; adding a new section to chapter 48.30 RCW; and creating a new section.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6723 by Senators Jacobsen, Wood, Kohl, Patterson, Thibaudeau, Brown, Fraser, Prentice, Goings, Snyder and Rasmussen

AN ACT Relating to part-time employees of community and technical colleges; adding a new section to chapter 28B.50 RCW; and creating a new section.

Referred to Committee on Higher Education.

SB 6724 by Senators Spanel and Hargrove

AN ACT Relating to sea urchin and sea cucumber dive fishery licenses; amending RCW 75.28.046; adding new sections to chapter 75.30 RCW; creating a new section; and repealing RCW 75.30.210 and 75.30.250.

Referred to Committee on Natural Resources and Parks.

SB 6725 by Senators Patterson, Haugen, B. Sheldon and Fraser

AN ACT Relating to the land use study commission; amending RCW 90.61.020, 90.61.030, 90.61.040, and 90.61.900; making an appropriation; and declaring an emergency.

Referred to Committee on Government Operations.

SB 6726 by Senators Brown, Patterson and Kohl

AN ACT Relating to child care; adding new sections to chapter 74.12 RCW; and creating a new section.

Referred to Committee on Human Services and Corrections.

SB 6727 by Senators West, Wood, Hale, Kohl, Winsley, Prince, B. Sheldon, McDonald, Brown, Bauer, Rasmussen and Oke

AN ACT Relating to investments in education; amending RCW 43.79.460 and 28A.305.235; adding a new section to chapter 43.79 RCW; creating a new section; and recodifying RCW 28A.305.235.

Referred to Committee on Ways and Means.

MOTION

At 12:08 p.m., on motion of Senator Sellar, the Senate adjourned until 10:00 a.m., Friday, January 30, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

EIGHTEENTH DAY, JANUARY 29, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**NINETEENTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Friday, January 30, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Finkbeiner and Schow.

The Sergeant at Arms Color Guard, consisting of Pages Jennifer Anderson and Stephany Yerger, presented the Colors. Reverend Wayne Lobaugh, pastor of the Crossroads Church of Rochester, and a guest of Senator Dan Swecker, offered the prayer.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

January 29, 1998

SB 5158 Prime Sponsor, Senator Kohl: Providing economic incentives for employer-sponsored child-care benefits. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 5158 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

January 28, 1998

SB 5468 Prime Sponsor, Senator Rasmussen: Promoting beekeeping operations. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 5468 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 5708 Prime Sponsor, Senator Kohl: Requiring liability insurance for child day-care providers. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Second Substitute Senate Bill No. 5708 be substituted therefor, and the second substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 5972 Prime Sponsor, Senator McCaslin: Clarifying the time limit for accepting contributions received by mail. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 5972 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6156 Prime Sponsor, Senator Swecker: Studying methods for calculating water-dependent lease rates on state-owned aquatic lands. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6156 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Snyder, Stevens and Swecker.

Referred to Committee on Ways and Means.

January 28, 1998

SB 6210 Prime Sponsor, Senator Prince: Providing a sales tax exemption for parts used for and repairs to farm machinery and implements used outside the state. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6255 Prime Sponsor, Senator Morton: Modifying the duties of the apiary committee and repealing the industry apiary program. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6255 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Fraser, McAuliffe, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6259 Prime Sponsor, Senator Swecker: Authorizing the creation of lake management service areas. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6259 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; McAuliffe, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6260 Prime Sponsor, Senator Swecker: Changing lake management district provisions. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6260 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6261 Prime Sponsor, Senator Swecker: Creating an aquatic plant management permit program. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6261 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Referred to Committee on Ways and Means.

January 29, 1998

SB 6282 Prime Sponsor, Senator Swecker: Planning for the impact of federally listed threatened and endangered species. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6282 be substituted therefor, and the substitute bill do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Snyder, Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6287 Prime Sponsor, Senator T. Sheldon: Adding inhabitants of county as recipients of water works benefits. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6392 Prime Sponsor, Senator Strannigan: Providing financial support to licensed overnight youth shelters. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

January 29, 1998

SB 6398 Prime Sponsor, Senator McCaslin: Regulating voting system tests. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6429 Prime Sponsor, Senator Long: Allowing the children's trust fund to retain its proportionate share of earnings. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

#### MOTIONS

On motion of Senator Johnson, Senate Bill No. 6261 was referred to the Committee on Ways and Means.

On motion of Senator Johnson, Senate Bill No. 6392 was referred to the Committee on Ways and Means.

#### MESSAGE FROM THE HOUSE

January 28, 1998

MR. PRESIDENT:

The House has passed ENGROSSED HOUSE BILL NO. 2894, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING

SB 6728 by Senators Newhouse, Loveland, Morton, Rasmussen, Deccio and Schow

AN ACT Relating to the taxation of activities conducted for hop commodity commissions or boards; and adding a new section to chapter 82.04 RCW.

Referred to Committee on Ways and Means.

SB 6729 by Senators Prentice, Winsley, Finkbeiner, Fairley, Rasmussen and Kline

AN ACT Relating to financing needs for senior housing; creating new sections; providing an expiration date; and declaring an emergency.

Referred to Committee on Financial Institutions, Insurance and Housing.

SB 6730 by Senators Strannigan, Roach, Long, Hargrove and Oke

AN ACT Relating to restrictions in parenting plans; and amending RCW 26.09.191.

Referred to Committee on Law and Justice.

SB 6731 by Senators Newhouse and Deccio



AN ACT Relating to airport property in this state belonging to municipal corporations in adjoining states; and repealing RCW 84.36.130.

Referred to Committee on Ways and Means.

SB 6732 by Senators Thibaudeau, Kohl and Long

AN ACT Relating to clothing, personal maintenance, and incidental allowances within the department of social and health services; adding a new section to chapter 74.08 RCW; and providing an effective date.

Referred to Committee on Human Services and Corrections.

SB 6733 by Senators Rossi, Roach, Stevens, Oke, Goings and T. Sheldon

AN ACT Relating to limitations on recovery of noneconomic damages by drivers under the influence of alcohol or drugs; and adding new sections to chapter 4.24 RCW.

Referred to Committee on Law and Justice.

SB 6734 by Senator Schow

AN ACT Relating to employee leasing; adding a new section to chapter 51.16 RCW; and adding a new section to chapter 51.08 RCW.

Referred to Committee on Commerce and Labor.

SB 6735 by Senator Swecker

AN ACT Relating to residential education programs in southwest Washington; and adding a new section to chapter 28A.190 RCW.

Referred to Committee on Education.

#### INTRODUCTION AND FIRST READING OF HOUSE BILL

EHB 2894 by Representatives Huff, K. Schmidt, Robertson, Lisk, Carrell, Mastin, Sehlín, Dyer, Mitchell, Pennington, Talcott, Lambert, Buck, D. Schmidt, L. Thomas, Benson, Clements, Skinner, Ballasiotes, Delvin, Parlette, Cooke, Hickel, B. Thomas, Johnson, DeBolt, Hankins, Cairnes, Crouse, Wensman, Mielke, Sherstad, Honeyford, McCune, Koster, Dunn, McDonald, Reams, Sheahan, Sterk, Schoesler, D. Sommers, Bush, Chandler, McMorris, Boldt, Backlund, Mulliken, Van Luven, Radcliff, Alexander, Zellinsky and Thompson

Reallocating motor vehicle excise tax and general fund resources for the purpose of transportation and local criminal justice funding and tax reduction.

Referred to Committee on Ways and Means.

#### MOTION

On motion of Senator McAuliffe, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8689

By Senators McAuliffe, B. Sheldon, Loveland, Fairley, Wood, Stevens, Haugen, Patterson, Kline, Rossi, Deccio, Prentice, Goings, Heavey, Spanel, Jacobsen, Bauer, Oke, Johnson, Rasmussen, Hale, Fraser and Kohl

WHEREAS, It is the mission of the school districts in the state of Washington to provide all students with the best possible education; and

WHEREAS, School boards set the direction for the public schools by envisioning the future of education; and

WHEREAS, School boards set policies and procedures to govern all aspects of school district operation; and

WHEREAS, School boards keep attention focused on progress toward their school districts' goals and maintain a two-way communications loop with all segments of their communities; and

WHEREAS, Serving on a school board requires an unselfish devotion of time and service to carry on the mission and business of the school district; and

WHEREAS, School board members must respond on behalf of the community to the educational needs of students; and

WHEREAS, School board members voluntarily accept the above-mentioned responsibilities;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate does hereby join in the celebration of January 1998, as School Board Recognition Month in Washington State and encourages all citizens to publicly and privately thank the school board members from all school districts for their dedicated service to our children.

Senators McAuliffe, Betti Sheldon, Rasmussen and Hochstatter spoke to Senate Resolution 1998-8689.

#### MOTION

On motion of Senator Oke, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8690

By Senators Oke, Franklin, Fraser, Kohl and Rasmussen

WHEREAS, One of four high school seniors in Washington are current smokers; and

WHEREAS, Three thousand young people start smoking every day in the United States, one third of whom will eventually die of tobacco-related illnesses; and

WHEREAS, Advertising and peer pressure are strong motivating factors in a teen's decision to start using tobacco; and

WHEREAS, Teens all across Washington are involved in programs and activities such as youth coalitions, peer education, and the American Cancer Society's Youth Speak Out!; and

WHEREAS, These programs are designed to prepare teens to educate younger teens and preteens about the dangers of tobacco use; and

WHEREAS, Teens are speaking out in support of stronger policies to restrict tobacco access and exposure by minors; and

WHEREAS, Youths have opportunities to speak out against tobacco through programs sponsored by local health departments, the American Lung Association, the American Cancer Society, and Washington Doctors Ought to Care;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognizes teens involved in anti-tobacco programs designed to keep tobacco away from minors and eliminate exposure to second-hand smoke; and

BE IT FURTHER RESOLVED, That the Senate recognizes the American Cancer Society's Speak Out!--where teens from across the state advocate for stronger state laws restricting access and exposure to tobacco by minors; and

BE IT FURTHER RESOLVED, That copies of the resolution be immediately transmitted by the Secretary of the Senate to Astrid Berg, American Lung Association of Washington; Steve Bowman, Washington State Department of Health; Nancy Golosman, Washington Doctors Ought to Care; Willie Stewart, Chairman of the Board, American Cancer Society, Western Pacific Division; Ann Marie Pomerinke, Chief Executive Officer, American Cancer Society, Western Pacific Division; David Harrelson, Program Manager for Tobacco Control, American Cancer Society, Western Pacific Division; and Attorney General Christine Gregoire.

Senators Oke and Franklin spoke to Senate Resolution 1998-8690.

#### MOTION

At 10:23 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:26 a.m. by President Owen.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the seventh order of business.

### THIRD READING

SUBSTITUTE SENATE BILL NO. 5527, by Senate Committee on Agriculture and Environment (originally sponsored by Senators McDonald, Rasmussen, Sellar, Fraser and Anderson)

Providing incentives for water-efficient irrigation systems.

### MOTION

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 5527 was returned to second reading and read the second time.

### MOTIONS

On motion of Senator Morton, the following amendment was adopted:

On page 6, beginning on line 21, delete:

"NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." On motion of Senator Morton, the following title amendment was adopted:

On page 1, line 3, after "section;" insert "and" and after "date" delete "; and declaring an emergency."

### MOTION

On motion of Senator Morton, the rules were suspended, Engrossed Substitute Senate Bill No. 5527 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5527.

### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5527 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senators Finkbeiner and Schow - 2. ENGROSSED SUBSTITUTE SENATE BILL NO. 5527, having received the constitutional majority, was declared passed. Their being no objection, the title of the bill will stand as the title of the act.

### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5033, by Senate Committee on Law and Justice (originally sponsored by Senator Roach)

Concerning the crime of possessing stolen property in the second degree.

### MOTION

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 5033 was returned to second reading and read the second time.

### MOTION

Senator Roach moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9A.56.160 and 1995 c 129 s 15 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the second degree if:

(a) He or she possesses stolen property other than a firearm as defined in RCW 9.41.010 which exceeds two hundred fifty dollars in value but does not exceed one thousand five hundred dollars in value; or

(b) He or she possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or

(c) He or she possesses a stolen access device; or

(d) ~~He or she possesses a stolen check or draft; or~~

~~(e) He or she possesses a stolen motor vehicle of a value less than one thousand five hundred dollars.~~

(2) Possessing stolen property in the second degree is a class C felony.

Sec. 2. RCW 9A.56.140 and 1987 c 140 s 3 are each amended to read as follows:

(1) "Possessing stolen property" means knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

(2) The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.

(3) When a person (~~(not an issuer or agent thereof)~~) has in his or her possession, or under his or her control, stolen access devices issued in the names of two or more persons, he (~~(shall be)~~) or she is presumed to know that they are stolen.

~~((This))~~ (4) When a person has in his or her possession, or under his or her control, two or more stolen checks with different account numbers, he or she is presumed to know that they are stolen.

~~(5) The presumptions ((may be rebutted)) in subsections (3) and (4) of this section are rebuttable~~ by evidence raising a reasonable inference that the possession of such stolen access devices, checks, or drafts was without knowledge that they were stolen.

Sec. 3. RCW 9A.56.010 and 1997 c 346 s 2 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(4) "Check" and "draft" each have the meanings given in RCW 62A.3-104;

~~(5)~~ "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed~~((:));~~

~~((5))~~ ~~(6)~~ "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

~~((6))~~ ~~(7)~~ "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

~~((7))~~ ~~(8)~~ "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where such use is unauthorized by the partnership agreement;

~~((8))~~ (9) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

~~((9))~~ (10) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

~~((10))~~ (11) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

~~((11))~~ (12) "Stolen" means obtained by theft, robbery, or extortion;

~~((12))~~ (13) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;

~~((13))~~ (14) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;

~~((14))~~ (15) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;

~~((15))~~ (16) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

~~((16))~~ (17) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

~~((17))~~ (18) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle.

**NEW SECTION. Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### POINT OF INQUIRY

Senator Fairley: "Senator Roach, did you mean in this so-called technical amendment to leave out Section 4, which refers to the theft of a check? It was in last year's bill. It is not in this technical amendment."

Senator Roach: "Senator Fairley, this was prepared by staff. I will check that out, but I have on mine a new Section 4. I see staff running around and I was going to have them answer this question."

Senator Fairley: "The technical amendment that I have Senator Roach, Section 4 is the emergency clause. In the old bill we passed, Section 4 referred to second degree theft."

Senator Roach: "I have no knowledge that it wasn't exactly as the bill that we had before us last year, Senator Fairley, with the exception of changing the portion. I certainly appreciate you pointing that out and we will certainly have staff re-look at this--if this amendment has been drafted incorrectly."

Senator Fairley: "It is a totally different bill."

#### MOTION

On motion of Senator Roach, further consideration of Engrossed Substitute Senate Bill No. 5033 was deferred.

#### MOTION

On motion of Senator Hale, Senator Finkbeiner was excused.

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5347, by Senate Committee on Natural Resources and Parks (originally sponsored by Senators Roach, Oke, Winsley, Snyder, Bauer, Swecker, Morton, Schow, Zarelli, Rossi, Strannigan and Rasmussen)

Creating a program for juvenile fishing only waters.

#### MOTION

On motion of Senator Oke, the rules were suspended, Substitute Senate Bill No. 5347 was returned to second reading and read the second time.

#### MOTIONS

On motion of Senator Oke, the following amendment by Senators Roach and Stevens was adopted:

On page 2, line 22, after "January 31," strike "1998" and insert "1999"

On motion of Senator Oke, the rules were suspended, Engrossed Substitute Senate Bill No. 5347 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5347.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5347 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Finkbeiner - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 5347, having received the constitutional majority, was declared passed. Their being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SENATE BILL NO. 5499, by Senators Roach, Johnson, Goings, Jacobsen, Haugen, Horn, Zarelli, McCaslin, Long, Franklin, Winsley, Oke and Rasmussen

Defining when an assault on a bus driver constitutes assault in the third degree.

## MOTION

On motion of Senator Roach, the rules were suspended, Senate Bill No. 5499 was returned to second reading and read the second time.

## MOTION

Senator Roach moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9A.36.031 and 1997 c 172 s 1 are each amended to read as follows:

(1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver by a public or private transit company while that person is (~~operating or is in control of a vehicle that is owned or operated by the transit company and that is occupied by one or more passengers~~) performing his or her official duties at the time of the assault; or

(c) Assaults a school bus driver employed by a school district or a private company under contract for transportation services with a school district while the driver is (~~operating or is in control of a school bus that is occupied by one or more passengers~~) performing his or her official duties at the time of the assault; or

(d) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(e) Assaults a fire fighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who was performing his or her official duties at the time of the assault; or

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault; or

(h) Assaults a nurse, physician, or health care provider who was performing his or her nursing or health care duties at the time of the assault. For purposes of this subsection: "Nurse" means a person licensed under chapter 18.79 RCW; "physician" means a person licensed under chapter 18.57 or 18.71 RCW; and "health care provider" means a person certified under chapter 18.71 or 18.73 RCW who performs emergency medical services or a person regulated under Title 18 RCW and employed by, or contracting with, a hospital licensed under chapter 70.41 RCW.

(2) Assault in the third degree is a class C felony."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Roach to Senate Bill No. 5499.

The motion by Senator Roach carried and the striking amendment was adopted.

## MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 1 of the title, after "drivers;" strike the remainder of the title and insert "amending RCW 9A.36.031; and prescribing penalties."

On motion of Senator Roach, the rules were suspended, Engrossed Senate Bill No. 5499 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 5499.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5499 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Finkbeiner - 1. ENGROSSED SENATE BILL NO. 5499, having received the constitutional majority, was declared passed. Their being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SENATE BILL NO. 5092, by Senators Roach, Swecker, Zarelli, Schow, Hochstatter, Bauer, McCaslin, Oke and Long

Penalizing disarming a law enforcement officer.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5092.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5092 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Finkbeiner - 1. SENATE BILL NO. 5092, having received the constitutional majority, was declared passed. Their being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SENATE BILL NO. 5271, by Senators Horn, Spanel and Long (by request of Legislative Ethics Board)

Allowing an elected official to prepare and send guest editorials or columns that include arguments for or against ballot propositions if the editorial or column is requested by a newspaper.

The bill was read the third time.

Debate ensued.

#### MOTION

On motion of Senator Johnson, further consideration of Senate Bill No. 5271 was deferred.

#### MOTION

On motion of Senator Swecker, Senator Anderson was excused.

#### THIRD READING

SENATE BILL NO. 5203, by Senators Roach, Johnson, Hargrove, Zarelli, Benton, Goings, Oke and Long

Making a defendant's knowledge that a murder victim was pregnant aggravated first degree murder.



The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5203.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5203 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 9; Absent, 0; Excused, 2.

Voting yea: Senators Bauer, Benton, Deccio, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 38. Voting nay: Senators Brown, Fairley, Kline, Kohl, Prentice, Sheldon, B., Spanel, Thibaudeau and Wojahn - 9. Excused: Senators Anderson and Finkbeiner - 2. SENATE BILL NO. 5203, having received the constitutional majority, was declared passed. Their being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 12:02 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Monday, February 2, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

NINETEENTH DAY, JANUARY 30, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

#### TWENTY-SECOND DAY

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MORNING SESSION  
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Senate Chamber, Olympia, Monday, February 2, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard, consisting of Pages Chadd Baker and Chris Baker, presented the Colors. Senator Rosa Franklin offered the prayer.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

#### REPORTS OF STANDING COMMITTEES

January 30, 1998

SB 5232 Prime Sponsor, Senator Wood: Completing the prescriptive authority of advanced registered nurse practitioners.  
Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Second Substitute Senate Bill No. 5232 be substituted therefor, and the second substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley and Franklin.

MINORITY Recommendation: Do not pass. Signed by Senators Benton and Wojahn.

Passed to Committee on Rules for second reading.

January 30, 1998

SB 5298 Prime Sponsor, Senator Franklin: Prohibiting health insurance discrimination on the basis of genetic information. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

January 30, 1998

SSB 5305 Prime Sponsor, Senate Committee on Health and Long-Term Care: Controlling drugs used to facilitate rape. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

January 30, 1998

SB 5447 Prime Sponsor, Senator Deccio: Providing for disclosure of information obtained by the department of health related to meeting licensing standards in hospitals. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 5447 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6114 Prime Sponsor, Senator Jacobsen: Preventing the spread of zebra mussel and European green crab. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6114 be substituted therefor, and the substitute bill do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Snyder, Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 30, 1998

SB 6134 Prime Sponsor, Senator Oke: Freeing the base for transfers of marine and nonhighway fuel taxes. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 20, 1998

SB 6144 Prime Sponsor, Senator Schow: Recovering industrial insurance benefit payments. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

January 30, 1998

SB 6172 Prime Sponsor, Senator McCaslin: Clarifying requirements for service of petitions for review on agencies. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6205 Prime Sponsor, Senator McCaslin: Allowing waiver of interest and penalties on property taxes delinquent because of hardship. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6205 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

January 26, 1998

SB 6218 Prime Sponsor, Senator West: Eliminating review and termination of the center for international trade in forest products and delaying review and termination of the office of public defense under the Washington sunset act. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6218 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Heavey.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6254 Prime Sponsor, Senator Schow: Negotiating land transfers involving manufactured or mobile homes. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6254 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6303 Prime Sponsor, Senator Bauer: Restoring retirement service credit. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6321 Prime Sponsor, Senator Winsley: Providing property tax exemptions and deferrals for senior citizens and persons retired for reasons of physical disability. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6321 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6351 Prime Sponsor, Senator Goings: Eliminating an obsolete reference to index cross-reference reporting. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

January 30, 1998

SB 6361 Prime Sponsor, Senator Deccio: Requiring identification badges for certain health care workers. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6361 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

January 30, 1998

SB 6363 Prime Sponsor, Senator Swecker: Eliminating fish passage barriers. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6363 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Snyder, Spanel, Stevens and Swecker.

Referred to Committee on Ways and Means.

January 29, 1998

SB 6374 Prime Sponsor, Senator Thibaudeau: Expanding medicaid eligibility for children. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That it be referred to Committee on Ways and Means without recommendation. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley, Franklin, Strannigan and Wojahn.

Referred to Committee on Ways and Means.

January 30, 1998

SB 6382 Prime Sponsor, Senator Wood: Allowing endorsed dental hygienists to provide sealants to low-income school children. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6382 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley and Franklin.

MINORITY Recommendation: Do not pass. Signed by Senators Benton and Wojahn.

Referred to Committee on Ways and Means.

January 29, 1998

SB 6422 Prime Sponsor, Senator Schow: Providing support for collaborative efforts toward worker reemployment. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6422 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6441 Prime Sponsor, Senator Oke: Clarifying procedures for environmental protection change orders in public projects. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6449 Prime Sponsor, Senator West: Specifying a business and occupation tax rate for income in the nature of royalties for the use of intangible rights. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6472 Prime Sponsor, Senator Deccio: Making the basic health plan available to persons covered by the federal children's health initiative. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That the bill be referred to Committee on Ways and Means without recommendation. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley, Franklin, Strannigan and Wojahn.

Referred to Committee on Ways and Means.

January 29, 1998

SB 6502 Prime Sponsor, Senator Horn: Deleting reference to obsolete transportation accounts. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6502 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6503 Prime Sponsor, Senator Horn: Regulating unanticipated receipts in the transportation budget. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6504 Prime Sponsor, Senator Horn: Broadening distribution of technology plans. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6533 Prime Sponsor, Senator Strannigan: Providing property tax exemptions for senior citizens and persons retired for reasons of physical disability. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6533 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6536 Prime Sponsor, Senator Horn: Prescribing employer obligations to furnish wearing apparel. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

January 30, 1998

SB 6546 Prime Sponsor, Senator Deccio: Establishing nurse/student ratios for schools. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6546 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin and Wojahn.

Referred to Committee on Ways and Means.

January 30, 1998

SB 6550 Prime Sponsor, Senator Deccio: Regulating chemical dependency counselors. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6550 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6572 Prime Sponsor, Senator Schow: Creating the Washington economic development strategy council. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6572 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

January 30, 1998

SB 6583 Prime Sponsor, Senator Morton: Creating an advisory committee on matters relating to the regulation of adult family homes. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6583 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

January 29, 1998

SB 6596 Prime Sponsor, Senator Horn: Enhancing regional transportation planning. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

January 29, 1998

SJM 8017 Prime Sponsor, Senator Oke: Naming the Admiral James S. Russell Bridge. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Heavey, Horn, Morton, Oke, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

January 28, 1998

SCR 8425 Prime Sponsor, Senator Schow: Creating a gambling policy task force. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 8425 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Johnson, Senate Bill No. 6475, which was held on the desk January 29, 1998, was referred to the Committee on Rules.

#### MESSAGES FROM THE GOVERNOR GUBERNATORIAL APPOINTMENTS

October 1, 1997

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Mark Mays, appointed October 1, 1997, for a term ending September 30, 1999, as a member of the Board of Trustees for Eastern Washington University.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

January 13, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Nancy Campbell, appointed January 13, 1998, for a term ending August 2, 1998, as a member of the Sentencing Guidelines Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Law and Justice.



January 16, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Kevin Grossman, appointed January 16, 1998, for a term ending September 30, 2001, as a member of the Board of Trustees for Shoreline Community College District No. 7.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

MESSAGE FROM STATE OFFICE

STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
Olympia, Washington 98504-5000

January 27, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
P. O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. O'Connell:

Enclosed is the Children's Administration Report to the Legislature entitled "1996 Risk Assessment Report." This report is mandated under RCW 26.44.030(13).

If you have any questions about the report, please call Art Cantrall at 902-7956.

Sincerely,

LYLE QUASIM, Secretary

The Report from the Department of Social and Health Services entitled "1996 Risk Assessment Report" is on file in the Office of the Secretary of the Senate.

INTRODUCTION AND FIRST READING

SB 6736 by Senator Oke

AN ACT Relating to the composition of the fish and wildlife commission; and amending RCW 77.04.030.

Referred to Committee on Natural Resources and Parks.

SB 6737 by Senators Deccio, Wojahn, Wood, Patterson, West, Fraser, Thibaudeau, Morton, Schow, Winsley, Oke, Prentice, B. Sheldon and Rasmussen

AN ACT Relating to the property taxation of residential housing occupied by low-income developmentally disabled persons; reenacting and amending RCW 84.36.800, 84.36.805, and 84.36.810; adding a new section to chapter 84.36 RCW; and declaring an emergency.

Referred to Committee on Ways and Means.

SB 6738 by Senators Goings, McAuliffe, Rasmussen, Fraser, Patterson, B. Sheldon, Snyder, Loveland, Thibaudeau, Brown, Fairley, Kohl, Kline, Heavey, Jacobsen, Prentice, Franklin, Wojahn, Bauer and Winsley

AN ACT Relating to an annual cost-of-living allowance for state employees; adding a new section to chapter 28A.400 RCW; adding a new section to chapter 28B.10 RCW; and adding a new section to chapter 41.04 RCW.  
Referred to Committee on Ways and Means.

SB 6739 by Senators Hargrove and Oke

AN ACT Relating to governmental actions affecting families; adding a new section to chapter 34.05 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 70.190 RCW; and providing an effective date.  
Referred to Committee on Human Services and Corrections.

SB 6740 by Senators West, Deccio, Oke and Winsley

AN ACT Relating to verification of income eligibility for the basic health plan; reenacting and amending RCW 70.47.060; and prescribing penalties.  
Referred to Committee on Ways and Means.

SB 6741 by Senators Horn, Haugen, Oke, Rasmussen, Wood, Goings and Benton

AN ACT Relating to exemption of noncommercial marine fuel from sales and use taxes; amending RCW 82.36.415; and reenacting and amending RCW 82.08.0255 and 82.12.0256.  
Referred to Committee on Transportation.

SB 6742 by Senators T. Sheldon, Stevens, Hochstatter and Schow

AN ACT Relating to elections; adding a new section to chapter 29.30 RCW; adding a new section to chapter 85.38 RCW; and adding a new section to chapter 87.03 RCW.  
Referred to Committee on Government Operations.

SJM 8027 by Senators Brown, Hargrove, Prentice, Haugen, Rasmussen, Kohl, McAuliffe, Fairley, Fraser, Spanel, T. Sheldon, B. Sheldon, Snyder, Loveland, Franklin, Bauer, Wojahn, Kline, Patterson and Jacobsen

Urging Congress to abandon energy deregulation.

Referred to Committee on Energy and Utilities.

SJM 8028 by Senators Sellar, Rasmussen, Deccio, Newhouse, Prentice and Schow

Petitioning for assistance to help remove the 101.1% import duty placed on apples by Mexico.

Referred to Committee on Commerce and Labor.

#### MOTION

At 10:11 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 10:52 a.m. by President Owen.

#### THIRD READING

SENATE BILL NO. 5217, by Senators Bauer, Winsley, Franklin, Long, Fraser, Roach, Loveland, Rasmussen, Goings, Swecker, Kohl, Oke, Patterson and Haugen (by request of Joint Committee on Pension Policy)

Providing death benefits for volunteer fire fighters.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5217.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5217 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 5217, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Strannigan was excused.

#### THIRD READING

ENGROSSED SENATE BILL NO. 5185, by Senators Horn, McCaslin, Long, Benton, Prince and Deccio

Revising procedures for growth management hearings boards.

#### MOTION

On motion of Senator Horn, the rules were suspended, Engrossed Senate Bill No. 5185 was returned to second reading and read the second time.

#### MOTION

Senator Horn moved that the following amendment by Senators Horn and McCaslin be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 36.70A.270 and 1997 c 429 s 11 are each amended to read as follows:

Each growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of a board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. If it is determined that the review boards shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that a review board shall operate on a part-time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full-time board member. The principal office of each board shall be located by the governor within the jurisdictional boundaries of each board. The boards shall operate on either a part-time or full-time basis, as determined by the governor.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of each board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by

rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) ~~((The))~~ Each board may appoint one or more hearing examiners to assist the board in its hearing function, to make ~~((conclusions of law and))~~ findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The boards shall specify in their joint rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners selected by a board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that ~~((final orders be issued))~~ decisions be made within one hundred eighty days of board receipt of a petition. Each board may mediate disputes between counties or cities, over whether their comprehensive plans are coordinated or consistent, by using one or more of its own members, hiring staff to provide mediation, or contracting for the provision of mediation.

(6) Each board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the board and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the boards jointly prescribe. All three boards shall jointly meet to develop and adopt joint rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals. The boards shall publish such rules and decisions they render and arrange for the reasonable distribution of the rules and decisions. Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the boards.

(8) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The joint rules of practice of the boards shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) The members of the boards shall meet jointly on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

**Sec. 2.** RCW 36.70A.280 and 1996 c 325 s 2 are each amended to read as follows:

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

(a) That a ~~((state agency,))~~ county~~((,))~~ or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to ~~((plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW))~~ the shoreline master programs or amendments thereto;

(b) That a county or city planning under this chapter has not taken an action required under this chapter by the time the action is required to have been taken; ~~((or~~

~~((b)))~~ (c) That ~~((the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted))~~ a county or city has not addressed relevant issues associated with an action required to be taken under this chapter;

(d) That the comprehensive plan of a county or city adopted under this chapter is not coordinated with, or consistent with, the comprehensive plan of another county or city, as required under RCW 36.70A.100; or

(e) That the shoreline master program or amendment thereto, or chapter 43.21C RCW as it relates thereto, are not in compliance with the requirements of chapter 90.58 RCW.

(2) A petition alleging that a county or city has not addressed issues associated with an action required under this chapter, or that the comprehensive plan of a county or city is not coordinated with or consistent with another comprehensive plan as required under RCW 36.70A.100, may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530. A petition alleging that a county or city has not taken an action required under this chapter, by the time such action is required to have been taken, may be filed by any person. A petition alleging that the shoreline master program or amendments thereto, or chapter 43.21C RCW as it relates thereto, may be filed by a person with standing under chapter 43.21C RCW.

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

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

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

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

**Sec. 3.** RCW 36.70A.290 and 1997 c 429 s 12 are each amended to read as follows:

(1) All requests for review to a growth management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board. The board shall render written decisions articulating the basis for its holdings. The board shall not issue advisory opinions on issues not presented to the board in the statement of issues, as modified by any prehearing order.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of ~~((this chapter or))~~ chapter 90.58 or 43.21C RCW must be filed within sixty days after publication by the legislative ~~((bodies))~~ authority of the county or city. All petitions relating to whether or not a county or city has addressed relevant issues associated with an action required under this chapter must be filed within sixty days after publication by the legislative authority of the county or city. All petitions relating to whether or not comprehensive plans are coordinated or consistent, as required under RCW 36.70A.100, must be filed within sixty days after publication by the legislative authority of the county or city adopting or amending its comprehensive plan that is alleged not to be coordinated or consistent with another comprehensive plan. Petitions relating to whether a county or city has not taken an action required under this chapter by the time such action is required to have been taken may be filed at any time.

~~((a) Except as provided in (c) of this subsection,))~~ The date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published.

~~((b))~~ Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

~~((Except as provided in (c) of this subsection, for purposes of this section))~~ The date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

~~((c) For local governments planning under RCW 36.70A.040, promptly after approval or disapproval of a local government's shoreline master program or amendment thereto by the department of ecology as provided in RCW 90.58.090, the local government shall publish a notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology. For purposes of this section, the date of publication for the adoption or amendment of a shoreline master program is the date the local government publishes notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology.)~~

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, or the parties have filed an agreement to have the case heard in superior court as provided in RCW 36.70A.295, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

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

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

**Sec. 4.** RCW 36.70A.295 and 1997 c 429 s 13 are each amended to read as follows:

(1) The superior court may directly review a petition for review filed under RCW 36.70A.290 if all parties to the proceeding before the board have agreed to direct review in the superior court. The agreement of the parties shall be in writing and signed by all of the parties to the proceeding or their designated representatives. ~~((The agreement shall include the parties' agreement to proper venue as provided in RCW 36.70A.300(5).))~~ The parties shall file their agreement with the board within ten days after the date the petition is filed, or if multiple petitions have been filed and the board has consolidated the petitions pursuant to RCW 36.70A.300, within ten days after the board serves its order of consolidation.

(2) Within ten days of receiving the timely and complete agreement of the parties, the board shall file a certificate of agreement with the designated superior court and shall serve the parties with copies of the certificate. The superior court shall

obtain exclusive jurisdiction over a petition when it receives the certificate of agreement. With the certificate of agreement the board shall also file the petition for review, any orders entered by the board, all other documents in the board's files regarding the action, and the written agreement of the parties.

(3) For purposes of a petition that is subject to direct review, the superior court's subject matter jurisdiction shall be equivalent to that of the board. Consistent with the requirements of the superior court civil rules, the superior court may consolidate a petition subject to direct review under this section with a separate action filed in the superior court.

(4)(a) Except as otherwise provided in (b) and (c) of this subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which specify the nature and extent of board review, shall apply to the superior court's review.

(b) The superior court:

(i) Shall not have jurisdiction to directly review or modify an office of financial management population projection;

(ii) Except as otherwise provided in RCW 36.70A.300(~~(2)(b)~~), shall render its decision on the petition within one hundred eighty days of receiving the certification of agreement; and

(iii) Shall give a compliance hearing under RCW 36.70A.330(2) the highest priority of all civil matters before the court.

(c) An aggrieved party may secure appellate review of a final judgment of the superior court under this section by the supreme court or the court of appeals. The review shall be secured in the manner provided by law for review of superior court decisions in other civil cases.

(5) If, following a compliance hearing, the court finds that the state agency, county, or city is not in compliance with the court's prior order, the court may use its remedial and contempt powers to enforce compliance.

(6) The superior court shall transmit a copy of its decision and order on direct review to the board, the department, and the governor. If the court has determined that a county or city is not in compliance with the provisions of this chapter, the governor may impose sanctions against the county or city in the same manner as if a board had recommended the imposition of sanctions as provided in RCW 36.70A.330.

(7) After the court has assumed jurisdiction over a petition for review under this section, the superior court civil rules shall govern a request for intervention and all other procedural matters not specifically provided for in this section.

**Sec. 5.** RCW 36.70A.300 and 1997 c 429 s 14 are each amended to read as follows:

(1) ~~((The board shall issue a final order that shall be based exclusively on whether or not a state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW.~~

~~(2))~~(a) Except as provided in (b) of this subsection, the ~~((final order))~~ decision shall be issued within one hundred eighty days of receipt of the petition for review, or, if multiple petitions are filed, within one hundred eighty days of receipt of the last petition that is consolidated.

(b) The board may extend the period of time for issuing a decision to enable the parties to settle the dispute if additional time is necessary to achieve a settlement, and (i) an extension is requested by all parties, or (ii) an extension is requested by the petitioner and respondent and the board determines that a negotiated settlement

between the remaining parties could resolve significant issues in dispute. The request must be filed with the board not later than seven days before the date scheduled for the hearing on the merits of the petition. The board may authorize one or more extensions for up to ninety days each, subject to the requirements of this section.

~~((3))~~ (2) In ~~((the final order))~~ rendering its decision, the board shall ~~((either))~~:

(a) Find that the ~~((state agency,))~~ county~~((;))~~ or city is in compliance with the requirements of ~~((this chapter,))~~ chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) Find that the county or city either has, or has not, taken the action by the time such action is required to have been taken; or

(c) Find that the ~~((state agency,))~~ county~~((;))~~ or city ~~((is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW, in which case))~~ either has, or has not, addressed relevant issues associated with an action required under this chapter, but may not consider the adequacy of the actions taken by the county or city. If the board finds that the county or city has not addressed the relevant issues, the board shall ~~((remand the matter to the affected state agency, county, or city. The board shall))~~ specify a reasonable

time not in excess of one hundred eighty days, or such longer period as determined by the board in cases of unusual scope or complexity, within which the ~~((state agency,))~~ county~~((,))~~ or city and the person or persons appealing the action shall ~~((comply with the requirements of this chapter. The board may require periodic reports to the board on the progress the jurisdiction is making towards compliance.~~

~~(4) Unless the board makes a determination of invalidity as provided in RCW 36.70A.302, a finding of noncompliance and an order of remand shall not affect the validity of comprehensive plans and development regulations during the period of remand.~~

~~(5) Any party aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in RCW 34.05.514 or 36.01.050 within thirty days of the final order of the board)) attempt to resolve the dispute; or~~

~~(d) Find that the comprehensive plans either are, or are not, coordinated or consistent, as required under RCW 36.70A.100. If the board finds that the comprehensive plans are not coordinated or consistent, the board shall mediate between the affected counties or cities to resolve the lack of coordination or lack of consistency.~~

~~(3) Nothing in RCW 36.70A.250 through 36.70A.345 precludes an aggrieved party from filing a law suit seeking equitable relief against a county or city for failing to comply with the requirements of this chapter or seeking other remedies that may exist challenging the actions of a county or city taken under this chapter.~~

~~(4) Any party aggrieved by a final decision of the hearings board may appeal the decision directly to the court of appeals for assignment by the chief presiding judge.~~

**Sec. 6.** RCW 36.70A.310 and 1994 c 249 s 32 are each amended to read as follows:

A request for review by the state to a growth management hearings board under RCW 36.70A.280(1) may be made only by the governor, or with the governor's consent the head of an agency, or by the commissioner of public lands as relating to state trust lands~~((, for the review of whether: (1) A county or city that is required or chooses to plan under RCW 36.70A.040 has failed to adopt a comprehensive plan or development regulations, or county wide planning policies within the time limits established by this chapter; or (2) a county or city that is required or chooses to plan under this chapter has adopted a comprehensive plan, development regulations, or county wide planning policies, that are not in compliance with the requirements of this chapter)).~~

**Sec. 7.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to read as follows:

~~(1) ((Except as provided in subsection (5) of this section,)) Comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.~~

~~(2) Except as otherwise provided in subsection (4) of this section, the burden is on the petitioner to demonstrate that any action taken by a state agency, county, or city under this chapter is not in compliance with the requirements of this chapter.~~

~~(3) In any petition under this chapter, the board, after full consideration of the petition, shall ((determine whether there is compliance with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter)) render its decision.~~

~~(4) A county or city subject to a determination of invalidity made under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating that the ordinance or resolution it has enacted in response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of this chapter under the standard in RCW 36.70A.302(1).~~

~~((5) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW.))~~

**Sec. 8.** RCW 36.70A.340 and 1991 sp.s. c 32 s 26 are each amended to read as follows:

~~((Upon receipt from the board of a finding that a state agency, county, or city is in noncompliance under RCW 36.70A.330, or as a result of failure to meet the requirements of)) If sanctions are imposed under RCW 36.70A.210 or 36.70A.345, the governor may either:~~

~~(1) Notify and direct the director of the office of financial management to revise allotments in appropriation levels;~~

~~(2) Notify and direct the state treasurer to withhold the portion of revenues to which the county or city is entitled under one or more of the following: The motor vehicle fuel tax, as provided in chapter 82.36 RCW; the transportation improvement account, as provided in RCW 47.26.084; the urban arterial trust account, as provided in RCW 47.26.080; the rural arterial trust account, as provided in RCW 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190; and the liquor excise tax, as provided in RCW 82.08.170; or~~

~~(3) File a notice of noncompliance with the secretary of state and the county or city, which shall temporarily rescind the county or city's authority to collect the real estate excise tax under RCW 82.46.030 until the governor files a notice rescinding the notice of noncompliance.~~

NEW SECTION. Sec. 9. RCW 36.70A.330 and 1997 c 429 s 21, 1995 c 347 s 112, & 1991 sp.s. c 32 s 14 are each repealed.

NEW SECTION. Sec. 10. RCW 36.70A.340 is recodified to appear immediately after RCW 36.70A.345." Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Horn and McCaslin to Engrossed Senate Bill No. 5185.

The motion by Senator Horn carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Horn, the following title amendment was adopted:

On page 1, line 1 of the title, after "boards;" strike the remainder of the title and insert "amending RCW 36.70A.270, 36.70A.280, 36.70A.290, 36.70A.295, 36.70A.300, 36.70A.310, 36.70A.320, and 36.70A.340; adding a new section to chapter 36.70A RCW; recodifying RCW 36.70A.340; and repealing RCW 36.70A.330." On motion of Senator Horn, the rules were suspended, Second Engrossed Senate Bill No. 5185 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Engrossed Senate Bill No. 5185.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5185 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Swecker, West, Winsley, Wood and Zarelli - 27. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 21. Excused: Senator Strannigan - 1. SECOND ENGROSSED SENATE BILL NO. 5185, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 11:13 a.m., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Tuesday, February 3, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

TWENTY-SECOND DAY, FEBRUARY 2, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**TWENTY-THIRD DAY**



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NOON SESSION  
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Senate Chamber, Olympia, Tuesday, February 3, 1998  
The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

February 2, 1998

SB 6135 Prime Sponsor, Senator Oke: Establishing covenant marriages. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6135 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Fairley and Kline.

Passed to Committee on Rules for second reading.

January 28, 1998

SB 6143 Prime Sponsor, Senator Schow: Revising the regulation of elevators, escalators, and other conveyances. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6143 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6155 Prime Sponsor, Senator Roach: Revising supervision of municipal court probation services. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Kline, Long, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6221 Prime Sponsor, Senator Goings: Addressing low-income senior citizens and disabled persons in storm water control legislation. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass as amended. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi and T. Sheldon.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6251 Prime Sponsor, Senator Horn: Exempting specified computer software from public disclosure. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: That Substitute Senate Bill No. 6215 be substituted therefor and the substitute bill do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6359 Prime Sponsor, Senator Finkbeiner: Requiring companies that seek to contract with an affiliated interest to file with the utilities and transportation commission. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6400 Prime Sponsor, Senator Brown: Extending the Washington telephone assistance program through 2003. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6425 Prime Sponsor, Senator McCaslin: Clarifying legal authority of an agency head. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6425 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6464 Prime Sponsor, Senator Goings: Increasing the penalty for manufacture of methamphetamine. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Referred to Committee on Ways and Means.

February 2, 1998

SB 6489 Prime Sponsor, Senator McCaslin: Specifying that there will be no primary for a district court position when there are no more than two candidates filed for the position. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6489 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6492 Prime Sponsor, Senator Newhouse: Creating two new superior court positions for Yakima county. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6492 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6510 Prime Sponsor, Senator Goings: Prohibiting selling or giving drug paraphernalia to persons under age eighteen. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6510 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6563 Prime Sponsor, Senator Heavey: Requiring a specific statement in any bill or local ordinance containing an emergency clause as to the reason for an early effective date. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6563 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6581 Prime Sponsor, Senator Roach: Revising standards for determining child support obligations. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6582 Prime Sponsor, Senator Finkbeiner: Refining electronic signature law. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass as amended. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6623 Prime Sponsor, Senator Swecker: Creating a new superior court position for Lewis county. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6635 Prime Sponsor, Senator Sellar: Administering the deferred compensation plan. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 2, 1998

SJM 8002 Prime Sponsor, Senator Stevens: Claiming state sovereignty under the Tenth Amendment. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 2, 1998

SJM 8024 Prime Sponsor, Senator Loveland: Urging Congress not to sell the Bonneville Power Administration. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

January 29, 1998

SCR 8407 Prime Sponsor, Senator Franklin: Establishing an interagency task force to conduct a study of contingent work force issues. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Concurrent Resolution No. 8407 be substituted therefor, and the substitute concurrent resolution do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Johnson, Senate Bill No. 6464 was referred to the Committee on Ways and Means.

MESSAGE FROM STATE OFFICE

STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

January 28, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
P. O. Box 40482  
Olympia, WA 98504-0482

Dear Mr. O'Connell:

RCW 43.88.065 requires each agency to report annually to the Legislature any expenditures mandated by any federal court. Such court-ordered expenditures are to be itemized and submitted to the Secretary of the Senate and the Chief Clerk of the House by January 15 of each year. Upon receipt of this information, the statutes indicate that the Legislature will review the expenditures "with a view to determine whether the program affected by the court order should be continued or eliminated and the funds for the program either appropriated or not appropriated accordingly."

The attached report, prepared by the Office of the Attorney General, constitutes the department's response to this legislative requirement and is summarized as follows:

Turay v. Weston Civil rights action regarding confinement in the Sexually Violent Predator Program were alleged to be unconstitutional. Attorney fees and costs in the amount of \$70,915.05 were paid in 1997.

Horton v. Williams Class action involving allegations of civil rights violations at Green Hill School. \$4,633.08 was paid in 1997 for court ordered monitoring site visits to the school.

Sincerely,

LYLE QUASIM, Secretary

The Department of Social Health Services Report on Expenditures Mandated by any Federal Court are on file in the Office of the Secretary of the Senate.

MESSAGE FROM STATE OFFICE

STATE OF WASHINGTON  
HIGHER EDUCATION COORDINATING BOARD  
917 Lakeridge Way  
P. O. Box 43430  
Olympia, Washington 98504-3430  
January 29, 1998

Mike O'Connell  
Secretary of the Senate  
306 Legislative Building  
Olympia, WA 98504-0482

Dear Mr. O'Connell:

Enclosed are copies of recent reports completed by the Higher Education Coordinating Board. They are: *The Final Report on Low-Output and Duplicative Programs; Guidelines for Program Planning, Approval, and Review; 1997 Statewide Progress Report on Diversity and Participation of People of Color in Higher Education; and Distance Education Activity and Tuition Models*. The reports have been submitted to the various committees with interest in these subject areas.

If you have any questions concerning these reports, please contact me at 753-7811.

Sincerely,

SUSAN D. PATRICK, Director of Government Relations

The Reports from the Higher Education Coordinating Board are on file in the Office of the Secretary of Senate.

INTRODUCTION AND FIRST READING

SB 6743 by Senators Schow and Wojahn

AN ACT Relating to licensing and inspection of boilers and unfired pressure vessels; amending RCW 70.79.040; adding new sections to chapter 70.79 RCW; and creating a new section.  
Referred to Committee on Commerce and Labor.

SB 6744 by Senator Thibaudeau

AN ACT Relating to use of stickers or labels for write-in voting; and amending RCW 29.51.175 and 29.62.180.  
Referred to Committee on Government Operations.

SB 6745 by Senators Spanel, McAuliffe, Winsley, Wojahn, Heavey, Kohl, Snyder, Rasmussen, Franklin, Bauer, Brown, Loveland, Goings, Fraser, Fairley and B. Sheldon

AN ACT Relating to encouraging employees to take advantage of the deferred compensation program; and amending RCW 41.50.770 and 28A.400.240.  
Referred to Committee on Ways and Means.

SB 6746 by Senator Winsley

AN ACT Relating to purchasing of insurance services; and adding a new section to chapter 48.01 RCW.  
Referred to Committee on Financial Institutions, Insurance and Housing.

SJM 8029 by Senators McDonald and Oke

Regarding a petition to authorize federal block grant funds directly to school districts.  
Referred to Committee on Ways and Means.

MOTION

At 12:03 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Wednesday, February 4, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

TWENTY-THIRD DAY, FEBRUARY 3, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**TWENTY-FOURTH DAY**

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MORNING SESSION  
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Senate Chamber, Olympia, Wednesday, February 4, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senator Finkbeiner. On motion of Senator Hale, Senator Finkbeiner was excused.

The Sergeant at Arms Color Guard, consisting of Pages Anthony LeDonne and James Campbell, presented the Colors. Reverend Kathryn Everett, pastor of the First United Methodist Church of Olympia, offered the prayer.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

#### REPORTS OF STANDING COMMITTEES

February 2, 1998

SB 6157 Prime Sponsor, Senator Swecker: Limiting to one hundred eighty days the length of imprisonment for contempt of court. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6170 Prime Sponsor, Senator Morton: Regarding reclamation, closure, or decommissioning of a uranium or thorium mill or tailings facility. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6170 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6180 Prime Sponsor, Senator Swecker: Altering air quality standards with regard to solid fuel burning devices. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6180 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6256 Prime Sponsor, Senator Morton: Changing provisions relating to prevention of cruelty to animals. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse, Oke and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senators Fraser and McAuliffe.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6258 Prime Sponsor, Senator Roach: Making technical corrections to the Revised Code of Washington. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6258 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6277 Prime Sponsor, Senator Newhouse: Compensating certain bus drivers for employment in excess of a forty-hour work week. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6285 Prime Sponsor, Senator Goings: Revising provisions relating to imposition of benefit charges by fire protection districts. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6285 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6301 Prime Sponsor, Senator Schow: Regulating franchise agreements between motor vehicle manufacturers and dealers. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6339 Prime Sponsor, Senator Benton: Declaring English to be the common language. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator McAuliffe.

Passed to Committee on Rules for second reading.

February 3, 1998



SB 6349 Prime Sponsor, Senator Anderson: Changing membership of the committee that establishes boundaries of critical water supply service areas. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6383 Prime Sponsor, Senator Wood: Creating inactive license status for physical therapists. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6410 Prime Sponsor, Senator Rossi: Providing for a good-faith reorganization of the department of fish and wildlife. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6410 be substituted therefor, and the substitute bill do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Morton, Roach, Snyder, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6420 Prime Sponsor, Senator Schow: Allowing an application for initial determination to be in writing or in another form determined by the commissioner of the employment security department. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6420 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6421 Prime Sponsor, Senator Schow: Revising unemployment compensation for persons with public employment contracts. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6421 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6479 Prime Sponsor, Senator Patterson: Prescribing procedures for payment of industrial insurance awards after death.  
Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6479 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6487 Prime Sponsor, Senator Stevens: Changing membership and dues provisions relating to the Washington state school directors' association. Reported by Committee on Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6487 be substituted therefor, and the substitute bill do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators McAuliffe and Rasmussen.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6507 Prime Sponsor, Senator Wood: Eliminating the expiration of the state cosmetology, barbering, esthetics, and manicuring advisory board. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6507 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6553 Prime Sponsor, Senator Johnson: Allowing a county fire protection agency to issue a permit to burn storm and flood-related debris. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6553 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse, Oke and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senators Fraser and McAuliffe.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6600 Prime Sponsor, Senator T. Sheldon: Establishing an education program for juveniles incarcerated in adult correctional facilities. Reported by Committee on Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6600 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Referred to Committee on Ways and Means.

February 3, 1998

SB 6605 Prime Sponsor, Senator Morton: Creating lien rights for owners of sires providing semen for artificial insemination. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6605 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6650 Prime Sponsor, Senator Hochstatter: Changing the scope of employment contract exceptions to school district officers' conflicts of interest. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6691 Prime Sponsor, Senator Jacobsen: Exempting wind or solar energy electric generating facilities from sales and use taxes. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Referred Committee on Ways and Means.

February 3, 1998

SB 6692 Prime Sponsor, Senator Jacobsen: Requiring electric utilities to provide net metering systems to their customer-generators. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6703 Prime Sponsor, Senator McDonald: Establishing the developmental disabilities endowment trust fund. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin and Wojahn.

Referred to Committee on Ways and Means.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENT

January 16, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Dr. Jay Kim, reappointed January 16, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Pierce Community College District No. 11.

Sincerely

GARY LOCKE, Governor

Referred to Committee on Higher Education.

#### MESSAGES FROM THE HOUSE

January 30, 1998

MR. PRESIDENT:

The House has adopted HOUSE CONCURRENT RESOLUTION NO. 4431, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 2, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 1197,  
ENGROSSED HOUSE BILL NO. 1391,  
SUBSTITUTE HOUSE BILL NO. 1867,  
HOUSE BILL NO. 2144, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 2, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1194,  
SUBSTITUTE HOUSE BILL NO. 1509, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING

SB 6747 by Senators Patterson, Brown, Kohl, Thibaudeau, Wood, Prentice, Rasmussen, Kline, McAuliffe, Fairley, Fraser, Spanel, B. Sheldon, Snyder, Loveland, Franklin, Heavey, Bauer, Goings, Jacobsen, Hargrove and Wojahn

AN ACT Relating to child care access; adding new sections to chapter 74.08A RCW; and creating a new section.  
Referred to Committee on Health and Long-Term Care.

SB 6748 by Senator Schow

AN ACT Relating to gambling devices and terminals; amending RCW 9.46.0233 and 9.46.0241; and adding a new section to chapter 9.46 RCW.  
Referred to Committee on Commerce and Labor.

SB 6749 by Senators Roach and Hochstatter

AN ACT Relating to student surveys regarding sports participation; and amending RCW 28A.640.020.  
Referred to Committee on Education.

SB 6750 by Senators Anderson and Winsley

AN ACT Relating to health facilities and services; amending RCW 70.38.025, 70.38.105, 70.38.115, and 70.38.135; adding a new chapter to Title 70 RCW; creating new sections; decodifying RCW 70.38.155, 70.38.156, 70.38.157, 70.38.914, 70.38.915, 70.38.916, 70.38.917, 70.38.918, and 70.38.919; repealing RCW 70.38.095; prescribing penalties; and providing an effective date.  
Referred to Committee on Health and Long-Term Care.

SB 6751 by Senators Deccio, Wojahn, Wood, Franklin, Benton, Thibaudeau, Oke and Winsley

AN ACT Relating to stabilizing long-term care for persons with developmental disabilities living in the community and in residential habilitation centers; amending RCW 71A.10.020, 71A.16.010, and 71A.16.030; adding a new section to chapter 71A.10 RCW; adding a new section to chapter 71A.12 RCW; adding a new section to chapter 71A.20 RCW; repealing RCW 71A.10.011; and declaring an emergency.  
Referred to Committee on Health and Long-Term Care.

SB 6752 by Senator Haugen

AN ACT Relating to the certification exemption for municipal transit services; and amending RCW 81.68.015.  
Referred to Committee on Transportation.

SB 6753 by Senators Swecker, Winsley and Anderson

AN ACT Relating to salmon recovery; amending RCW 90.82.040; adding a new chapter to Title 75 RCW; and declaring an emergency.  
Referred to Committee on Natural Resources and Parks.

SCR 8426 by Senators Wood, Thibaudeau, Deccio, Wojahn, Winsley and Kohl

Creating a joint select committee on end-of-life issues.

Referred to Committee on Health and Long-Term Care.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1194 by House Committee on Commerce and Labor (originally sponsored by Representatives Cody, McMorris, Clements, Conway, Wood, Hatfield, Honeyford, Romero, Skinner, Dyer, Chopp, Murray, Morris, Keiser, Cooper and Mason)

Requiring employers to allow mothers to breast-feed.

Referred to Committee on Commerce and Labor.

HB 1197 by Representatives Sheahan, Constantine and Costa

Allowing an interlocal agreement between a county and municipality to transfer jurisdiction over a defendant.

Referred to Committee on Law and Justice.

EHB 1391 by Representatives Appelwick, Costa, Sheahan, Constantine, Kenney, Radcliff, Blalock, Tokuda, Zellinsky, Lantz and Ogden

Regulating unincorporated nonprofit associations.

Referred to Committee on Law and Justice.

SHB 1509 by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Scott, Appelwick, Cooper, Thompson, L. Thomas, Dunn, Wensman, Carlson, Honeyford, D. Sommers, Koster, Chopp, Linville, Grant, Hatfield, Doumit, Dickerson, Constantine, Backlund, Kenney, O'Brien, Wolfe, Blalock, Gombosky, Cole, Butler, Tokuda, Gardner, Keiser, Costa, Mulliken, Quall, Morris, Ogden, Cody, Kessler, Anderson and Mason)

Disclosing paid petition gathering.

Referred to Committee on Government Operations.

SHB 1867 by House Committee on Health Care (originally sponsored by Representatives Backlund, Cody and Sullivan) (by request of Department of Health)

Revising provisions for food sanitation and safety.

Referred to Committee on Health and Long-Term Care.

HB 2144 by Representatives Smith, L. Thomas, Wolfe, Sullivan, Wensman and Anderson

Designating depositaries.

Referred to Committee on Financial Institutions, Insurance and Housing.

HCR 4431 by Representatives Lisk, Chopp, Kessler, Robertson and O'Brien

Recognizing recipients of State Medal of Merit.

#### MOTION

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4431 was advanced to second reading and read the second time.

#### HOUSE CONCURRENT RESOLUTION NO. 4431

BE IT RESOLVED, By the House of Representatives, the Senate concurring, That the House of Representatives meet with the Senate in Joint Session on Wednesday, February 18, 1998, at 10:00 a.m. in the House of Representatives Chamber, for the purpose of recognizing the recipients of the State Medal of Merit.

#### MOTION

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4431 was advanced to third reading, the second reading considered the third and the concurrent resolution was adopted.

HOUSE CONCURRENT RESOLUTION NO. 4431 was adopted by voice vote.

#### THIRD READING

SENATE BILL NO. 5242, by Senators Oke, McAuliffe, Snyder, Kohl, Sheldon, Winsley, Fairley, Long, Haugen, McDonald, Deccio, McCaslin, Sellar, Brown, Goings, Jacobsen and Patterson.

Requiring personal flotation devices for children on certain recreational vessels.

#### MOTION

On motion of Senator Oke, the rules were suspended, Senate Bill No. 5242 was returned to second reading and read the second time.

#### MOTION

Senator Oke moved that the following amendment be adopted:

On page 1, line 12, after "length" insert "while underway"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Oke on page 1, line 12, to Senate Bill No. 5242.

The motion by Senator Oke carried and the amendment was adopted.

#### MOTION

On motion of Senator Oke, the rules were suspended, Engrossed Senate Bill No. 5242 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 5242.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5242 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 36. Voting nay: Senators Benton, Hargrove, Hochstatter, Horn, Johnson, Morton, Roach, Schow, Sellar, Stevens, Strannigan and Zarelli - 12. Excused: Senator Finkbeiner - 1. ENGROSSED SENATE BILL NO. 5242, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced former Senator H. A. "Barney" Goltz, who was seated in the gallery.

#### THIRD READING

SENATE BILL NO. 5067, by Senators Roach, Haugen, Johnson and Winsley (by request of Secretary of State Munro)

Allowing facsimile filings with the secretary of state's office.

The bill was read the third time.

Debate ensued.

#### MOTION

On motion of Senator Franklin, Senator Kohl was excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5067.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5067 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Finkbeiner and Kohl - 2. SENATE BILL NO. 5067, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### THIRD READING

SUBSTITUTE SENATE BILL NO. 5089, by Senate Committee on Law and Justice (originally sponsored by Senators Roach, Zarelli, Swecker and Hochstatter)

Requiring previous bail jumpers to post bail.

### MOTION

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 5089 was returned to second reading and read the second time.

### MOTION

Senator Roach moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 10.01 RCW to read as follows:

A person who has been convicted, and has sentencing pending or has appealed the conviction, may not be released on personal recognizance in a proceeding where the judge is authorized to require posting of bail or bond, if that person has failed to appear as directed by court order on two or more previous occasions."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Roach to Substitute Senate Bill No. 5089.

The motion by Senator Roach carried and the striking amendment was adopted.

### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 1 of the title, after "proceeding;" strike the remainder of the title and insert "and adding a new section to chapter 10.01 RCW."

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 5089 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5089.

### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5089 and the bill passed the Senate by the following vote Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 5089, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.



### THIRD READING

SUBSTITUTE SENATE BILL NO. 6077, by Senate Committee on Ways and Means (originally sponsored by Senators McCaslin and Snyder)

Exempting from business and occupation tax nonprofit hospice agencies.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6077.

### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6077 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 6077, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5618, by Senate Committee on Transportation (originally sponsored by Senators Haugen, Wood, Heavey, Winsley, B. Sheldon, Spanel, Oke and Kohl)

Regulating ferry queues.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5618.

### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5618 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 5618, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### MOTION

On motion of Senator Tim Sheldon, the following resolution was adopted:

SENATE RESOLUTION 1998-8693

By Senator T. Sheldon

WHEREAS, The Washington State Legislature recognizes excellence, achievement and value in all fields of endeavor; and

WHEREAS, Participation in athletic activities inspires individuals to go above and beyond to develop skills necessary for scholastic achievement and life success; and

WHEREAS, The Elma High School football team has been recognized for their extraordinary achievements on and off the field; and

WHEREAS, Under the coaching and supervision of Jim Hill and athletic director, Steve Bridge the team finished the 1997 season with a 13-0 record; and

WHEREAS, This team through hard work and dedication won the 1997 AA State Football Championship Award; and

WHEREAS, Team player, Ben Dougherty was named the state player of the year for the AA classification and recently signed a letter of intent to attend and play at Iowa State University next year; and

WHEREAS, The Elma High School football team through high achievement and lofty aspirations was awarded and recognized as the State Academic Champions; and

WHEREAS, Through high academic standards and goals inspired by dedicated coaches, the team has accomplished the highest grade point average among Washington State teams with a combined varsity scholastic average of 3.41;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the state of Washington recognize and honor the Elma High School football team and coach Jim Hill for their accomplishments and hard work; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to coach Jim Hill, athletic director Steve Bridge, and the members of the Elma High School football team.

Senators Tim Sheldon and Hargrove spoke to Senate Resolution 1998-8693.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the members of the Elma High School 1997 AA State Football Champions and the 1997 AA Academic Champions and their coaches, who were seated in the gallery.

#### PERSONAL PRIVILEGE

Senator McCaslin: "A point of personal privilege, Mr. President. I didn't play on a team; football hadn't been invented when I went to high school. We have an old custom here in the Senate that on your maiden speech, you are to purchase a gift for all of us. I think that gift should be doubled, because you are wearing that hat. Some of us older folks with less hair appreciate you covering that mop of hair that you have, because it is kind of unfair to us. So, I don't care if he wears the hat the whole year.

"When Goings made his initial maiden speech, I understand he had to borrow money and he is still paying that off on a structured payment plan at three percent. He has a better deal than most of us can get. But, we know that you will bring us a gift that we will never, never ever forget and we appreciate it."

#### PERSONAL PRIVILEGE

Senator Schow: "A point of personal privilege, Mr. President. Last Saturday night, I had the privilege of being invited to Orting to a function put on by the Pierce County Community Network. It was a great event--they had almost five hundred kids there. They had a martial arts demonstration. You know, I thought I should bring this to the attention of this body that there was another Senator that was there and we have all heard how people get a little concerned when Senators tend to get heavy-handed. While we were at this martial arts demonstration, the other Senator, Marilyn Rasmussen, was showing how heavy-handed she was by breaking blocks of wood with karate chops. I just thought everybody ought to know that when they are discussing things with her, that she does have this ability."

#### MOTION

On motion of Senator Kohl, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8692

By Senators Kohl, Jacobsen, Wood, Wojahn, Winsley, West, Hale, Brown, Bauer, McAuliffe, Loveland, Johnson, Spanel, Prince, Goings, Rasmussen, Haugen, Prentice, Fraser, B. Sheldon, Fairley, Thibaudeau and Zarelli

WHEREAS, Athletics is one of the most effective ways for girls and women in the United States to develop leadership skills, self-discipline, initiative, and confidence; and

WHEREAS, Sport and fitness activity contributes to emotional and physical well-being, and girls and women need both strong minds and strong bodies; and

WHEREAS, The communication and cooperation skills learned through athletic experience play a key role in the contributions of athletes to the home, workplace, and society; and

WHEREAS, Early motor skill training and enjoyable experiences of physical activity strongly influence lifelong habits of physical fitness; and

WHEREAS, The bonds built among girls and women through athletics help break down the social barriers of racism and prejudice; and

WHEREAS, The history of girls and women in sports is rich and long, but there has been little national recognition of the significance of the athletic achievements of women; and

WHEREAS, The members of the Seattle Reign, one of eight teams from the American Basketball League, the premier womens' basketball league in the United States, provide a vital and necessary contribution to the state of Washington by serving as positive role models and mentors to young women and girls; and

WHEREAS, The Seattle Reign consists of outstanding athletes such as Kate Starbird, 1997 Naismith College Player of the Year; and Astou Ndaiye, who led her college team to four national championships; and Shalonda Enis, two-time Kodak All-American, the only rookie to be named to the ABL Western Conference All Star Team this year and MVP of the 1997 All Star Game; and Linda Godby, the first professional female player to dunk in the ABL competition where she received third place; and Val Whiting, two-time Kodak All-American; and Joy Holmes, a Kodak All-American; and

WHEREAS, The state of Washington has produced stellar women athletes among whom are Olympic skier Debbie Armstrong; ice skater Rosalynn Summers; track stars Doris Heritage, Gail Devers, and Gitte Karloshoj; swimmer Mary Wayte; synchronized swimmer Tracie Ruiz-Conforto; marathon runner Lisa Weidenbach; soccer players Shannon Higgins and Michelle Akers; team handball player Dawn Allinger; rowers Roberta Blanda, Hana Dariusova, Sabrina Telenska, Jennifer Devine, Karen Kraft, Elizabeth McCagg, and Mary McCagg; kayaker Shelly Oates; discus thrower Aretha Hill; javelin thrower Erica Wheeler; cyclist Rebecca Twigg; basketball player Camille Thompson; beach volleyball player Deb Richardson; and Olympic track star Kelly Blair; whose spirit, talent, and accomplishments distinguished them from others and were a source of inspiration and pride to all of us; and

WHEREAS, Although the state of Washington is fortunate to have Barbara Hedges serving as Athletic Director at the University of Washington, a NCAA Division 1 school, women are underrepresented in the leadership positions of coaches, officials, and administrators, and there is a need for women to serve in these positions to ensure a fair representation of the abilities of women and to provide role models for young female athletes; and

WHEREAS, Although the athletic opportunities for female students at the college and high school level have improved because of federal and state gender equity laws, the participation rates of male and female athletes at the college and high school levels are still not equitable; and

WHEREAS, The number of funded research projects focusing on the specific needs of women athletes is limited, and the information provided by the projects is imperative to the health and performance of future women athletes;

NOW, THEREFORE, BE IT RESOLVED, That February 5, 1998, be designated as Washington Girls and Women in Sports Day, and Governor Locke is authorized and requested to issue a proclamation calling upon local and state jurisdictions to observe the day with appropriate ceremonies and activities.

Senators Kohl, Stevens, Wojahn and Jacobsen spoke to Senate Resolution 1998-8692.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Hilary Metcalf, Coordinator for the University of Washington Team Athlete Program; Valerie Overdahl, Athletic Director for Tumwater High School; Leola Wheeler, Athletic Director for Capital High School; and Emily Hicks, Capital High School Senior Athlete in cross country, track and field and basketball, who were seated in the gallery.

#### MOTION

At 11:15 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 12:00 noon by President Owen.

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MOTION

At 12:00 noon., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Thursday, February 5, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

TWENTY-FOURTH DAY, FEBRUARY 4, 1998

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**TWENTY-FIFTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Thursday, February 5, 1998

The Senate was called to order at 12:00 noon by President Pro Tempore Newhouse. No roll call was taken.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

February 4, 1998

SB 5278 Prime Sponsor, Senator Patterson: Requiring court-ordered use of long-term pharmaceutical birth control for mothers who have given birth to a baby with drug addiction. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Second Substitute Senate Bill No. 5278 be substituted therefor, and the second substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 4, 1998

SB 5528 Prime Sponsor, Senator Kohl: Protecting children and vulnerable adults by using background checks. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Third Substitute Senate Bill No. 5528 be substituted therefor, and the third substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 3, 1998

SB 5731 Prime Sponsor, Senator Kohl: Creating the Washington fund for student child care in higher education. Reported by Committee on Ways and Means

MAJORITY Recommendation: Without recommendation, referred to Rules. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules without recommendation.

February 4, 1998

SB 5873 Prime Sponsor, Senator Benton: Determining liability under the model toxics control act. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 5873 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6152 Prime Sponsor, Senator Swecker: Managing state park lands. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6152 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6161 Prime Sponsor, Senator Swecker: Creating a dairy nutrient management program. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6161 as recommended by Committee on Agriculture and Environment be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6188 Prime Sponsor, Senator Oke: Increasing penalties for failing to register as a sex offender or moving without notifying the county sheriff. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Kline, Long, McCaslin, Stevens and Zarelli.

Referred to Committee on Ways and Means.

February 4, 1998

SB 6190 Prime Sponsor, Senator Oke: Strengthening laws on disabled persons' parking permits. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6190 be substituted therefor, and the substitute bill do pass and be referred to Committee on Transportation. Signed by Senators Roach, Chair; Fairley, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Referred to Committee on Transportation.

February 2, 1998

SB 6191 Prime Sponsor, Senator Johnson: Changing statutes affecting deeds of trust. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6191 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6196 Prime Sponsor, Senator Hargrove: Concerning judicial review for certain out-of-home child placements. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6196 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6202 Prime Sponsor, Senator Winsley: Changing the securities act to conform with federal statute. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6203 Prime Sponsor, Senator Morton: Authorizing exemptions from solid waste designations. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6203 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse and Oke.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6212 Prime Sponsor, Senator McCaslin: Amending uniform act on fresh pursuit. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6212 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6214 Prime Sponsor, Senator Long: Revising provisions relating to commitment of mentally ill persons. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6214 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Schow and Stevens.

Referred to Committee on Rules for second reading.

February 4, 1998

SB 6217 Prime Sponsor, Senator Franklin: Changing provisions relating to guardians ad litem. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6217 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6238 Prime Sponsor, Senator Stevens: Changing provisions relating to dependent children. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6238 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 3, 1998

SB 6264 Prime Sponsor, Senator Oke: Providing for the mass marking of chinook salmon. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6264 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Hochstatter, Kohl, Long, Loveland, Rossi, B. Sheldon, Snyder, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6272 Prime Sponsor, Senator Long: Authorizing Snohomish county to create one additional district court position. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6290 Prime Sponsor, Senator Benton: Regarding parental notification for abortions. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6290 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Fairley, Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6298 Prime Sponsor, Senator B. Sheldon: Assisting the unemployed to become self-employed. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6298 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6300 Prime Sponsor, Senator Prentice: Regulating housing authorities with populations over four hundred thousand. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6302 Prime Sponsor, Senator Winsley: Establishing risk-based capital standards for health carriers. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6302 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 3, 1998



SB 6315 Prime Sponsor, Senator Horn: Updating references to the transportation improvement board bond retirement account.  
Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6324 Prime Sponsor, Senator Morton: Rehabilitating salmon and trout populations with a remote site incubator program.  
Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6324 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6346 Prime Sponsor, Senator Johnson: Allowing withdrawals from regional transportation authorities. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6346 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Horn, Morton, Oke, Patterson and Rasmussen.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6350 Prime Sponsor, Senator Patterson: Making delivery of a controlled substance to a pregnant woman an aggravating circumstance. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6352 Prime Sponsor, Senator Wood: Specifying examination eligibility requirements for Washington state patrol officers.  
Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Morton, Oke, Patterson, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6353 Prime Sponsor, Senator Sellar: Reflecting actual working hours for disability of Washington state patrol officers.  
Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Morton, Oke, Patterson, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6360 Prime Sponsor, Senator Johnson: Prescribing garnishee's processing fees. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6393 Prime Sponsor, Senator Winsley: Regulating the charitable gift annuity business. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6423 Prime Sponsor, Senator Schow: Revising unemployment compensation for part-time faculty. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6423 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6436 Prime Sponsor, Senator Horn: Authorizing regional transit authorities to issue short-term obligations. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Horn, Jacobsen, Oke, Patterson, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6437 Prime Sponsor, Senator Brown: Funding family planning. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That it be referred to Committee on Ways and Means without recommendation. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Ways and Means without recommendation.

February 3, 1998

SB 6439 Prime Sponsor, Senator Wood: Authorizing design-build demonstration projects. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6439 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Horn, Jacobsen, Morton, Oke, Patterson, Rasmussen and Sellar.

MINORITY Recommendation: Do not pass. Signed by Senator Heavey.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6440 Prime Sponsor, Senator Heavey: Phasing in lightweight tire studs. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6440 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke and Patterson.

MINORITY Recommendation: Do not pass. Signed by Senators Morton and Sellar.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6442 Prime Sponsor, Senator Franklin: Providing tax incentives for creating low-cost housing. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6442 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Referred to Committee on Ways and Means.

February 3, 1998

SB 6457 Prime Sponsor, Senator Winsley: Providing business and occupation tax credits for financial institutions making qualified donations for first-time home buyer assistance. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6457 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Referred to Committee on Ways and Means.

February 3, 1998

SB 6469 Prime Sponsor, Senator Winsley: Providing tax credits for businesses making expenditures for work force training. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6469 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Referred to Committee on Ways and Means.

February 3, 1998

SB 6490 Prime Sponsor, Senator Winsley: Creating business and occupation tax credits to provide housing for low-income and disabled persons. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6490 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Hale, Heavey, Kline and Prentice.

Referred to Committee on Ways and Means.

February 3, 1998

SB 6501 Prime Sponsor, Senator Horn: Requiring performance budgeting for transportation agencies. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6501 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke, Patterson, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6530 Prime Sponsor, Senator Swecker: Prohibiting partial-birth abortions. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Fairley, Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6541 Prime Sponsor, Senator Sellar: Funding tourism development. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin and Newhouse.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6542 Prime Sponsor, Senator Stevens: Revising the family policy council. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6542 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6559 Prime Sponsor, Senator Zarelli: Revising time limits for the seventy-two hour evaluation and treatment period for mental disorders. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 3, 1998

SB 6562 Prime Sponsor, Senator Schow: Providing relief for the equine industry. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6562 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Heavey and Newhouse.

Referred to Committee on Ways and Means.

February 3, 1998

SB 6599 Prime Sponsor, Senator Benton: Exempting fund-raising activities by nonprofit organizations from sales and use taxation. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6610 Prime Sponsor, Senator Roach: Eliminating the special sex offender sentencing alternative. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6610 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senator Thibaudeau.

Referred to Committee on Ways and Means.

February 4, 1998

SB 6611 Prime Sponsor, Senator Roach: Prohibiting engaging in body piercing on persons under the age of eighteen. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6611 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Hargrove, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6640 Prime Sponsor, Senator Morton: Requiring sex offenders to notify the county sheriff and the state patrol before changing his or her name. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 3, 1998

SB 6643 Prime Sponsor, Senator Oke: Requiring the name of record on a driver's license. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Morton, Oke, Patterson, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 2, 1998

SB 6668 Prime Sponsor, Senator Heavey: Extending tax deferrals for new thoroughbred race tracks. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Heavey and Newhouse.

Referred to Committee on Ways and Means.

February 3, 1998

SJM 8019 Prime Sponsor, Senator Winsley: Requesting federal funds for housing finance. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 3, 1998

EHB 2894 Prime Sponsor, Representative Huff: Reallocating motor vehicle excise tax and general fund resources for the purpose of transportation and local criminal justice funding and tax reduction. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, Swecker and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Brown, Fraser, Kohl, Loveland, B. Sheldon, Snyder, Spanel and Thibaudeau.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Johnson, Senate Bill No. 5278, Senate Bill No. 6238, Senate Bill No. 6442, Senate Bill No. 6457, Senate Bill No. 6469, Senate Bill No. 6490, Senate Bill No. 6559, Senate Bill No. 6562, and Senate Bill No. 6668 were referred to the Committee on Ways and Means.

INTRODUCTION AND FIRST READING

SJM 8030 by Senators Kohl, Wojahn and Thibaudeau

Urging Congress to downgrade marijuana to a Schedule II controlled substance.

Referred to Committee on Health and Long-Term Care.

MOTION

At 12:02 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Friday, February 6, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

TWENTY-FIFTH DAY, FEBRUARY 5, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**TWENTY-SIXTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Friday, February 6, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senator Patterson. On motion of Senator Franklin, Senator Patterson was excused.

The Sergeant at Arms Color Guard, consisting of Pages Gerri Smith and Tom Stocks, presented the Colors. Reverend Kathryn Everett, pastor of the First United Methodist Church of Olympia, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**REPORTS OF STANDING COMMITTEES**

February 5, 1998

SB 5585 Prime Sponsor, Senator Fraser: Providing for water rights for instream purposes. Reported by Committee on Agriculture and Environment

**MAJORITY Recommendation:** Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 5699 Prime Sponsor, Senator Wood: Enhancing transportation planning. Reported by Committee on Transportation

**MAJORITY Recommendation:** That Substitute Senate Bill No. 5699 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Haugen, Horn, Morton, Oke, Prentice and Rasmussen.

**MINORITY Recommendation:** Do not pass. Signed by Senators Goings, Heavey and Patterson.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6136 Prime Sponsor, Senator Oke: Including drug offenses in background checks. Reported by Committee on Human Services and Corrections

**MAJORITY Recommendation:** That Substitute Senate Bill No. 6136 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.



February 4, 1998

SB 6140 Prime Sponsor, Senator Morton: Regulating public water systems. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6140 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6141 Prime Sponsor, Senator Morton: Regulating public water systems. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6141 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse, Oke and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senators Fraser and McAuliffe.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6204 Prime Sponsor, Senator Morton: Increasing the efficiency of registering and identifying livestock. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6204 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse and Oke.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6207 Prime Sponsor, Senator Kohl: Terminating employees and contractors who engage in sexual misconduct with inmates or residents of correctional facilities or institutions. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6207 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6233 Prime Sponsor, Senator Rasmussen: Revoking driving privileges for alcohol violations until the person is age twenty-one. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6233 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6245 Prime Sponsor, Senator Swecker: Authorizing participation in the funding of the conservation reserve state enhancement program. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6245 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6253 Prime Sponsor, Senator Schow: Reimbursing agency liquor vendors for credit sales of liquor. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6253 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin and Newhouse.

MINORITY Recommendation: Do not pass substitute. Signed by Senator Heavey.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6263 Prime Sponsor, Senator Swecker: Changing lake management provisions. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6263 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Morton, Chair; Swecker, Vice Chair; Oke and Rasmussen.

MINORITY Recommendation: Do not pass. Signed Senator Fraser.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6328 Prime Sponsor, Senator Oke: Enacting the fish and wildlife code enforcement. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6328 be substituted therefor, and the substitute bill do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6338 Prime Sponsor, Senator Benton: Regarding parental notification for abortions provided to minors. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6338 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Fairley, Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6340 Prime Sponsor, Senator Finkbeiner: Prohibiting telephone solicitation calls after 5:00 p.m. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass as amended. Signed by Senators Finkbeiner, Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6341 Prime Sponsor, Senator Snyder: Allowing certain charter boats to be operated by persons without an alternate operator's license in specific circumstances. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6341 be substituted therefor, and the substitute bill do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6342 Prime Sponsor, Senator Snyder: Requiring salmon eggs to be utilized in the cultivation of salmon. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6342 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel, Stevens and Swecker.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6344 Prime Sponsor, Senator Brown: Transporting low-level radioactive waste. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6344 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6356 Prime Sponsor, Senator Finkbeiner: Concerning information required to be filed with the utilities and transportation commission. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: That Substitute Senate Bill No. 6356 be substituted therefor, and the substitute bill do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6358 Prime Sponsor, Senator Rossi: Providing the utilities and transportation commission authority to regulate certain pipeline facilities. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: That Substitute Senate Bill No. 6358 be substituted therefor, and the substitute bill do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6365 Prime Sponsor, Senator Kline: Enacting the Washington state false claims act. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Kline, Long and McCaslin.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6375 Prime Sponsor, Senator Winsley: Setting the rates of interest and other fees charged by pawnbrokers. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6389 Prime Sponsor, Senator Fraser: Prescribing the use of revenues under the county conservation futures levy. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6389 be substituted therefor, and the substitute bill do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6408 Prime Sponsor, Senator McCaslin: Increasing penalties for alcohol violators who commit the offense with a person under the age of seventeen in the motor vehicle. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6408 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Kline, Long, McCaslin, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6433 Prime Sponsor, Senator Long: Conforming sexual predator registration to federal requirements. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6433 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6445 Prime Sponsor, Senator Long: Modifying provisions relating to children placed in community facilities. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6445 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6474 Prime Sponsor, Senator Jacobsen: Adopting the fertilizer regulation act. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Bill No. 6474 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Morton, Chair; Swecker, Vice Chair; Oke and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senators Fraser and McAuliffe.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6496 Prime Sponsor, Senator Kohl: Authorizing disclosure of an adopted person's original birth certificate upon request by the adopted person. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6496 be substituted therefor, and the substitute bill do pass. Signed by Senators Zarelli, Vice Chair; Franklin, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6518 Prime Sponsor, Senator Roach: Increasing penalties for second degree rape. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6518 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6519 Prime Sponsor, Senator Roach: Returning supervised offenders to custody upon a violation of terms of supervision. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6519 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin and Stevens.

Referred to Committee on Ways and Means.

February 4, 1998

SB 6537 Prime Sponsor, Senator Schow: Allowing the liquor control board to receive grants and other funds or donations to implement programs about alcohol and tobacco. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6538 Prime Sponsor, Senator Schow: Redefining the criteria for spirits, beer, and wine restaurant licenses. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser and Newhouse.

MINORITY Recommendation: Do not pass. Signed by Senator Heavey.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6539 Prime Sponsor, Senator Schow: Making technical changes regarding designations for liquor licenses. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6557 Prime Sponsor, Senator Kohl: Establishing a toll-free telephone number for information on child day-care providers. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6557 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl and Stevens.

Referred to Committee on Ways and Means-.

February 5, 1998

SB 6558 Prime Sponsor, Senator Zarelli: Creating citizen review panels to review child abuse and neglect cases. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6558 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 2, 1998

SB 6580 Prime Sponsor, Senator Roach: Developing education requirements for members of the commission on judicial conduct. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6580 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Stevens and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6585 Prime Sponsor, Senator Oke: Authorizing distribution of nonhighway vehicle funds to nonprofit off-road vehicle organizations. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6587 Prime Sponsor, Senator Long: Creating a task force on mentally ill offenders. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6587 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6613 Prime Sponsor, Senator Finkbeiner: Allowing a health care provider to disclose a patient's blood alcohol level to law enforcement authorities. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6613 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Goings, Hargrove, Kline, Long and McCaslin.

MINORITY Recommendation: Do not pass. Signed by Senator Thibaudeau.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6639 Prime Sponsor, Senator Morton: Establishing a pilot project for noxious weed control. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6639 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6645 Prime Sponsor, Senator Johnson: Eliminating the requirement that the director of public defense have experience representing persons accused of crime. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Long, McCaslin, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6669 Prime Sponsor, Senator Rossi: Allowing a holder of perpetual timber rights to sign a statement of intent not to convert the land to other uses for a period of time. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6669 be substituted therefor, and the substitute bill do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6687 Prime Sponsor, Senator Prentice: Regulating mobile home park landlord-tenant relations. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6687 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Hale, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6701 Prime Sponsor, Senator Fairley: Clarifying statute of limitations on actions for professional negligence. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6701 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin and Zarelli.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6702 Prime Sponsor, Senator Long: Requiring a plan for treatment and housing for persons with both substance abuse problems and mental disorders. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6702 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.



February 5, 1998

SB 6739 Prime Sponsor, Senator Hargrove: Requiring assessment of the impact on families before adoption of administrative rules and adoption of local government ordinances or resolutions. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 5, 1998

SJM 8022 Prime Sponsor, Senator Rossi: Urging legislation facilitating forest land exchange. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Joint Memorial No. 8022 be substituted therefor, and the substitute memorial do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 5, 1998

SJM 8026 Prime Sponsor, Senator Loveland: Urging Congress to not breach dams. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That Substitute Senate Joint Memorial No. 8026 be substituted therefor, and the substitute joint memorial do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

MESSAGE FROM STATE OFFICE

STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
Olympia, Washington 98504-5000  
February 5, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. O'Connell:

Enclosed is the Children's Administration's "Increases in Foster Care Expenditures" Report to the Legislature. It is mandated under Chapter 454, Laws of 1997, Section 202 (9).

Please call Jennifer Strus at 902-7911 if you have questions about the report.

Sincerely,

LYLE QUASIM, Secretary

The Report from the Department of Social and Health Services on "Increases in Foster Care Expenditures" is on file in the Office of the Secretary of the Senate.

## INTRODUCTION AND FIRST READING

SB 6754 by Senators McAuliffe, Goings, T. Sheldon, Fraser, Rasmussen, Franklin, Patterson, Brown, Kohl, Kline, Prentice, Spanel, Thibaudeau, B. Sheldon, Loveland, Snyder, Jacobsen and Wojahn

AN ACT Relating to reducing class size; adding a new section to chapter 28A.150 RCW; and creating a new section.

Referred to Committee on Education.

SB 6755 by Senators Benton, Roach and Oke

AN ACT Relating to drunk driving; reenacting and amending RCW 46.61.5055; adding a new section to chapter 46.61 RCW; adding a new section to chapter 46.20 RCW; prescribing penalties; making an appropriation; and declaring an emergency.

Referred to Committee on Law and Justice.

### MOTION

At 10:10 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:00 a.m. by President Owen.

### MOTION

On motion of Senator Johnson, the Senate advanced to the ninth order of business.

### MOTION

On motion of Senator Johnson, the Committee on Rules was relieved of further consideration of Senate Bill No. 5400.

### MOTIONS

On motion of Senator Johnson, the rules were suspended, Senate Bill No. 5400 was advanced to second reading and placed on the second reading calendar.

On motion of Senator Johnson, the Senate reverted to the sixth order of business.

## SECOND READING

SENATE BILL NO. 5400, by Senators Stevens, Zarelli and Schow

Reaffirming and protecting the institution of marriage.

### MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 5400 was substituted for Senate Bill No. 5400 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, Substitute Senate Bill No. 5400 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

### MOTION

On motion of Senator Johnson, further consideration of Substitute Senate Bill No. 5400 was deferred.

### MOTION

On motion of Senator Johnson, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

February 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Johnson, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILL

ESHB 1130 by House Committee on Law and Justice (originally sponsored by Representatives Thompson, Koster, Mulliken, L. Thomas, Bush, Backlund, Dunn, Sump, Mielke, Pennington, Talcott, Chandler, Johnson, Lambert, D. Sommers, Sheahan, McDonald, D. Schmidt, McMorris, Sterk, Boldt, Crouse, Benson, DeBolt and Sherstad)

Reaffirming and protecting the institution of marriage.

MOTION

On motion of Senator Johnson, the rules were suspended, Engrossed Substitute House Bill No. 1130 was advanced to second reading and placed on the second reading calendar.

MOTION

On motion of Senator Johnson, the Senate advanced to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130, by House Committee on Law and Justice (originally sponsored by Representatives Thompson, Koster, Mulliken, L. Thomas, Bush, Backlund, Dunn, Sump, Mielke, Pennington, Talcott, Chandler, Johnson, Lambert, D. Sommers, Sheahan, McDonald, D. Schmidt, McMorris, Sterk, Boldt, Crouse, Benson, DeBolt and Sherstad)

Reaffirming and protecting the institution of marriage.

The bill was read the second time.

MOTION

Senator Johnson moved that the following amendment by Senator Swecker be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) In P.L. 104-199; 110 Stat. 219, the Defense of Marriage Act, Congress granted authority to the individual states to either grant or deny recognition of same-sex marriages recognized as valid in another state. The Defense of Marriage Act defines marriage for purposes of federal law as a legal union between one man and one woman as husband and wife and provides that a state shall not be required to give effect to any public act or judicial proceeding of any other state respecting marriage between persons of the same sex if the state has determined that it will not recognize same-sex marriages.

(2) The legislature and the people of the state of Washington find that matters pertaining to marriage are matters reserved to the sovereign states and, therefore, such matters should be determined by the people within each individual state and not by the people or courts of a different state.

NEW SECTION. **Sec. 2.** (1) It is a compelling interest of the state of Washington to reaffirm its historical commitment to the institution of marriage as a union between a man and a woman as husband and wife and to protect that institution.

(2) The court in *Singer v. Hara*, 11 Wn. App. 247 (1974) held that the Washington state marriage statute does not allow marriage between persons of the same sex. It is the intent of the legislature by this act to codify the *Singer* opinion and to fully exercise the authority granted the individual states by Congress in P.L. 104-199; 110 Stat. 219, the Defense of Marriage Act, to establish public policy against same-sex marriage in statutory law that clearly and definitively declares same-sex marriages will not be recognized in Washington, even if they are made legal in other states.

**Sec. 3.** RCW 26.04.010 and 1973 1st ex.s. c 154 s 26 are each amended to read as follows:

(1) Marriage is a civil contract (~~(which may be entered into by persons of)~~) between a male and a female who have each attained the age of eighteen years, and who are otherwise capable(~~(- PROVIDED, That)~~).

(2) Every marriage entered into in which either (~~(party shall not have)~~) the husband or the wife has not attained the age of seventeen years (~~(shall be)~~) is void except where this section has been waived by a superior court judge of the county in which one of the parties resides on a showing of necessity.

**Sec. 4.** RCW 26.04.020 and 1927 c 189 s 1 are each amended to read as follows:

(1) Marriages in the following cases are prohibited:

~~((1))~~ (a) When either party thereto has a wife or husband living at the time of such marriage(~~(-)~~);

~~((2))~~ (b) When the (~~(parties thereto)~~) husband and wife are nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law; or

(c) When the parties are persons other than a male and a female.

~~((3))~~ (2) It (~~(shall be)~~) is unlawful for any man to marry his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter or sister's daughter; it (~~(shall be)~~) is unlawful for any woman to marry her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son or sister's son.

(3) A marriage between two persons that is recognized as valid in another jurisdiction is valid in this state only if the marriage is not prohibited or made unlawful under subsection (1)(a), (1)(c), or (2) of this section." Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Swecker to Engrossed

Substitute House Bill No. 1130.

The motion by Senator Johnson carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Johnson, the following title amendment was adopted:

On page 1, line 2 of the title, after "marriage;" strike the remainder of the title and insert "amending RCW 26.04.010 and 26.04.020; and creating new sections." On motion of Senator Johnson, the rules were suspended, Engrossed Substitute House Bill No. 1130, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 1130, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1130, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 34. Voting nay: Senators Brown, Fairley, Fraser, Heavey, Jacobsen, Kline, Kohl, McAuliffe, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 13. Absent: Senator Prentice - 1. Excused: Senator Patterson - 1. ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, Engrossed Substitute House Bill No. 1130, as amended by the Senate, was immediately transmitted to the House of Representatives.

#### PERSONAL PRIVILEGE

Senator Tim Sheldon: "A point of personal privilege, Mr. President. Yesterday, when I addressed the body about the championship football team from Elma, Senator McCaslin put the bite on me. I would like to give Senator McCaslin something to bite on. It is on your desks. There is a little bit of smoked salmon that was produced in my district by Northern Discovery Seafoods and they are in Grapeview. After you try that--if you like this salmon and I know you will--their address is there. Save the box and give them a call. They are a growing company in our district. They had sales of about three hundred and fifty thousand dollars last year and are doing very well and they need your support. So, if you like the salmon and you want to send it and give a treat to one of your friends--a taste of the Northwest--please do that."

#### PERSONAL PRIVILEGE

Senator McCaslin: "A point of personal privilege, Mr. President. In response, I think we are all deeply appreciative. I didn't know they could box minnows."

There being no objection, the President advanced the Senate to the seventh order of business

There being no objection, the Senate resumed consideration of Engrossed Substitute Senate Bill No. 5479, deferred on third reading January 28, 1998.

Debate ensued.

#### MOTION

On motion of Senator Franklin, Senator Bauer was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5479.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5479, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Hochstatter, Horn, Jacobsen, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Wood and Zarelli - 28. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Goings, Haugen, Heavey, Kline, Kohl, Loveland, McAuliffe, Prentice, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau, Winsley and Wojahn - 19. Excused: Senators Bauer and Patterson - 2. ENGROSSED SUBSTITUTE SENATE BILL NO. 5479, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 11:34 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 2:20 p.m. by President Owen.

#### MOTION

On motion of Senator Hale, Senator McCaslin was excused.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

February 6, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130 and passed the bill as amended by the Senate.

TIMOTHY A. MARTIN, Chief Clerk

February 6, 1998

MR. PRESIDENT:

The Speaker has signed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130.

MOTION

At 2:24 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 3:33 p.m. by President Owen.  
There being no objection, the President reverted the Senate to the third order of business.

MESSAGE FROM THE GOVERNOR

February 6, 1998

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute House Bill No. 1130 entitled:  
"AN ACT Relating to reaffirming and protecting the institution of marriage;"

This bill would amend the marriage statute by codifying existing case law that prohibits same-gender marriage in Washington. It also declares that same-gender marriages will not be recognized, even if they are made legal in other states. ESHB 1130 is essentially identical to Engrossed Substitute Senate Bill No. 5398, which I vetoed on February 21, 1997.

Subsequent to the 1972 passage of the Equal Rights Amendment to the Washington Constitution, in *Singer v. Hara*, 11 Wn. App. 247 (1974) our Court of Appeals firmly stated that our existing statute prohibits same-gender marriages in Washington. The Washington Supreme Court then upheld that decision in *Marchioro v. Chaney*, 90 Wn.2d 298 (1978).

The 1996 federal Defense of Marriage Act exempts states from having to recognize or give effect to same-gender marriages from other states. Furthermore, Washington courts have consistently held that marriages not recognized under Washington law will not be upheld in this state, even if they are considered valid in other states.

Not only is this legislation unnecessary, it serves no legitimate purpose. For these reasons, I have vetoed Engrossed Substitute House Bill No. 1130 in its entirety.

Respectfully submitted,

GARY LOCKE, Governor

There being no objection, the President advanced the Senate to the fourth order of business.

MESSAGE FROM THE HOUSE

February 6, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130, notwithstanding the Governor's Veto, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Johnson moved that the Senate pass Engrossed Substitute House Bill No. 1130, notwithstanding the Governor's Veto.

MOTION

On motion of Senator Franklin, Senators Prentice and Wojahn were excused.

The President declared the question before the Senate to be the motion by Senator Johnson that Engrossed Substitute House Bill No. 1130 pass the Senate notwithstanding the Governor's Veto. The President declared a vote 'yea' will override the Governor's Veto and a vote 'nay' will sustain the veto. The President declared that a two-thirds majority of those present is required to override the veto.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1130, notwithstanding the Governor's Veto, and the Governor's Veto was overridden by the following vote: Yeas, 34; Nays, 11; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, Loveland, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 34. Voting nay: Senators Brown, Fairley, Fraser, Heavey, Jacobsen, Kline, Kohl, McAuliffe, Sheldon, B., Spanel and Thibaudeau - 11. Excused: Senators McCaslin, Patterson, Prentice and Wojahn - 4. ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130, having received the constitutional two-thirds majority, notwithstanding the Governor's Veto, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MOTION

On motion of Senator Johnson, Engrossed Substitute House Bill No. 1130 was ordered to be immediately transmitted to the House of Representatives.

MOTION

On motion of Senator Johnson, the Senate advanced to the ninth order of business..

MOTION

On motion of Senator Johnson, Substitute Senate Bill No. 5400, which was deferred on third reading earlier today, was referred to the Committee on Rules.

MOTION

At 3:50 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 6:35 p.m. by Vice President Pro Tempore Morton.

MOTION

On motion of Senator McDonald, the Senate returned to the first order of business.

REPORTS OF STANDING COMMITTEES

February 5, 1998

SSB 5424 Prime Sponsor, Senate Committee on Ways and Means: Providing tax exemptions for businesses in community empowerment zones that provide selected international services. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 5424 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Hochstatter, Kohl, Long, McDonald, Rossi, Schow, B. Sheldon, Snyder, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 5493 Prime Sponsor, Senator Spanel: Providing insurance coverage for cranial hair. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Referred to Committee on Ways and Means.

February 5, 1998

SB 5517 Prime Sponsor, Senator Wood: Requiring one student member on each state institution of higher education's governing board. Reported by Committee on Higher Education

MAJORITY Recommendation: That Substitute Senate Bill No. 5517 be substituted therefor, and the substitute bill do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl and Patterson.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 5883 Prime Sponsor, Senator Benton: Requiring health care entities to disclose relevant information to consumers. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 5883 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6023 Prime Sponsor, Senator Thibaudeau: Exempting members of boards of directors from unemployment compensation coverage. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser and Newhouse.

Passed to Committee on Rules for second reading.

February 5, 1998



SB 6113 Prime Sponsor, Senator Wood: Exempting from taxation property of nonprofit organizations providing medical research or training of medical personnel. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6119 Prime Sponsor, Senator Schow: Concerning the assumption of a water-sewer district by a municipality. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6119 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 6 1998

SB 6132 Prime Sponsor, Senator Schow: Regulating sellers of travel. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey, and Newhouse.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6139 Prime Sponsor, Senator Oke: Increasing penalties for manufacture and delivery of amphetamine. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass and refer to Committee on Ways and Means. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Kline, Long and McCaslin.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6153 Prime Sponsor, Senator Fairley: Revising procedures for bringing actions for the injury or death of a child. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6153 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6174 Prime Sponsor, Senator McCaslin: Changing compensation for special district commissioners. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6174 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6179 Prime Sponsor, Senator Wood: Changing Washington award for vocational excellence provisions. Reported by Committee on Higher Education

MAJORITY Recommendation: Do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6184 Prime Sponsor, Senator McCaslin: Clarifying that master planned resorts may obtain facilities, utilities, and services from outside service providers. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6184 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6201 Prime Sponsor, Senator Long: Making changes concerning the federal child abuse prevention and treatment act. Reported by Committee on Human Services and Corrections.

MAJORITY Recommendation: That Substitute Senate Bill No. 6201 be substituted therefor, and the substitute bill do pass and be referred to the Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove; Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6208 Prime Sponsor, Senator Hargrove: Revising procedures for at-risk youth. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6208 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6215 Prime Sponsor, Senator Long: Defining the crime of custodial sexual misconduct. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6215 be substituted therefor, and the substitute bill do pass. Signed by Senators Johnson, Vice Chair; Fairley, Kline, Long, McCaslin, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6231 Prime Sponsor, Senator Hargrove: Limiting the near-term growth of the natural area preserve program, and providing for a study of the program. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6231 be substituted therefor, and the substitute bill do pass. Signed by Senators Rossi, Vice Chair; Hargrove, Morton, Roach, Snyder, Stevens and Swecker.

MINORITY Recommendation: Do not pass. Signed by Senators Jacobsen, Prentice and Spanel.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6235 Prime Sponsor, Senator Jacobsen: Creating the community athletic facilities council. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6235 be substituted therefor, and the substitute bill do pass and be referred to the Committee on Ways and Means. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn and T. Sheldon.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6236 Prime Sponsor, Senator Jacobsen: Creating the Washington service scholars program. Reported by Committee on Higher Education

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, B. Sheldon and West.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6243 Prime Sponsor, Senator Hale: Repealing the sales tax on residential laundry facilities. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6243 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Loveland, McDonald, Rossi, Schow, B. Sheldon, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6247 Prime Sponsor, Senator Benton: Regulating display of sexually explicit material to minors. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6247 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, McCaslin and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senator Thibaudeau.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6250 Prime Sponsor, Senator Swecker: Revising provisions relating to geoduck diver's licenses. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6250 be substituted therefor, and the substitute bill do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Morton, Roach, Snyder, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6270 Prime Sponsor, Senator Anderson: Eliminating the business and occupation tax on internal distributions. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6274 Prime Sponsor, Senator Bauer: Revising provisions relating to retirement system benefits for slayers. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6274 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6281 Prime Sponsor, Senator Jacobsen: Studying the feasibility of creating a Cascade foothills state park. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Hargrove, Jacobsen, Morton, Prentice, Spanel and Swecker.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6314 Prime Sponsor, Senator Morton: Providing for endangered species recovery plan funding. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6314 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Morton, Stevens and Swecker.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6316 Prime Sponsor, Senator Zarelli: Revising procedures for discovery in actions or proceedings for damages against the state. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6316 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Kline, Long, McCaslin and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6317 Prime Sponsor, Senator Zarelli: Abolishing the adverse possession doctrine. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6317 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Hargrove, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Johnson, Vice Chair; and Thibaudeau.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6319 Prime Sponsor, Senator West: Changing provisions relating to the advanced college tuition payment program. Reported by Committee on Higher Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6319 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6323 Prime Sponsor, Senator Roach: Clarifying the law of adverse possession affecting forest land. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6323 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Fairley and Kline.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6329 Prime Sponsor, Senator Deccio: Providing for a certain disclosure of health care information without patient's authorization. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6332 Prime Sponsor, Senator Winsley: Warranting motor vehicle lubricants. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6332 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey and Prentice.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6370 Prime Sponsor, Senator Kline: Regulating occupational drivers' licenses. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6370 be substituted therefor, and the substitute bill do pass. Signed by Senators Johnson, Vice Chair; Fairley, Goings, Kline, Long and McCaslin.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6371 Prime Sponsor, Senator McCaslin: Creating a growth management infrastructure account to assist counties and cities in financing capital facilities. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6371 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Referred to Committee on Ways and Means.

February 4, 1998

SB 6377 Prime Sponsor, Senator McCaslin: Regulating mobile or manufactured homes. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6377 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6378 Prime Sponsor, Senator Horn: Authorizing adoption of building codes published by any nationally recognized code organization. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6379 Prime Sponsor, Senator Anderson: Extending the retail sales tax exemption for sales of laundry service. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6379 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, McDonald, Rossi, Schow, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6380 Prime Sponsor, Senator Winsley: Providing mobile home relocation assistance. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6387 Prime Sponsor, Senator Fraser: Authorizing charitable deductions from retirement allowances. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6395 Prime Sponsor, Senator Horn: Penalizing accident prevention program violations. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass. Signed by Senators Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6396 Prime Sponsor, Senator Wood: Creating the Washington center for real estate research. Reported by Committee on Higher Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6396 be substituted therefor, and the substitute bill do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6397 Prime Sponsor, Senator Fraser: Protecting rape victims with children born as a consequence of the rape from contact with the father. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6397 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6409 Prime Sponsor, Senator Hargrove: Redistributing responsibilities for care for children with developmental disabilities provided by the department of social and health services in the division of developmental disabilities. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6409 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6418 Prime Sponsor, Senator Deccio: Implementing amendments to the federal personal responsibility and work opportunity reconciliation act of 1996. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6418 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6430 Prime Sponsor, Senator McCaslin: Removing the requirement that boundary review boards remove from proposed incorporations any territory located outside of an urban growth area. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 6, 1998



SB 6432 Prime Sponsor, Senator Benton: Requiring at least one school day per year of instruction in the United States Constitution and the Declaration of Independence. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6444 Prime Sponsor, Senator Spanel: Guiding state and local governments in the development of habitat conservation plans. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Prentice, Snyder and Spanel.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6447 Prime Sponsor, Senator Kohl: Providing a tax exemption from the state share of labor and services on higher education facility construction. Reported by Committee on Higher Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6447 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6460 Prime Sponsor, Senator Anderson: Providing tax incentives for the development of job opportunities in distressed counties. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6460 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6466 Prime Sponsor, Senator Winsley: Providing tax credits for businesses making expenditures for employee child care. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6466 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6470 Prime Sponsor, Senator West: Specifying the tax treatment of canned and custom software. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6470 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Hochstatter, Kohl, Long, McDonald, Rossi, Schow, B. Sheldon, Snyder, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6473 Prime Sponsor, Senator McAuliffe: Changing local levy equalization. Reported by Committee on Education

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe and Rasmussen.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6482 Prime Sponsor, Senator Horn: Calculating the time limits for local project review under the growth management act. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6482 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6483 Prime Sponsor, Senator West: Authorizing the transfer of enforcement of cigarette and tobacco taxes to the liquor control board. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, Loveland, McDonald, Rossi, Schow, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6494 Prime Sponsor, Senator Winsley: Providing for consumer choices in automotive repair. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6494 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6495 Prime Sponsor, Senator Schow: Revising lemon law procedures for motor homes. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6495 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6497 Prime Sponsor, Senator McCaslin: Taking private property. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6497 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 4, 1998

SB 6506 Prime Sponsor, Senator Bauer: Changing provisions for tax deferral annuities for school employees. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Heavey, Kline and Prentice.

MINORITY Recommendation: Do not pass. Signed by Senators Benton, Vice Chair; and Hale.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6515 Prime Sponsor, Senator Strannigan: Regulating franchises and the use of public rights of way. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: That Substitute Senate Bill No. 6515 be substituted therefor, and the substitute bill do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Rossi, T. Sheldon and Strannigan.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Brown and Jacobsen.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6523 Prime Sponsor, Senator Morton: Appropriating funds for levy equalization for the Colville school district. Reported by Committee on Education

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Rasmussen.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6524 Prime Sponsor, Senator Morton: Redefining prior tax collection year for purposes of local effort assistance. Reported by Committee on Education

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson, Rasmussen and Zarelli.

Referred to Committee on Ways and Means.

February 4, 1998

SB 6525 Prime Sponsor, Senator Franklin: Proving financial responsibility or motor vehicle liability insurance. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6525 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6534 Prime Sponsor, Senator Loveland: Defining distressed area for purposes of economic assistance. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6534 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Anderson, Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6535 Prime Sponsor, Senator Horn: Providing for electronic transfer of criminal justice information. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6535 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Fairley, Goings, Kline, McCaslin and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6544 Prime Sponsor, Senator Deccio: Providing for adult family home and boarding home training. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6544 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6545 Prime Sponsor, Senator Wood: Providing full funding for the impaired physician program. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6545 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6549 Prime Sponsor, Senator West: Exempting coin-operated services of car washes from sales and use tax. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6549 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Long, Loveland, McDonald, Rossi, Schow, Winsley and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator Fraser.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6551 Prime Sponsor, Senator Horn: Providing a process to site boarding homes and adult family homes in cities. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6551 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6552 Prime Sponsor, Senator Strannigan: Concerning the ad valorem taxation of vessels or ferries. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, McDonald, Schow, B. Sheldon, Spanel, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6556 Prime Sponsor, Senator Anderson: Integrating land-use laws relating to growth management and shorelines. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6556 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

MINORITY Recommendation: Do not pass substitute. Signed by Senator Haugen.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6560 Prime Sponsor, Senator Brown: Protecting the rights of retail electric customers. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: That Substitute Senate Bill No. 6560 be substituted therefor, and the substitute bill do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6565 Prime Sponsor, Senator Hale: Regulating insurance payments of insureds who are victims of domestic abuse. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6565 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6567 Prime Sponsor, Senator Horn: Prescribing industrial insurance deadlines for hearing loss claims. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6567 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6568 Prime Sponsor, Senator Anderson: Distributing school district revenues. Reported by Committee on Education

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6573 Prime Sponsor, Senator Johnson: Requiring record checks for employees of approved private schools who have regularly scheduled unsupervised access to children. Reported by Committee on Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6573 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson, Rasmussen and Zarelli.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6574 Prime Sponsor, Senator Johnson: Authorizing learning materials to be loaned to private school students. Reported by Committee on Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6574 be substituted therefor, and the substitute bill do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6575 Prime Sponsor, Senator Hale: Extending the power of the joint administrative rules review committee. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6575 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6578 Prime Sponsor, Senator Winsley: Regulating health care service contractors. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6578 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6588 Prime Sponsor, Senator Winsley: Exempting movie theater snack counters from the stadium tax imposed on restaurants. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, Schow, B. Sheldon, Snyder, Spanel, Winsley and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator Thibaudeau.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6592 Prime Sponsor, Senator Prentice: Controlling intractable pain. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6592 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6593 Prime Sponsor, Senator Swecker: Funding a study of locations for finfish net-pen aquaculture. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6593 be substituted therefor, and the second substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove; Morton, Roach, Stevens and Swecker.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6595 Prime Sponsor, Senator Strannigan: Modifying provisions concerning the sale of mobile home parks. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6597 Prime Sponsor, Senator Kohl: Creating a residential building fire prevention study group. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen and T. Sheldon.

MINORITY Recommendation: Do not pass. Signed by Senator Horn.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6598 Prime Sponsor, Senator Horn: Regarding public inspection of personal service contracts. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6598 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6601 Prime Sponsor, Senator Snyder: Recovering bail fugitives. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6601 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Fairley, Goings, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6603 Prime Sponsor, Senator Horn: Excepting certain vessels from registration. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6603 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 6, 1998



SB 6604 Prime Sponsor, Senator Schow: Allowing the department of labor and industries to exempt specified work on premanufactured electric power generation equipment from licensing requirements. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6608 Prime Sponsor, Senator Heavey: Providing for election of councilmembers by districts in first class cities with populations of over four hundred thousand. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Anderson, Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6621 Prime Sponsor, Senator Wojahn: Requiring physicians to report suspected cases of domestic violence. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6621 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6622 Prime Sponsor, Senator Finkbeiner: Implementing the federal telecommunications act of 1996. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: That Substitute Senate Bill No. 6622 be substituted therefor, and the substitute bill do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6630 Prime Sponsor, Senator Wood: Clarifying continuing education requirements for counselors. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6631 Prime Sponsor, Senator McCaslin: Specifying declaration of candidacy requirements for school director candidates in joint districts. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6637 Prime Sponsor, Senator Schow: Defining low alcohol beverage coolers. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6637 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Heavey and Newhouse.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6638 Prime Sponsor, Senator Horn: Providing consumer protection regarding contractors. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6638 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6642 Prime Sponsor, Senator Wood: Protecting research data. Reported by Committee on Higher Education

MAJORITY Recommendation: Do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6648 Prime Sponsor, Senator Schow: Permitting licensing retail alcoholic beverages in which no manufacturers, importers, or wholesalers have an interest. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6648 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6651 Prime Sponsor, Senator Wood: Regarding electronic transfer of prescription information. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6651 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6655 Prime Sponsor, Senator West: Changing the Spokane intercollegiate research and technology institute. Reported by Committee on Higher Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6655 be substituted therefor, and the substitute bill do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6656 Prime Sponsor, Senator West: Regulating the expenditure of moneys received by the state in regulatory and enforcement actions and settlements. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6656 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Long, McDonald, Rossi, Swecker, Winsley and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Loveland, B. Sheldon and Thibaudeau.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6660 Prime Sponsor, Senator Wojahn: Requiring an internet posting of the names of persons whose licenses have been suspended for failure to pay child support. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6660 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6665 Prime Sponsor, Senator Roach: Establishing privity of contract for actions brought against accountants. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Fairley, Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6666 Prime Sponsor, Senator Goings: Allowing a vehicle in an accident to be moved to safety. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6666 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6667 Prime Sponsor, Senator B. Sheldon: Establishing the Washington gift of life medal. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6667 be substituted therefor, and the substitute bill do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6672 Prime Sponsor, Senator Roach: Increasing penalties for specified crimes against children. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Long, McCaslin, Stevens, and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Fairley and Thibaudeau.

Referred to Committee on Ways and Means.

February 6, 1998

SB 6673 Prime Sponsor, Senator Schow: Exempting computer wires and fiber optic cables from electrical wiring requirements. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6673 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6684 Prime Sponsor, Senator Haugen: Defining powers and duties of commercial vehicle officers. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6684 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Oke, Prentice and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senator Morton.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6685 Prime Sponsor, Senator Haugen: Defining powers of commercial vehicle officers. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Morton, Oke, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6686 Prime Sponsor, Senator Oke: Revising provisions relating to tobacco possession by minors. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That Substitute Senate Bill No. 6686 be substituted therefor, and the substitute bill do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Newhouse.

MINORITY Recommendation: Do not pass substitute. Signed by Senator Heavey.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6698 Prime Sponsor, Senator McCaslin: Revising timelines for the salary commission. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6699 Prime Sponsor, Senator Schow: Limiting the liability of a current or former employer who provides information about a current or former employee's work record to a prospective employer. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass. Signed by Senators Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6708 Prime Sponsor, Senator Franklin: Creating the crime of aggressive driving to combat road rage. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6708 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6712 Prime Sponsor, Senator Roach: Creating the crime of criminal mistreatment in the third degree. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Fairley, Goings, Kline, Long, McCaslin and Thibaudeau.

MINORITY Recommendation: Do not pass. Signed by Senators Hargrove, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6714 Prime Sponsor, Senator Anderson: Authorizing real estate excise tax revenues for construction of capital improvements to public schools. Reported by Committee on Government Operations

MAJORITY Recommendation: That Substitute Senate Bill No. 6714 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6716 Prime Sponsor, Senator Kohl: Requiring additional background checking for persons caring for children. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: That Substitute Senate Bill No. 6716 be substituted therefor, and the substitute bill do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6717 Prime Sponsor, Senator West: Providing for the transfer of the Spokane Riverpoint campus to Washington State University and eliminating the joint center for higher education. Reported by Committee on Higher Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6717 be substituted therefor, and the substitute bill do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6723 Prime Sponsor, Senator Jacobsen: Requiring prorated compensation and benefits for part-time community and technical college employees. Reported by Committee on Higher Education

MAJORITY Recommendation: That Substitute Senate Bill No. 6723 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways and Means. Signed by Senators Wood, Chair; Bauer, Hale, Kohl, Patterson, B. Sheldon and West.

Referred to Committee on Ways and Means.

February 5, 1998

SB 6729 Prime Sponsor, Senator Prentice: Financing senior housing. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6730 Prime Sponsor, Senator Strannigan: Changing allowable restrictions in parenting plans. Reported by Committee on Law and Justice

MAJORITY Recommendation: That Substitute Senate Bill No. 6730 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Kline, Long, McCaslin and Thibaudeau.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6736 Prime Sponsor, Senator Oke: Clarifying provisions which control the composition of the fish and wildlife commission. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Bill No. 6736 be substituted therefor, and the substitute bill do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Morton, Roach, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6746 Prime Sponsor, Senator Winsley: Regulating purchasing of insurance services. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: That Substitute Senate Bill No. 6746 be substituted therefor, and the substitute bill do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6751 Prime Sponsor, Senator Deccio: Ensuring a choice of service and residential options for citizens with developmental disabilities. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: That Substitute Senate Bill No. 6751 be substituted therefor, and the substitute bill do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6755 Prime Sponsor, Senator Benton: Establishing penalties for drunk driving. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Referred to Committee on Transportation.

February 6, 1998

SJM 8025 Prime Sponsor, Senator Jacobsen: Regarding the "Teaming With Wildlife" campaign. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That Substitute Senate Joint Memorial No. 8025 be substituted therefor, and the substitute joint memorial do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Jacobsen, Prentice, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 6, 1998

SJM 8028 Prime Sponsor, Senator Sellar: Petitioning for assistance to help remove the 101.1% import duty placed on apples by Mexico. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavy and Newhouse.

Passed to Committee on Rules for second reading.

February 6, 1998

SCR 8426 Prime Sponsor, Senator Wood: Creating a joint select committee on end-of-life issues. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

#### MOTIONS

On motion of Senator Johnson, Senate Bill No. 6132, Senate Bill No. 6377, Senate Bill No. 6637 and Senate Bill No. 6672 were referred to the Committee on Ways and Means.

On motion of Senator Johnson, Senate Bill No. 6755 was referred to the Committee on Transportation.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 5, 1998

GA 9202 PHYLLIS S. SELF, reappointed January 28, 1997, for a term ending June 30, 2001, as a member of the Board of Trustees for Whatcom Community College District No. 21.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998



GA 9244 DEAN S. LUM, appointed March 19, 1997, for a term ending September 30, 2001, as a member of the Board of Trustees for Seattle, South Seattle and North Seattle Community Colleges District No. 6.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998

GA 9251 FELIX H. ANDERSON, appointed October 1, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Bellingham Technical College District No. 25.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998

GA 9252 KRISTI BLAKE, appointed September 11, 1997, for a term ending June 30, 2001, as a member of the Higher Education Coordinating Board.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998

GA 9259 CHARLIE EARL, appointed October 1, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Western Washington University.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998

GA 9288 JOHN P. SULLIVAN, appointed May 22, 1997, for a term ending June 15, 2002, as a member of the Marine Employees Commission.

Reported by Committee on Transportation

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Prince, Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

Passed to Committee on Rules.

February 5, 1998

GA 9289 HEYWARD WATSON, appointed July 2, 1997, for a term ending March 26, 2001, as a member of the Higher Education Facilities Authority.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998

GA 9298 JOHN M. KING, appointed September 11, 1997, for a term ending at the pleasure of the Governor, as Director of the Department of Veterans Affairs.

Reported by Committee on Government Operations

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson, and T. Sheldon.

Passed to Committee on Rules.

February 5, 1998

GA 9308 ANN RAMSAY-JENKINS, appointed December 15, 1997, for a term ending June 30, 2001, as a member of the Higher Education Coordinating Board.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998

GA 9314 WILLIAM H. GATES, appointed December 18, 1997, for a term ending September 30, 2000, as a member of the Board of Regents for the University of Washington.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998

GA 9318 CONSTANCE L. PROCTOR, appointed December 18, 1997, for a term ending September 30, 2003, as a member of the Board of Regents for the University of Washington.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998

GA 9319 LESLIE JONES, appointed December 15, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Central Washington University.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 5, 1998

GA 9320 LUCY ISAKI, appointed December 15, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Eastern Washington University.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

There being no objection, the Vice President Pro Tempore advanced the Senate to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SJM 8031 by Senators Finkbeiner, Bauer, Wood and West

Petitioning for amendment to the Federal Communications Commission ruling barring direct reimbursement to state agencies that provide telecommunications services.

Referred to Committee on Ways and Means.

#### MOTION

At 6:37 p.m., on motion of Senator McDonald, the Senate adjourned until 9:00 a.m., Monday, February 9, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

TWENTY-SIXTH DAY, FEBRUARY 6, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**TWENTY-NINTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Monday, February 9, 1998

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Benton, McDonald, Patterson, Prentice, Rasmussen and Swecker. On motion of Senator Franklin, Senators Patterson, Prentice and Rasmussen were excused. On motion of Senator Hale, Senators Benton and Swecker were excused.

The Sergeant at Arms Color Guard, consisting of Pages Shannon Bleck and Amber Deccio, presented the Colors. Reverend Rich Leatherberry, pastor of the North Creek Presbyterian Church of Mill Creek, and a guest of Senator Gary Strannigan, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENT**

January 16, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Dora C. Reyes, appointed January 16, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Walla Walla Community College District No. 20.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

MESSAGE FROM STATE OFFICE

STATE OF WASHINGTON  
OFFICE OF FINANCIAL MANAGEMENT  
Insurance Building, P.O. Box 43113  
Olympia, Washington 98504-3113

February 2, 1998

TO: All Agencies  
FROM: Candace Espeseth, Assistant Director  
Budget Division  
SUBJECT: SEPTEMBER 1997 ALLOTMENT VARIANCE REPORT

Attached is the September 1997 quarterly variance report which the Office of Financial Management has submitted to the Legislature in accordance with RCW 43.88.110. Please note that this report only includes variance explanations for those agencies that have a cumulative variance of 10 percent or \$5 million. Legislative staff has also been provided with the original agency responses.

The Report from the Office of Financial Management on the September 1997 Allotment Variance Report is on file in the Office of the Secretary of the Senate.

MESSAGE FROM THE HOUSE

February 5, 1998

MR. PRESIDENT:

The Speaker has signed HOUSE CONCURRENT RESOLUTION NO. 4431, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

HOUSE CONCURRENT RESOLUTION NO. 4431.

SECOND READING  
GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Schow, Gubernatorial Appointment No. 9121, Merritt Long, as Director of the State Lottery Commission, was confirmed.

Senators Schow, Sellar and Heavey spoke to the confirmation of Merritt Long as Director of the State Lottery Commission.

APPOINTMENT OF MERRITT LONG

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 43. Absent: Senator McDonald - 1. Excused: Senators Benton, Patterson, Prentice, Rasmussen and Swecker - 5.

MOTION

On motion of Senator Franklin, Senator Wojahn was excused.

MOTION

On motion of Senator Schow, Gubernatorial Appointment No. 9123, Gary Moore, as Director of the Department of Labor and Industries, was confirmed.

Senators Schow, Heavey and Hale spoke to the confirmation of Gary Moore as Director of the Department of Labor and Industries.

APPOINTMENT OF GARY MOORE

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 44. Excused: Senators Benton, Patterson, Prentice, Rasmussen and Wojahn - 5.

THIRD READING

SUBSTITUTE SENATE BILL NO. 5760, by Senate Committee on Human Services and Corrections (originally sponsored by Senators Long, Hargrove, Franklin, Deccio, Thibaudeau, Winsley and Kohl)

Authorizing courts to order evaluation and treatment of mentally ill offenders.

MOTION

On motion of Senator Long, the rules were suspended, Substitute Senate Bill No. 5760 was returned to second reading and read the second time.

MOTION

Senator Long moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to decrease the likelihood of recidivism and reincarceration by mentally ill offenders under correctional supervision in the community by authorizing:

(1) The courts to request presentence reports from the department of corrections when a relationship between mental illness and criminal behavior is suspected, and to order a mental status evaluation and treatment for offenders whose criminal behavior is influenced by a mental illness; and

(2) Community corrections officers to work with community mental health providers to support participation in treatment by mentally ill offenders on community placement or community supervision.

**Sec. 2.** RCW 9.94A.110 and 1988 c 60 s 1 are each amended to read as follows:

Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

The court shall order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the department to complete a presentence report before imposing a sentence.

The court shall consider the presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

**Sec. 3.** RCW 9.94A.120 and 1997 c 340 s 2, 1997 c 338 s 4, 1997 c 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and amended to read as follows:

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

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

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

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

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first

degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

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

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (e) Report as directed to the court and a community corrections officer; or
- (f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

(i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes, and the violation does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

- (i) Devote time to a specific employment or training;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;
- (iii) Report as directed to a community corrections officer;
- (iv) Pay all court-ordered legal financial obligations;
- (v) Perform community service work;
- (vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the

prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

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

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

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (A) Frequency and type of contact between offender and therapist;
- (B) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;
- (D) Anticipated length of treatment; and
- (E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

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

(A) The court shall place the defendant on community custody for the length of the suspended sentence or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section;

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

- (I) Devote time to a specific employment or occupation;
- (II) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (III) Report as directed to the court and a community corrections officer;



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

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

(C) Sex offenders sentenced under this special sex offender sentencing alternative are not eligible to accrue any earned early release time while serving a suspended sentence.

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

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

(v) If a violation of conditions occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.205(2)(a) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in (a)(vi) of this subsection.

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

(vii) Except as provided in (a)(viii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(viii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

(ix) For purposes of this subsection (8), "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(x) If the defendant was less than eighteen years of age when the charge was filed, the state shall pay for the cost of initial evaluation and treatment.

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

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

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

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

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

(iv) Undergo available outpatient treatment.

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

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

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

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, a serious violent offense, vehicular homicide, or vehicular assault, committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

- (i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;
- (ii) The offender shall work at department of corrections-approved education, employment, and/or community service;
- (iii) The offender shall not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- (iv) The offender shall pay supervision fees as determined by the department of corrections;
- (v) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement; and
- (vi) The offender shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the department.

(c) As a part of any sentence imposed under (a) or (b) of this subsection, the court may also order any of the following special conditions:

- (i) The offender shall remain within, or outside of, a specified geographical boundary;
- (ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;
- (iii) The offender shall participate in crime-related treatment or counseling services;
- (iv) The offender shall not consume alcohol;
- (v) The offender shall comply with any crime-related prohibitions; or
- (vi) For an offender convicted of a felony sex offense against a minor victim after June 6, 1996, the offender shall comply with any terms and conditions of community placement imposed by the department of corrections relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

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

(10)(a) When a court sentences a person to the custody of the department of corrections for an offense categorized as a sex offense committed on or after June 6, 1996, the court shall, in addition to other terms of the sentence, sentence the offender to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2),

whichever is longer. The community custody shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2).

(b) Unless a condition is waived by the court, the terms of community custody shall be the same as those provided for in subsection (9)(b) of this section and may include those provided for in subsection (9)(c) of this section. As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section.

(c) At any time prior to the completion of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.195 and may be punishable as contempt of court as provided for in RCW 7.21.040.

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

(12) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department for ten years following the entry of the judgment and sentence or ten years following the offender's release from total confinement. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered unless the superior court extends the criminal judgment an additional ten years. If the legal financial obligations including crime victims' assessments are not paid during the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years as provided in RCW 9.94A.140, 9.94A.142, and 9.94A.145. If jurisdiction under the criminal judgment is extended, the department is not responsible for supervision of the offender during the subsequent period. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

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

(14) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the department of corrections and shall follow explicitly the instructions and conditions of the department of corrections. The department may require an offender to perform affirmative acts it deems appropriate to monitor compliance with the conditions of the sentence imposed.

(a) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(b) For offenders sentenced to terms involving community custody for crimes committed on or after June 6, 1996, the department may include, in addition to the instructions in (a) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals. The conditions authorized under this subsection (14)(b) may be imposed by the department prior to or during an offender's community custody term. If a violation of conditions imposed by the court or the department pursuant to subsection (10) of this section occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.207 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.205. At any time prior to the completion of a sex offender's term of community custody, the department may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to subsection (10) of this section be continued beyond the expiration of the offender's term of community custody as authorized in subsection (10)(c) of this section.

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(15) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

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

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

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

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

(20) The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.

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

~~((21))~~ (22) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

**Sec. 4.** RCW 9.94A.200 and 1995 c 167 s 1 and 1995 c 142 s 1 are each reenacted and amended to read as follows:

(1) If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) In cases where conditions from a second or later sentence of community supervision begin prior to the term of the second or later sentence, the court shall treat a violation of such conditions as a violation of the sentence of community supervision currently being served.

(3) If an offender fails to comply with any of the requirements or conditions of a sentence the following provisions apply:

(a)(i) Following the violation, if the offender and the department make a stipulated agreement, the department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community service, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, jail time, or other sanctions available in the community.

(ii) Within seventy-two hours of signing the stipulated agreement, the department shall submit a report to the court and the prosecuting attorney outlining the violation or violations, and sanctions imposed. Within fifteen days of receipt of the report, if the court is not satisfied with the sanctions, the court may schedule a hearing and may modify the department's sanctions. If this occurs, the offender may withdraw from the stipulated agreement.

(iii) If the offender fails to comply with the sanction administratively imposed by the department, the court may take action regarding the original noncompliance. Offender failure to comply with the sanction administratively imposed by the department may be considered an additional violation.

(b) In the absence of a stipulated agreement, or where the court is not satisfied with the department's sanctions as provided in (a) of this subsection, the court, upon the motion of the state, or upon its own motion, shall require the offender to

show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(c) The state has the burden of showing noncompliance by a preponderance of the evidence. If the court finds that the violation has occurred, it may order the offender to be confined for a period not to exceed sixty days for each violation, and may (i) convert a term of partial confinement to total confinement, (ii) convert community service obligation to total or partial confinement, (iii) convert monetary obligations, except restitution and the crime victim penalty assessment, to community service hours at the rate of the state minimum wage as established in RCW 49.46.020 for each hour of community service, or (iv) order one or more of the penalties authorized in (a)(i) of this subsection. Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement order by the court; ~~(and)~~

(d) If the court finds that the violation was not willful, the court may modify its previous order regarding payment of legal financial obligations and regarding community service obligations; and

(e) If the violation involves a failure to undergo or comply with mental status evaluation and/or outpatient mental health treatment, the community corrections officer shall consult with the treatment provider or proposed treatment provider. Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. If the offender's failure to receive care essential for health and safety presents a risk of serious physical harm or probable harmful consequences, the civil detention and commitment procedures of chapter 71.05 RCW shall be considered in preference to incarceration in a local or state correctional facility.

(4) The community corrections officer may obtain information from the offender's mental health treatment provider on the offender's status with respect to evaluation, application for services, registration for services, and compliance with the supervision plan, without the offender's consent, as described under RCW 71.05.630.

(5) An offender under community placement or community supervision who is civilly detained under chapter 71.05 RCW, and subsequently discharged or conditionally released to the community, shall be under the supervision of the department of corrections for the duration of his or her period of community placement or community supervision.

(6) Nothing in this section prohibits the filing of escape charges if appropriate.

NEW SECTION. Sec. 5. In collaboration with the department of social and health services, the department of corrections shall track outcomes and submit to the legislature a report of services and outcomes by December 31, 1999. The report shall describe the extent to which the provisions of this act are applied by the courts, the effectiveness of court orders in inducing offenders to undergo and comply with needed mental health treatment, and the usage of civil commitment or incarceration to enforce orders concerning mental health treatment. It shall further include recommendations for any needed modifications in these provisions to increase effectiveness." Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Long to Substitute Senate Bill No. 5760.

The motion by Senator Long carried and the striking amendment was adopted.

## MOTIONS

On motion of Senator Long, the following title amendment was adopted:

On page 1, line 1 of the title, after "offenders;" strike the remainder of the title and insert "amending RCW 9.94A.110; reenacting and amending RCW 9.94A.120 and 9.94A.200; and creating new sections."

On motion of Senator Long, the rules were suspended, Engrossed Substitute Senate Bill No. 5760 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5760.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5760 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Patterson, Prentice and Rasmussen - 3. ENGROSSED SUBSTITUTE SENATE BILL NO. 5760, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### THIRD READING

SUBSTITUTE SENATE BILL NO. 5629, by Senate Committee on Law and Justice (originally sponsored by Senators Roach, Hargrove, Winsley, Long, Benton, Schow and Oke)

Making domestic violence an aggravating circumstance for purposes of sentencing decisions.

#### MOTION

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 5629 was returned to second reading and read the second time.

#### MOTION

Senator Roach moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 9.94A.390 and 1997 c 52 s 4 are each amended to read as follows:

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

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

(1) Mitigating Circumstances

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

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

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

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

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

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

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

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

(2) Aggravating Circumstances

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

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

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

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

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

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

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

or

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

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

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

- (ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;
- (iii) The current offense involved the manufacture of controlled substances for use by other parties;
- (iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;
- (v) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or
- (vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).
- (f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.127.
- (g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.
- (h) The current offense involved domestic violence, as defined in RCW 10.99.020 (~~and one or more of the following was present:~~
  - ~~(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;~~
  - ~~(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or~~
  - ~~(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim).~~
- (i) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.
- (j) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter as expressed in RCW 9.94A.010.
- (k) The offense resulted in the pregnancy of a child victim of rape." Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Roach to Substitute Senate Bill No. 5629.

The motion by Senator Roach carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 2 of the title, after "decisions;" strike the remainder of the title and insert "and amending RCW 9.94A.390." On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 5629 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Prince was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5629.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5629 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Prince and Rasmussen - 2. ENGROSSED SUBSTITUTE SENATE BILL NO. 5629, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### THIRD READING

SENATE BILL NO. 5094, by Senator Roach

Prescribing procedures for release of offenders.

The bill was read the third time.  
Debate ensued.

### MOTION

On motion of Senator Franklin, Senator Prentice was excused.  
The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5094.

### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5094 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Prentice and Rasmussen - 2. SENATE BILL NO. 5094, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### THIRD READING

SUBSTITUTE SENATE BILL NO. 5532, by Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen and Winsley)

Requiring mediation before appeal of land-use decisions involving conditional use permits.

The bill was read the third time.  
Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5532.

### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5532 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Prentice and Rasmussen - 2. SUBSTITUTE SENATE BILL NO. 5532, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### THIRD READING

SUBSTITUTE SENATE BILL NO. 5703, by Senate Committee on Agriculture and Environment (originally sponsored by Senators Anderson and Morton)

Concerning a water right for the beneficial use of water.



## MOTION

On motion of Senator Anderson, the rules were suspended, Substitute Senate Bill No. 5703 was returned to second reading and read the second time.

## MOTION

Senator Anderson moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) If a person placed surface or ground water to beneficial use before January 1, 1993, for irrigation, stock watering, or domestic use supplied by a public water supply system with one hundred or fewer service connections for which a permit or certificate was not issued by the department or its predecessors, the person or the public water supply system, or their respective successors may continue to use water in the amount that has been beneficially used as provided in section 3 of this act if:

(a) The person or the public water supply system files with the department a statement of claim during the period beginning September 1, 1998, and ending midnight June 30, 1999, using the standard form prescribed by RCW 90.14.051; and

(b) The person or public water supply system has applied the water to beneficial use to the full extent stated in the statement of claim during at least one of the five years preceding the date the statement is filed and the person attests to having done so on the statement.

(2) The person or public water supply system must file with the statement of claim evidence that the quantity of water described in the claim was used beneficially before January 1, 1993, and during three of the five years preceding the date the statement was filed in the form of any two of the following:

(a) A statement signed by two persons other than the person filing the statement of claim verifying that the claimant beneficially used the water before January 1, 1993, and during three of the five years preceding the date the statement was filed as described in the statement of claim;

(b) A copy of a dated photograph clearly demonstrating the presence of grass or a crop requiring irrigation in the amounts asserted in the statement of claim or of livestock requiring water in such amounts; or records of receipts of the sale of crops by the person or the person's successor indicating that irrigation in the amount claimed was required to produce the crops;

(c) Receipts or records of irrigation or stockwatering equipment purchases or repairs associated with the water use specified in the statement of claim;

(d) Water well construction records identifying the date the well specified in the statement of claim as the point of withdrawal was constructed;

(e) Records of electricity bills directly associated with the withdrawal of water as specified in the statement of claim;

(f) Personal records such as photographs, journals, or correspondence indicating the use of water as asserted in the statement of claim.

(3) Public water supply systems must, in addition to the requirements of subsection (2) of this section, provide evidence of service connections existing and using water as of January 1, 1993, including documentation that the homes were built and occupied.

**NEW SECTION. Sec. 2.** If the claimant has not already filed an application for a water right under RCW 90.03.250 or 90.44.060 for the water use stated in the statement of claim, the claimant shall file such an application with the claimant's statement of claim. A claimant who has filed both a statement of claim and an application for a water right has standing to assert a claim of a water right in a general adjudication under RCW 90.03.110 for the water use stated in the statement of claim. The statement of claim shall be reviewed by the court as provided in section 3(3) of this act.

**NEW SECTION. Sec. 3.** (1) A person may continue to use water described in the statement of claim until one of the following occurs:

(a) The department makes its final decision granting or denying the water right application filed by the applicant as provided in section 2 of this act, following the completion and adoption of a locally developed water resource watershed plan for the WRIA as provided in subsection (2) of this section; or

(b) If the department has not made a final decision on the water right application, a court of competent jurisdiction issues a decree pursuant to a general adjudication under RCW 90.03.200 that defines or denies the claimant's right to appropriate water as provided in subsection (3) of this section.

(2) The department may not make final decisions under subsection (1)(a) of this section that are on water right applications associated with a claim filed under section 1 of this act in those watersheds where a local watershed planning process established under chapter 90.82 RCW has commenced by the effective date of this section. If the local planning process results in a watershed plan acceptable to the department, decisions on water right applications associated with claims filed under sections 1 through 6 of this act for water from the watershed shall be consistent with the watershed plan. If a watershed plan is not completed within four years of the effective date of this section, the department may thereafter make a final decision on any applications pending in the watershed.

(3) The department or the court may authorize the continued use of water under subsection (1) of this section only if the claimant meets the requirements of RCW 90.03.247 through 90.03.330, chapter 90.44 RCW, and RCW 90.54.020. If the department finds that the applicable requirements are met, it shall grant the water right application and issue a certificate under RCW 90.03.330 authorizing the person to use that quantity of water that had been put to beneficial use, not to exceed that quantity requested in the application or documented in the statement of claim under section 1 of this act, whichever is less. If in a general adjudication the court finds that the requirements are met, it shall confirm such use of water in a decree issued under RCW 90.03.200 and the department shall issue a certificate under RCW 90.03.240. The court may not confirm a right in excess of the quantity of water that was applied to beneficial use as documented in the statement of claim under section 1 of this act or the quantity requested in the application for a water right, whichever is less. The priority date of any right issued by the department or confirmed by a court shall be the date a water right application authorizing the use of water was filed with the department.

(4) If the department or the court denies the claimant's use of water under subsection (3) of this section, the claimant must cease the use of the water. A decision by the department or a court limiting or denying a claimant's right to continue using water does not constitute a compensable taking under state or federal law because such claimants have no continuing legal right to use water.

NEW SECTION. Sec. 4. Sections 1 through 6 of this act do not apply to or authorize any use of water that was the subject of a water right application filed with the department, where the department denied such application.

NEW SECTION. Sec. 5. A continuing use of water authorized under sections 1 through 6 of this act shall not affect or impair in any respect whatsoever a water right existing before September 1, 1998. Sections 1 through 6 of this act do not limit the ability of a senior water right holder to take legal action against any other water user to prevent impairment of his or her water right. A right granted under sections 1 through 6 of this act may be junior in every respect to a right with a more senior date of priority. Any right granted under sections 1 through 6 of this act may only be exercised in a manner that does not impair or interfere with a water right that is senior to it. The filing of a statement of claim under this section does not constitute an adjudication of any claim to the right to the use of waters as between the claimant and the state, or as between one or more water use claimants. A statement of claim filed under this section shall be admissible in a general adjudication of water rights as prima facie evidence of the times of use and the quantity of water the claimant was withdrawing or diverting to the same extent as is provided by RCW 90.14.081 for a statement of claim in the water rights claims registry on the effective date of this section.

NEW SECTION. Sec. 6. This section does not apply to ground water in an area that is, during the period established by section 1(2) of this act, the subject of a general adjudication proceeding for water rights in superior court under RCW 90.03.110 through 90.03.245 and the proceeding applies to ground water rights. This section does not apply to surface water in an area that is, during the period established by section 1(2) of this act, the subject of a general adjudication proceeding for water rights in superior court under RCW 90.03.110 through 90.03.245 and the proceeding applies to surface water rights.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act do not apply to rights embodied in a water right permit or certificate issued by the department or its predecessors, a water right represented by a claim in the water rights claims registry, created under RCW 90.14.111, before September 1, 1998, or a water right exempted from permit and application requirements by RCW 90.44.050.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act do not apply to claims for the use of water in a ground water area or subarea for which a management program adopted by the department by rule and in effect on the effective date of this section establishes acreage expansion limitations for the use of ground water.

NEW SECTION. Sec. 9. Sections 1 through 8 of this act are each added to chapter 90.03 RCW."

## MOTION

Senator Spanel moved that the following amendments by Senators Spanel and Fraser to the striking amendment by Senator Anderson be considered simultaneously and be adopted:

On page 1, line 7 of the amendment, after "(1)" insert "within those water resource inventory areas described in subsection (4) of this section,"

On page 2, after line 17 of the amendment, insert the following:

"(4) This section shall apply only within a water resource inventory area, as such areas were defined in chapter 173-500 WAC as it existed on January 1, 1998, that meets all of the following:

(a) More than two hundred fifty applications for water use authorizations or modifications were filed with the department and pending on January 1, 1998, that requested authorization for water uses commenced before January 1, 1993; and

(b) There was no proceeding for general adjudication of water rights filed in superior court for the basin on or before January 1, 1998."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Spanel and Fraser on page 1, line 7, and page 2, after line 17, to the striking amendment by Senator Anderson to Substitute Senate Bill No. 5703.

The motion by Senator Spanel failed and the amendments to the striking amendment were not adopted on a rising vote.

#### MOTION

Senator Spanel moved that the following amendment by Senators Spanel and Fraser to the striking amendment by Senator Anderson be adopted:

On page 4, after line 23 of the amendment, insert the following:

"NEW SECTION. Sec. 6. A continuing use of water authorized under sections 1 through 5 of this act may be curtailed by the department for limited periods where the water source is in a stream or river critical for passage of salmon, steelhead or trout that are listed or candidates for listing under the federal endangered species act."

Renumber the sections consecutively and correct internal references accordingly. Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Spanel and Fraser on page 4, after line 23, to the striking amendment by Senator Anderson to Substitute Senate Bill No. 5703.

The motion by Senator Spanel failed and the amendment to the striking amendment was not adopted.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Anderson to Substitute Senate Bill No. 5703.

Debate ensued.

The motion by Senator Anderson carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Anderson, the following title amendment was adopted:

On page 1, line 1 of the title, after "rights;" strike the remainder of the title and insert "and adding new sections to chapter 90.03 RCW."

On motion of Senator Anderson, the rules were suspended, Engrossed Substitute Senate Bill No. 5703 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5703.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5703 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 34. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Haugen, Heavey, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Spanel, Thibaudeau and Wojahn - 15. ENGROSSED SUBSTITUTE SENATE BILL NO. 5703, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SENATE BILL NO. 5695, by Senators Roach, Long, Oke, Schow, Morton, Benton and Hochstatter

Increasing sentences for crimes involving firearms.

#### MOTION

On motion of Senator Roach, the rules were suspended, Senate Bill No. 5695 was returned to second reading and read the second time.

MOTION

Senator Roach moved that the following amendment be adopted:

On page 1, beginning on line 4, strike all of section 1 and insert the following:

"Sec. 1. RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are each reenacted and amended to read as follows:

(1) TABLE 1

Sentencing Grid

SERIOUSNESS

SCORE OFFENDER SCORE

9 or

0 1 2 3 4 5 6 7 8 more

XV Life Sentence without Parole/Death Penalty

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

XIII 14y4m 15y4m 16y2m 17y 17y11m 18y9m 20y5m 22y2m 25y7m 29y  
123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
220 234 244 254 265 275 295 316 357 397

XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m  
93- 102- 111- 120- 129- 138- 162- 178- 209- 240-  
123 136 147 160 171 184 216 236 277 318

XI 7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m  
78- 86- 95- 102- 111- 120- 146- 159- 185- 210-  
102 114 125 136 147 158 194 211 245 280

X 5y 5y6m 6y 6y6m 7y 7y6m 9y6m 10y6m 12y6m 14y6m  
51- 57- 62- 67- 72- 77- 98- 108- 129- 149-  
68 75 82 89 96 102 130 144 171 198

IX 3y 3y6m 4y 4y6m 5y 5y6m 7y6m 8y6m 10y6m 12y6m  
31- 36- 41- 46- 51- 57- 77- 87- 108- 129-  
41 48 54 61 68 75 102 116 144 171

VIII 2y 2y6m 3y 3y6m 4y 4y6m 6y6m 7y6m 8y6m 10y6m  
21- 26- 31- 36- 41- 46- 67- 77- 87- 108-  
27 34 41 48 54 61 89 102 116 144

VII 18m 2y 2y6m 3y 3y6m 4y 5y6m 6y6m 7y6m 8y6m  
15- 21- 26- 31- 36- 41- 57- 67- 77- 87-  
20 27 34 41 48 54 75 89 102 116

VI 13m 18m 2y 2y6m 3y 3y6m 4y6m 5y6m 6y6m 7y6m  
12+- 15- 21- 26- 31- 36- 46- 57- 67- 77-  
14 20 27 34 41 48 61 75 89 102

V 9m 13m 15m 18m 2y2m 3y2m 4y 5y 6y 7y  
6- 12+- 13- 15- 22- 33- 41- 51- 62- 72-  
12 14 17 20 29 43 54 68 82 96

IV 6m 9m 13m 15m 18m 2y2m 3y2m 4y2m 5y2m 6y2m  
3- 6- 12+- 13- 15- 22- 33- 43- 53- 63-  
9 12 14 17 20 29 43 57 70 84

III 2m 5m 8m 11m 14m 20m 2y2m 3y2m 4y2m 5y  
1- 3- 4- 9- 12+- 17- 22- 33- 43- 51-  
3 8 12 16 22 29 43 57 68

II 4m 6m 8m 13m 16m 20m 2y2m 3y2m 4y2m  
0-90 2- 3- 4- 12+- 14- 17- 22- 33- 43-  
Days 6 9 12 14 18 22 29 43 57

I 3m 4m 5m 8m 13m 16m 20m 2y2m  
0-60 0-90 2- 2- 3- 4- 12+- 14- 17- 22-  
Days Days 5 6 8 12 14 18 22 29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) Three years for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Eighteen months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, any and all firearm enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall ~~((not))~~ run ~~((concurrently with any))~~ consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter.

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon as defined in this chapter other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) One year for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Six months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, any and all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall ~~((not))~~ run ~~((concurrently with any))~~ consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter.

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the presumptive sentence if the offender or an accomplice committed the offense while in a county jail or state correctional facility as that term is defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility as that term is defined in this chapter, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(a)(1) (i) or (ii) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(a)(1) (iii), (iv), and (v);

(c) Twelve months for offenses committed under RCW 69.50.401(d).

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 1, beginning on line 4 to Senate Bill No. 5695.

The motion by Senator Roach carried and the amendment was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On line 2 of the title, strike "9.94A.310, 9.94A.400, and 9.94A.420" and insert "9.94A.400 and 9.94A.420; reenacting and amending RCW 9.94A.310"

On motion of Senator Roach, the rules were suspended, Engrossed Senate Bill No. 5695 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 5695.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5695 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 7; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 42. Voting nay: Senators Fairley, Kline, Kohl, McAuliffe, Prentice, Thibaudeau and Wojahn - 7. ENGROSSED SENATE BILL NO. 5695, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5936, by Senate Committee on Human Services and Corrections (originally sponsored by Senators Kohl, Long, Hargrove, Franklin, Bauer and Rasmussen)

Requiring a report on alternatives for increasing offender access to postsecondary academic and vocational opportunities.

#### MOTION

On motion of Senator Long, the rules were suspended, Substitute Senate Bill No. 5936 was returned to second reading and read the second time.

#### MOTION

On motion of Senator Long, the following amendment by Senators Long and Kohl was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The department shall prepare and submit a report to the legislature not later than December 1, 1998, on alternatives for increasing offender access to postsecondary academic education and vocational opportunities. In preparing the report, the department shall consult with representatives from the community colleges and other educational service providers currently contracting with the department.

(2) The report shall present alternatives for increasing access within existing resources as well as alternatives that may require additional funding.

(3) At a minimum, the report shall include the following:

(a) A plan, to be implemented within existing resources, for pilot projects utilizing fee-based programs for postsecondary academic and vocational study. The pilot projects shall offer instruction in academic subjects and employment skills not presently available at the pilot institutions. Fees charged for the pilot programs shall be consistent with the provisions of RCW 72.09.460;

(b) Recommendations on approaches to facilitate offender access to postsecondary academic correspondence courses and video telecourses; and

(c) Recommendations on the feasibility and desirability of connecting department facilities to the K-20 technology network.

**Sec. 2.** RCW 72.09.480 and 1997 c 165 s 1 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(2) When an inmate receives any funds in addition to his or her wages or gratuities, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(3) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(4) The deductions required under subsection (2) of this section shall not apply to funds received by the department on behalf of an offender for payment of one fee-based education or vocational program that is associated with an inmate's work program or a placement decision made by the department under RCW 72.09.460 to prepare an inmate for work upon release."

#### MOTIONS

On motion of Senator Long, the following title amendment was adopted:

On page 1, line 1 of the title, after "education;" strike the remainder of the title and insert "amending RCW 72.09.480; and creating a new section."

On motion of Senator Long, the rules were suspended, Engrossed Substitute Senate Bill No. 5936 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5936.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5936 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 5936, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5861, by Senate Committee on Law and Justice (originally sponsored by Senators Roach, Schow and Oke)

Authorizing exceeding maximum penalties for crimes involving firearms and deadly weapons.

#### MOTION

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 5861 was returned to second reading and read the second time.

#### MOTION



Senator Roach moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.92.010 and 1996 c 44 s 2 are each amended to read as follows:

Every person convicted of a felony for which no maximum punishment is specially prescribed by any statutory provision in force at the time of conviction and sentence, shall be punished by confinement or fine which shall not exceed confinement in a state correctional institution for ~~((a-term))~~ the sum of ten years plus any firearm or deadly weapon penalty enhancement imposed under RCW 9.94A.125, and either RCW 9.94A.310 (3) or (4), or by a fine in an amount fixed by the court of not more than twenty thousand dollars, or by both such confinement and fine and the offense shall be classified as a class B felony.

**Sec. 2.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to read as follows:

(1) Felony. No person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

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

(b) For a class B felony, by confinement in a state correctional institution for ~~((a-term))~~ the sum of ten years plus any firearm or deadly weapon penalty enhancement imposed under RCW 9.94A.125, and either RCW 9.94A.310 (3) or (4), or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for the sum of five years plus any firearm or deadly weapon penalty enhancement imposed under RCW 9.94A.125, and either RCW 9.94A.310 (3) or (4), or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

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

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

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

**Sec. 3.** RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are each reenacted and amended to read as follows:

(1) TABLE 1

Sentencing Grid

SERIOUSNESS

SCORE OFFENDER SCORE

9 or

0 1 2 3 4 5 6 7 8 more

XV Life Sentence without Parole/Death Penalty

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

XIII 14y4m 15y4m 16y2m 17y 17y11m 18y9m 20y5m 22y2m 25y7m 29y  
123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
220 234 244 254 265 275 295 316 357 397

XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m  
93- 102- 111- 120- 129- 138- 162- 178- 209- 240-  
123 136 147 160 171 184 216 236 277 318

XI 7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m  
78- 86- 95- 102- 111- 120- 146- 159- 185- 210-  
102 114 125 136 147 158 194 211 245 280

X 5y 5y6m 6y 6y6m 7y 7y6m 9y6m 10y6m 12y6m 14y6m  
51- 57- 62- 67- 72- 77- 98- 108- 129- 149-  
68 75 82 89 96 102 130 144 171 198

IX 3y 3y6m 4y 4y6m 5y 5y6m 7y6m 8y6m 10y6m 12y6m  
31- 36- 41- 46- 51- 57- 77- 87- 108- 129-  
41 48 54 61 68 75 102 116 144 171

VIII 2y 2y6m 3y 3y6m 4y 4y6m 6y6m 7y6m 8y6m 10y6m  
21- 26- 31- 36- 41- 46- 67- 77- 87- 108-  
27 34 41 48 54 61 89 102 116 144

VII 18m 2y 2y6m 3y 3y6m 4y 5y6m 6y6m 7y6m 8y6m  
15- 21- 26- 31- 36- 41- 57- 67- 77- 87-  
20 27 34 41 48 54 75 89 102 116

VI 13m 18m 2y 2y6m 3y 3y6m 4y6m 5y6m 6y6m 7y6m  
12+- 15- 21- 26- 31- 36- 46- 57- 67- 77-  
14 20 27 34 41 48 61 75 89 102

V 9m 13m 15m 18m 2y2m 3y2m 4y 5y 6y 7y  
6- 12+- 13- 15- 22- 33- 41- 51- 62- 72-  
12 14 17 20 29 43 54 68 82 96

IV 6m 9m 13m 15m 18m 2y2m 3y2m 4y2m 5y2m 6y2m  
3- 6- 12+- 13- 15- 22- 33- 43- 53- 63-  
9 12 14 17 20 29 43 57 70 84

III 2m 5m 8m 11m 14m 20m 2y2m 3y2m 4y2m 5y  
1- 3- 4- 9- 12+- 17- 22- 33- 43- 51-  
3 8 12 12 16 22 29 43 57 68

II 4m 6m 8m 13m 16m 20m 2y2m 3y2m 4y2m  
0-90 2- 3- 4- 12+- 14- 17- 22- 33- 43-  
Days 6 9 12 14 18 22 29 43 57

I 3m 4m 5m 8m 13m 16m 20m 2y2m  
0-60 0-90 2- 2- 3- 4- 12+- 14- 17- 22-  
Days Days 5 6 8 12 14 18 22 29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under ~~((f))~~ (e) of this subsection.

(b) Three years for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under ~~((f))~~ (e) of this subsection.

(c) Eighteen months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under ~~((f))~~ (e) of this subsection.

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, any and all firearm enhancements under this subsection shall be twice the amount of the enhancement listed.

~~(e) ((Notwithstanding any other provision of law, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.~~

~~(f))~~ The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

~~((g))~~ (f) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(g) Notwithstanding any other provision of law, including the maximum term, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutive to any other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter.

(4) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon as defined in this chapter other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under ~~((f))~~ (e) of this subsection.

(b) One year for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under ~~((f))~~ (e) of this subsection.

(c) Six months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under ~~((f))~~ (e) of this subsection.

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, any and all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed.

~~(e) ((Notwithstanding any other provision of law, any and all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.~~

~~(f))~~ The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

~~((g))~~ (f) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(g) Notwithstanding any other provision of law, including the maximum term, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutive to any other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter.

(5) The following additional times shall be added to the presumptive sentence if the offender or an accomplice committed the offense while in a county jail or state correctional facility as that term is defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility as that term is defined in this chapter, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section:

- (a) Eighteen months for offenses committed under RCW 69.50.401(a)(1) (i) or (ii) or 69.50.410;
- (b) Fifteen months for offenses committed under RCW 69.50.401(a)(1) (iii), (iv), and (v);
- (c) Twelve months for offenses committed under RCW 69.50.401(d).

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

**Sec. 4.** RCW 9.94A.470 and 1995 c 129 s 4 are each amended to read as follows:

Notwithstanding the current placement or listing of crimes in categories or classifications of prosecuting standards for deciding to prosecute under RCW 9.94A.440(2), any and all felony crimes involving any deadly weapon special verdict under RCW 9.94A.125, any deadly weapon enhancements under RCW 9.94A.310 (3) or (4), or both, and any and all felony crimes as defined in RCW 9.94A.310 (3)(~~((f))~~) (e) or (4)(~~((f))~~) (e), or both, which are excluded from the deadly weapon enhancements shall all be treated as crimes against a person and subject to the prosecuting standards for deciding to prosecute under RCW 9.94A.440(2) as crimes against persons.

NEW SECTION. **Sec. 5.** The amendments to RCW 9A.20.021 in section 2 of this act apply to only those crimes committed after the effective date of this act."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Roach to Substitute Senate Bill No. 5861.

The motion by Senator Roach carried and the striking amendment was adopted.

## MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 2 of the title, after "weapons;" strike the remainder of the title and insert "amending RCW 9.92.010, 9A.20.021, and 9.94A.470; reenacting and amending RCW 9.94A.310; creating a new section; and prescribing penalties."

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 5861 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5861.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5861 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 48. Voting nay: Senator Thibaudeau - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 5861, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## THIRD READING

SENATE BILL NO. 5775, by Senator McCaslin

Providing additional exemptions from state law for the handling of hazardous devices.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5775.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5775 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 5775, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 10:31 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:21 a.m. by President Owen.

#### THIRD READING

SENATE JOINT RESOLUTION NO. 8204, by Senators McCaslin and Haugen

Amending the Constitution to provide an alternative method of framing a county charter.

The joint resolution was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Joint Resolution No. 8204.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Resolution No. 8204 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 40. Voting nay: Senators Benton, Hochstatter, Loveland, Newhouse, Roach, Spanel, Strannigan and Zarelli - 8. Absent: Senator McDonald - 1. SENATE JOINT RESOLUTION NO. 8204, having received the constitutional two-thirds majority, was declared passed.

There being no objection, the President reverted the Senate to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6181, by Senators Johnson and Roach

Regulating probate, trusts, and estates.

#### MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 6181 was substituted for Senate Bill No. 6181 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Substitute Senate Bill No. 6181 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6181.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6181 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Voting nay: Senator Heavey - 1. SUBSTITUTE SENATE BILL NO. 6181, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6220, by Senators Horn, Heavey, Schow, Fraser, Anderson, Franklin, Newhouse, Winsley and Patterson

Allowing airline employees to trade shifts without overtime pay.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, Senate Bill No. 6220 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6220.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6220 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 6220, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6451, by Senators Deccio, Snyder, West, Hale, Winsley, Sellar, Anderson, Horn and Schow (by request of Governor Locke)

Resolving conflicts in lodging tax statutes enacted in 1997.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6451 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6451.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6451 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 6451, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6123, by Senators Morton and Rasmussen (by request of Department of Agriculture)

Regulating animal health.

The bill was read the second time.

#### MOTION

Senator Swecker moved that the following Committee on Agriculture and Environment amendment be adopted:

On page 2, after line 2, insert the following:

""Farm-raised fish" means fish raised by aquaculture as defined in RCW 15.85.020. Farm-raised fish are considered to be a part of animal agriculture; however, disease inspection, prevention, and control programs and related activities for farm-raised fish are administered by the department of fish and wildlife under chapter 75.58 RCW."

#### POINT OF ORDER

Senator Fraser: "A point of order, Mr. President. I believe this amendment exceeds the scope and object of the bill. Just very briefly, Mr. President, the bill deals with animal health and the amendment deals with aquaculture and for the most part in our statutes, those are two definite definitions."

Further debate ensued.

#### MOTION

On motion of Senator Johnson, further consideration of Senate Bill No. 6123 was deferred.

#### SECOND READING

SENATE BILL NO. 6533, by Senators Strannigan, Anderson, Long, Schow, Wood, Finkbeiner, Benton, Roach, West, Stevens, Winsley, Hale, Oke, Patterson and Heavey

Providing property tax exemptions for senior citizens and persons retired for reasons of physical disability.

## MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6533 was substituted for Senate Bill No. 6533 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Winsley, the following amendment by Senators Winsley and Strannigan was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.36.381 and 1996 c 146 s 1 are each amended to read as follows:

A person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of the time of filing: PROVIDED, That any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year: PROVIDED FURTHER, That confinement of the person to a hospital or nursing home shall not disqualify the claim of exemption if:

(a) The residence is temporarily unoccupied;

(b) The residence is occupied by a spouse and/or a person financially dependent on the claimant for support; or

(c) The residence is rented for the purpose of paying nursing home or hospital costs;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse or cotenant, and any lease for life shall be deemed a life estate;

(3) The person claiming the exemption must be sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of physical disability: PROVIDED, That any surviving spouse of a person who was receiving an exemption at the time of the person's death shall qualify if the surviving spouse is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the person claiming the exemption was retired for two months or more of the assessment year, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person claiming exemption is reduced for two or more months of the assessment year by reason of the death of the person's spouse, or when other substantial changes occur in disposable income that are likely to continue for an indefinite period of time, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person after such occurrences by twelve. If it is necessary to estimate income to comply with this subsection, the assessor may require confirming documentation of such income prior to May 31 of the year following application;

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income of ~~((twenty-eight))~~ thirty thousand dollars or less shall be exempt from all excess property taxes; and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income of ~~((eighteen))~~ twenty-four thousand dollars or less but greater than ~~((fifteen))~~ eighteen thousand dollars shall be exempt from all regular property taxes on the greater of ~~((thirty))~~ forty thousand dollars or ~~((thirty))~~ thirty-five percent of the valuation of his or her residence, but not to exceed ~~((fifty))~~ sixty thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income of ~~((fifteen))~~ eighteen thousand dollars or less shall be exempt from all regular property taxes on the greater of ~~((thirty-four))~~ fifty thousand dollars or ~~((fifty))~~ sixty percent of the valuation of his or her residence; and

(6) For a person who otherwise qualifies under this section and has a combined disposable income of ~~((twenty-eight))~~ thirty thousand dollars or less, the valuation of the residence shall be the assessed value of the residence on the later of January 1, 1995, or January 1st of the assessment year the person first qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation shall be used upon requalification. If the person fails to qualify for more than one year in succession because of high income or fails to qualify for any other reason, the valuation upon requalification shall be the assessed value on January 1st of the assessment year in which the person requalifies. If the person transfers the exemption under this section to a different residence, the valuation of the different residence shall be the assessed value of the different residence on January 1st of the assessment year in which the person transfers the exemption.

In no event may the valuation under this subsection be greater than the true and fair value of the residence on January 1st of the assessment year.



This subsection does not apply to subsequent improvements to the property in the year in which the improvements are made. Subsequent improvements to the property shall be added to the value otherwise determined under this subsection at their true and fair value in the year in which they are made.

**Sec. 2.** RCW 84.36.383 and 1995 1st sp.s. c 8 s 2 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, except where the context clearly indicates a different meaning:

(1) The term "residence" shall mean a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations. The term shall also include a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term shall also include a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a residence shall be deemed real property.

(2) The term "real property" shall also include a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities: PROVIDED, That a mobile home located on land leased by the owner of the mobile home shall be subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) "Department" shall mean the state department of revenue.

(4) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse during the assessment year for:

(a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions; ~~((and))~~

(b) The treatment or care of either person received in the home or in a nursing home; and

(c) Health care insurance of either person, including any deduction for medicare under Title XVIII of the social security act.

(5) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than ~~((nonrecognized gain on the sale of a principal residence under section 1034 of the federal internal revenue code, or))~~ gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(b) Amounts deducted for loss;

(c) Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments;

(f) Veterans benefits other than attendant-care and medical-aid payments;

(g) Federal social security act and railroad retirement benefits;

(h) Dividend receipts; and

(i) Interest received on state and municipal bonds.

(6) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

**Sec. 3.** RCW 84.38.020 and 1997 c 93 s 1 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.

When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant shall be.

(2) "Department" means the state department of revenue.

(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

(4) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special assessments.

(5) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.

(6) "Residence" has the meaning given in RCW 84.36.383(~~(, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations)~~).

(7) "Special assessment" means the charge or obligation imposed by a local government upon property specially benefited.

NEW SECTION. Sec. 4. This act applies to taxes levied for collection in 1999 and thereafter."

#### MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, line 2 of the title, after "disability; strike the remainder of the title and insert "amending RCW 84.36.381, 84.36.383, and 84.38.020; and creating a new section."

On motion of Senator West, the rules were suspended, Engrossed Substitute Senate Bill No. 6533 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Franklin, Senator Wojahn was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6533.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6533 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 48. Excused: Senator Wojahn - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6533, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 11:56 a.m., on motion of Senator Johnson, the Senate adjourned until 8:30 a.m., Tuesday, February 10, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

TWENTY-NINTH DAY, FEBRUARY 9, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**THIRTIETH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, February 10, 1998

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Anderson, Benton, Brown, Finkbeiner, Goings, Heavey, Hochstatter, McDonald and Stevens. On motion of Senator Hale, Senators Anderson, Benton, Finkbeiner, Hochstatter, McDonald and Stevens were excused. On motion of Senator Franklin, Senators Brown, Goings and Heavey were excused.

The Sergeant at Arms Color Guard, consisting of Pages Ehren Flygare and Scott Nelson, presented the Colors. Archbishop Alexander Brunett, the new Archbishop of the Seattle Archdiocese, offered the prayer.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

#### REPORTS OF STANDING COMMITTEES

February 3, 1998

SB 5939 Prime Sponsor, Senator Strannigan: Directing a study of wing-in-ground effect vehicles. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 5939 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Horn, Jacobsen, Morton, Oke and Sellar.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6190 Prime Sponsor, Senator Oke: Strengthening laws on disabled persons' parking permits. Reported by Committee on Transportation

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6190 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 6, 1998

SB 6382 Prime Sponsor, Senator Wood: Allowing endorsed dental hygienists to provide sealants to low-income school children. Reported by Committee on Ways and Means

MAJORITY Recommendation: Without recommendation. Signed by Senators Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Schow, Snyder, Spanel, Swecker and Thibaudeau.

Passed to Committee on Rules without recommendation.

February 9, 1998

SB 6460 Prime Sponsor, Senator Anderson: Providing tax incentives for the development of job opportunities in distressed counties. Reported by Committee on Rules

MAJORITY Recommendation: That the bill be referred to Committee on Ways and Means. Signed by Lieutenant Governor Brad Owen; Chair; Senators Newhouse, Vice Chair; Bauer Benton, Hale, Horn, Johnson, Loveland, McAuliffe, McDonald, Sellar, B. Sheldon, Snyder, Stevens, Strannigan, Swecker, Thibaudeau, Wojahn and Zarelli.

Referred to Committee on Ways and Means without recommendation.

February 5, 1998

SB 6589 Prime Sponsor, Senator Horn: Providing exemptions from driver's license requirements for nonresidents. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6589 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6590 Prime Sponsor, Senator Horn: Revising provision for driver's license examinations. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6590 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6591 Prime Sponsor, Senator Horn: Providing for waiver of administrative alcohol or drug-related hearing fees due to indigency. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 5, 1998

SB 6634 Prime Sponsor, Senator: Allowing extension of a driver's license expiring while out of state. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6741 Prime Sponsor, Horn: Exempting noncommercial marine fuel from sales and use tax. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Oke, Patterson, Prentice and Rasmussen.

Referred to Committee on Ways and Means.

MESSAGE FROM STATE OFFICE

OFFICE OF THE STATE TREASURER  
Legislative Building, P.O. Box 40200  
Olympia, Washington 98504-0200

February 5, 1998

The Honorable Ralph Munro  
Secretary of State  
Legislative Building  
Olympia, WA 98504-0238

Dear Secretary Munro:

The provisions of Article VIII, Section 1, of the State Constitution, and Chapter 39.42 RCW, as amended, require that the State Treasurer certify the limitation on the bonded debt of Washington State for each fiscal year. Forwarded herewith is documentation of the computations utilized in developing the debt limitation for Fiscal Year 1998.

In accordance with constitutional and statutory requirements, I hereby certify, for the fiscal year ending June 30, 1998, that the maximum debt authorization subject to limitation is \$4,647,805,000 and, further that the State is empowered to contract additional bond indebtedness subject to limitation of \$417,246,000.

A copy of this notification has been forwarded to each elected official of the State and each member of the Washington Legislature.

Sincerely,

MICHAEL J. MURPHY, State Treasurer

The Report on the Certification of the Debt Limitation of the State of Washington, submitted by the Office of the State Treasurer, is on file in the Office of the Secretary of the Senate.

MESSAGES FROM THE HOUSE

February 6, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 2292,  
HOUSE BILL NO. 2293,  
SUBSTITUTE HOUSE BILL NO. 2295,  
HOUSE BILL NO. 2309,  
SUBSTITUTE HOUSE BILL NO. 2315,  
HOUSE BILL NO. 2328,  
SUBSTITUTE HOUSE BILL NO. 2351,  
HOUSE BILL NO. 2357,  
HOUSE BILL NO. 2361,  
HOUSE BILL NO. 2362, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 6, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2297,  
ENGROSSED HOUSE BILL NO. 2350,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2385, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING

SB 6756 by Senators Wojahn and Deccio

AN ACT Relating to the confidentiality of information and documents of a quality improvement committee subject to review and audit by the joint commission on accreditation of healthcare organizations; and amending RCW 70.41.200. Referred to Committee on Health and Long-Term Care.

SB 6757 by Senator Morton

AN ACT Relating to water; amending RCW 43.21B.110, 43.21B.300, 43.21B.310, 43.27A.090, 90.03.247, 90.03.250, 90.03.290, 90.03.345, 90.03.380, 90.03.383, 90.14.041, 90.14.065, 90.14.071, 90.14.130, 90.14.190, 90.40.090, 90.44.100, 90.44.445, 90.54.020, 90.54.180, 43.84.092, 90.03.470, 90.03.340, 90.03.270, 90.03.280, 90.03.320, 90.03.260, 90.44.060, and 89.30.001; amending 1993 c 495 s 3 (uncodified); adding new sections to chapter 43.27A RCW; adding new sections to chapter 90.03 RCW; adding a new section to chapter 89.08 RCW; adding new sections to chapter 90.14 RCW; adding a new section to chapter 90.44 RCW; adding a new section to chapter 70.119A RCW; adding a new section to chapter 43.21B RCW; creating new sections; recodifying RCW 43.21A.067; decodifying RCW 90.14.043; repealing RCW 43.21A.064 and 90.03.471; making an appropriation; providing an effective date; and providing an expiration date. Referred to Committee on Agriculture and Environment.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 2292 by Representatives Sheahan, Constantine, Benson and Costa

Revising supervision of municipal court probation services.

Referred to Committee on Law and Justice.

HB 2293 by Representatives Sherstad, Sheahan, Costa, Scott, Dunshee, Anderson and Constantine (by request of Administrator for the Courts)

Authorizing Snohomish county to create one additional district court position.

Referred to Committee on Law and Justice.

SHB 2295 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan and Costa ) (by request of Court of Appeals)

Revising procedures for staggering of terms for new court of appeals positions.

Referred to Committee on Law and Justice.

ESHB 2297 by House Committee on Government Administration (originally sponsored by Representatives Sehlin and Hankins)

Recording documents.

Referred to Committee on Government Operations.

HB 2309 by Representatives Thompson and Dunshee (by request of Department of Revenue)

Revising notification of denial of property tax exemption.

Referred to Committee on Ways and Means.

SHB 2315 by House Committee on Finance (originally sponsored by Representatives Thompson, Mulliken, B. Thomas and Dunshee (by request of Department of Revenue)

Making technical corrections to excise and property tax statutes.

Referred to Committee on Ways and Means.

HB 2328 by Representatives Sterk, Bush and Sheahan

Allowing for an extra unclassified employee in a sheriff's office that has adopted a system of community-oriented policing.

Referred to Committee on Government Operations.

EHB 2350 by Representatives McDonald, Mulliken, Thompson, Dunn, Lambert, Mason and Sullivan

Directing the Washington state crime information center to provide law enforcement agencies with access to sex offender central registry information.

Referred to Committee on Human Services and Corrections.

SHB 2351 by House Committee on Government Administration (originally sponsored by Representatives McDonald, Costa, L. Thomas, Scott, Gardner, Linville, Hatfield, Benson, Keiser, Romero, Butler, Dunshee, Kessler, Kenney, Cooke, Mitchell, Cooper, Kastama, Dunn, Lambert, Constantine, Sullivan, Conway and Lantz) (by request of Secretary of State Munro)

Allowing victims of sexual assault into the address confidentiality program.

Referred to Committee on Government Operations.

HB 2357 by Representatives L. Thomas, Wolfe, Smith, Grant, DeBolt, Keiser and D. Sommers

Setting the rates of interest and other fees charged by pawnbrokers.

Referred to Committee on Financial Institutions, Insurance and Housing.

HB 2361 by Representative Sheahan

Revising notice requirements in proceedings involving support and income-withholding orders.

Referred to Committee on Law and Justice.

HB 2362 by Representatives Mastin and Sheahan

Allowing confessions and other admissions to be admitted into evidence if substantial independent evidence establishes the trustworthiness of the statement.

Referred to Committee on Law and Justice.

ESHB 2385 by House Committee on Government Administration (originally sponsored by Representatives Radcliff, Wolfe, D. Schmidt and Scott)

Regarding the department of information services.

Referred to Committee on Energy and Utilities.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Winsley, Gubernatorial Appointment No. 9266, Tom Hilyard, as a member of the Board of Trustees for Bates Technical College District No. 28, was confirmed.

APPOINTMENT OF TOM HILYARD

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Bauer, Deccio, Fairley, Franklin, Fraser, Hale, Hargrove, Haugen, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 40. Excused: Senators Anderson, Benton, Brown, Finkbeiner, Goings, Heavey, Hochstatter, McDonald and Stevens - 9.

MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9294, Dr. Frank B. Brouillet, as a member of the Higher Education Coordinating Board, was confirmed.

APPOINTMENT OF DR. FRANK B. BROUILLET

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Hale, Hargrove, Haugen, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 43. Excused: Senators Anderson, Finkbeiner, Goings, Heavey, Hochstatter and McDonald - 6.

SECOND READING

SENATE BILL NO. 6219, by Senators McDonald, McCaslin, Patterson, West and Hale (by request of Office of Financial Management)

Making technical corrections to the Revised Code of Washington concerning reports to the legislature that are no longer necessary.

The bill was read the second time.

MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6219 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

PERSONAL PRIVILEGE



Senator Roach: "A point of personal privilege, Mr. President. I just wanted to note that this is maybe the first time that--Senator McCaslin will have to add and I feel the same way--that we have actually seen Senator McDonald moved to passion and I want to take some credit for that. Thank you."

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6219.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6219 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Benton, Roach and Schow - 3. Excused: Senators Finkbeiner and Goings - 2. SENATE BILL NO. 6219, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6171, by Senators Strannigan, Fraser, West and Spanel (by request of Public Works Board)

Authorizing loans for projects recommended by the public works board.

The bill was read the second time.

#### MOTION

Senator Benton moved that the following amendment by Senators Benton, Bauer, Schow, Zarelli, Rossi and T. Sheldon be adopted:

On page 9, after line 12, insert the following:

"(73) 192<sup>nd</sup> Avenue and Highway 14— an interchange necessary for Southwest Washington

\$12,000,000

Total of section one

\$138,671,308"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton, Bauer, Schow, Zarelli, Rossi and T. Sheldon on page 9, after line 12 to Senate Bill No. 6171.

The motion by Senator Benton failed and the amendment was not adopted.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6171 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6171.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6171 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 6171, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6287, by Senators T. Sheldon, Benton, Brown, Rossi, Finkbeiner, Rasmussen and Anderson

Adding inhabitants of county as recipients of water works benefits.

The bill was read the second time.

## MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6287 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6287.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6287 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 6287, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6536, by Senators Horn, Heavey, Schow, Snyder, Goings, McDonald, Benton, Winsley, Oke and Haugen

Prescribing employer obligations to furnish wearing apparel.

The bill was read the second time.

## MOTION

On motion of Senator Schow, the rules were suspended, Senate Bill No. 6536 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6536.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6536 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 48. Absent: Senator Wood - 1. SENATE BILL NO. 6536, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

At 9:36 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 10:53 a.m. by President Owen.

#### INTRODUCTION OF SPECIAL GUESTS

President Owen welcomed and introduced Dr. Carlos Torres y Torres Lara, the President of the Congress of the Republic of Peru and his wife Miguel Angel Velasquez. Dr. Torres Lara has been designated by the government of Peru to be the Honorary Consul of Peru in Washington State.

With permission of the Senate, business was suspended to permit Dr. Torres Lara to address the Senate.

Senator Marguerita Prentice gave a special welcome in Spanish to Dr. and Mrs. Torres Lara.

There being no objection, the Senate resumed consideration of Senate Bill No. 6123 and the pending Committee on Agriculture and Environment amendment on page 2, after line 2, deferred February 9, 1998.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Fraser, the President finds that Senate Bill No. 6123 is a measure which makes several changes to statutes concerning animal health and the suppression of animal diseases by the Department of Agriculture. For these purposes, the measure defines "animal" to exclude "fish."

"The Committee on Agriculture and Environment amendment on page 2, after line 2, explains that "farm raised fish" are part of animal agriculture. However the prevention of diseases related to farm raised fish is under the jurisdiction of the Department of Fish and Wildlife.

"The President, therefore, finds that the proposed committee amendment does not change the scope and object of the bill and the point of order is not well taken."

The Committee on Agriculture and Environment amendment on page 2, after line 2, to Senate Bill No. 6123 was ruled in order.

Debate ensued.

#### POINT OF INQUIRY

Senator Fraser: "Senator Swecker, would you please explain clearly why this amendment is needed?"

Senator Swecker: "Thank you, Senator Fraser. In 1985, the Washington State Legislature passed a law declaring that aquaculture--that is the farming of aquatic products--was a part of agriculture in this state. Nevertheless, there were concerns that some the impacts of aquaculture could affect our natural resources and therefore there was an appropriate role for both the Department of Agriculture and the Department of Fish and Wildlife, with regard to the regulation of disease.

"That has been the policy of the state right up until the present and this bill preserves that joint relationship--that is the Department of Fish and Wildlife and the Department of Agriculture have joint rule-making authority with regard to disease in this state. The fact of the matter is, because aquaculture has participated in state disease policies with regard to fish, both the private and the public sector have been a beneficiary of those efforts. In fact, the disease policy of the state has been very successful; it applies to both public and private fish. In the future, I think, it will continue to work in a very cooperative and beneficial manner for both parties.

"Right now, if somebody in the state wants to do something with a farmed aquatic product, they have to get permission from the Department of the Fish and Wildlife to move those products around. At the same time, we have the benefit of the fact that we are a part of agriculture, eligible for funding from the federal government--for certain kinds of things. So, we think it is important for our industry that we preserve that relationship if we can."

#### POINT OF INQUIRY

Senator Spanel: "Senator Swecker, in your explanation you began by stating about what occurred in 1985. I know that did happen then, but I didn't really understand why this particular amendment needs to be in this bill, because the 1985 statute still holds."

Senator Swecker: "When the Department of Agriculture drafted these particular revisions to their animal/health statutes, I think an error specifically excluded fish from the definition of animal. It came in with a piece of language that said, 'Animals shall include everything except humans, insects and fish.' Up until this time, for disease purposes in this state, fish had been included as animals and this changes that. I think it would be a mistake for many, many reasons to do that. I think the most important part of that is that any other agricultural commodity we have the benefit of the sponsorship of the Department of Agriculture when it comes to policies that affect our industry and we don't want to be excluded from that benefit."

The President declared the question before the Senate to be the adoption of the Committee on Agriculture and Environment amendment on page 2, after line 2, to Senate Bill No. 6123.

The Committee on Agriculture and Environment amendment was adopted by voice vote.

#### MOTIONS

On motion of Senator Morton, the following amendments were considered simultaneously and were adopted:

On page 1, line 16, after "However," delete "unless the context clearly requires otherwise,"

On page 1, line 17, after "does not mean" delete "free ranging"  
and insert "non-captive"

On page 1, line 18, delete "Title 77 RCW" and insert "RCW 77.08.010(16)"

On page 1, line 18, after "Title 77 RCW" insert ", except as used in RCW 16.36.050(1) and RCW 16.36.080(1),(2),(3), and (5)"

On motion of Senator Morton, the rules were suspended, Engrossed Senate Bill No. 6123 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Hale, Senator Schow was excused

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6123.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6123 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47.

Voting nay: Senator Fairley - 1.

Excused: Senator Schow - 1.

ENGROSSED SENATE BILL NO. 6123, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6348, by Senators Hale and Haugen (by request of Department of Revenue)

Eliminating requirements for filing certificates or annual summaries for sales and use tax exemptions on manufacturing machinery and equipment.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6348 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6348.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6348 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Schow - 1. SENATE BILL NO. 6348, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5582, by Senators Roach, Goings, Schow, Stevens, Oke and Kline

Prohibiting the purchase of liquor by intoxicated persons.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 5582 was substituted for Senate Bill No. 5582 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 5582 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5582.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5582 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Goings, Hale, Hargrove, Haugen, Horn, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Wood and Zarelli - 36. Voting nay: Senators Brown, Fairley, Finkbeiner, Franklin, Fraser, Heavey, Hochstatter, Jacobsen, Kohl, Patterson, Thibaudeau, Winsley and Wojahn - 13. SUBSTITUTE SENATE BILL NO. 5582, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6337, by Senators Winsley, Kline, Patterson, Kohl, Fairley, Brown, Goings, McAuliffe and Rasmussen

Modifying property tax exemptions for nonprofit organizations.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6337 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6337.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6337 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse,

Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Schow - 1. SENATE BILL NO. 6337, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6149, by Senator Swecker

Requiring the regional fisheries enhancement group advisory board to make recommendations on certain fiscal matters.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, Senate Bill No. 6149 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6149.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6149 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 6149, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6355, by Senators Winsley, Prentice, Sellar, Heavey, Benton and Hale (by request of Department of Financial Institutions)

Regulating share insurance for credit unions.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Senate Bill No. 6355 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6355.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6355 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator McDonald - 1. SENATE BILL NO. 6355, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6550, by Senators Deccio, Wojahn, Wood and Fairley

Regulating chemical dependency counselors.

#### MOTIONS

On motion of Senator Deccio, Substitute Senate Bill No. 6550 was substituted for Senate Bill No. 6550 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Deccio, the rules were suspended, Substitute Senate Bill No. 6550 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6550.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6550 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 46. Voting nay: Senator Strannigan - 1. Absent: Senators McDonald and Thibaudeau - 2. SUBSTITUTE SENATE BILL NO. 6550, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator McCaslin, Senator McDonald was excused.

#### SECOND READING

SENATE BILL NO. 6278, by Senators Horn, McCaslin and T. Sheldon

Specifying the number of signatures required on a petition to place on the ballot the question of changing the name of a port district.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6278 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6278.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6278 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Heavey, Patterson and Roach - 3. Absent: Senator Oke - 1. Excused: Senator McDonald - 1. SENATE BILL NO. 6278, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6299, by Senators Johnson and Heavey

Identifying where actions for unlawful issuance of a check or draft may be brought.

The bill was read the second time.

## MOTION

On motion of Senator Johnson, the rules were suspended, Senate Bill No. 6299 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6299.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6299 and the bill passed the Senate by the following vote:  
Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Prince - 1.. SENATE BILL NO. 6299, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

At 11:58 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 7:31 p.m. by President Owen.

There being no objection, the President returned the Senate to the first order of business.

## REPORTS OF STANDING COMMITTEES

February 10, 1998

SB 5277 Prime Sponsor, Senator Winsley: Separating from public employees retirement system plan I. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 5277 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 5278 Prime Sponsor, Senator Patterson: Requiring court-ordered use of long-term pharmaceutical birth control for mothers who have given birth to a baby with drug addiction. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Third Substitute Senate Bill No. 5278 be substituted therefor, and the third substitute bill do pass. Signed by Senators West, Chair; Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, B. Sheldon, Snyder, Spanel and Swecker.

Passed to Committee on Rules for second reading.



February 10, 1998

SB 5309 Prime Sponsor, Senator Morton: Providing excise tax exemptions related to horses. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 5309 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 5896 Prime Sponsor, Senator Roach: Creating the civil rights act of 1997. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 5896 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Loveland, McDonald, Roach, Rossi, Schow, Swecker and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Fraser, B. Sheldon, Snyder and Thibaudeau.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6117 Prime Sponsor, Senator Morton: Creating a salmon license buyback program. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6117 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6132 Prime Sponsor, Senator Schow: Regulating sellers of travel. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6132 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Brown, Hochstatter, Kohl, Loveland, McDonald, Roach, Rossi, Schow, Swecker and Thibaudeau.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6139 Prime Sponsor, Senator Oke: Increasing penalties for manufacture and delivery of amphetamine. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker and Winsley.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6156 Prime Sponsor, Senator Swecker: Studying methods for calculating water-dependent lease rates on state-owned aquatic lands.  
Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6156 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6168 Prime Sponsor, Senator Prentice: Developing housing for temporary workers. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6168 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6188 Prime Sponsor, Senator Oke: Increasing penalties for failing to register as a sex offender or moving without notifying the county sheriff. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6201 Prime Sponsor, Senator Long: Making changes concerning the federal child abuse prevention and treatment act. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6201 as recommended by Committee on Human Services and Corrections be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6211 Prime Sponsor, Senator Prince: Retiring as a state chaplain. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Brown, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6214 Prime Sponsor, Senator Long: Revising provisions relating to commitment of mentally ill persons. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6214 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6235 Prime Sponsor, Senator Jacobsen: Creating the community athletic facilities council. Reported by Committee on Ways and Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6235 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6238 Prime Sponsor, Senator Stevens: Changing provisions relating to dependent children. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6238 as recommended by Committee on Human Services and Corrections be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, Swecker and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6261 Prime Sponsor, Senator Swecker: Creating an aquatic plant management permit program. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6261 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6293 Prime Sponsor, Senator Benton: Permanently revoking drivers' licenses upon a drunk driving violation. Reported by Committee on Transportation

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6293 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6295 Prime Sponsor, Senator Benton: Adjusting transportation facility tax exemptions. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6295 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Heavey, Horn, Morton, Oke, Patterson, Rasmussen and Sellar.

MINORITY Recommendation: Do not pass. Signed by Senator Haugen.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6297 Prime Sponsor, Senator Benton: Revising the formula for local public health financing in a county where a city annexed territory with fifty thousand residents or more in 1996 or 1997. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6297 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6305 Prime Sponsor, Senator Roach: Providing a death benefit for certain general authority police officers. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, McDonald, Roach, Rossi, Schow and Swecker.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6306 Prime Sponsor, Senator Long: Creating the Washington school employees' retirement system. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6306 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Long, McDonald, Roach, Rossi, Schow, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6311 Prime Sponsor, Senator Snyder: Exempting assembly halls or meeting places used for the promotion of specific educational purposes from property taxation. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6325 Prime Sponsor, Senator Oke: Authorizing additional state ferry vessels. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Wood, Vice Chair; Heavey, Jacobsen, Morton, Oke, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6330 Prime Sponsor, Senator Oke: Modifying provisions concerning recreational fish and wildlife licenses. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6330 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Kohl, Long, McDonald, Roach, Rossi, Schow, Spanel, Swecker and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6342 Prime Sponsor, Senator Snyder: Requiring salmon eggs to be utilized in the cultivation of salmon. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6342 as recommended by Committee on Natural Resources and Parks be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6354 Prime Sponsor, Senator Deccio: Requiring that moneys received through settlements with the tobacco industry be deposited into the health services account. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6354 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, Swecker, Winsley and Zarelli.

MINORITY Recommendation: Do not pass substitute. Signed by Senators Bauer, Fraser, Loveland, B. Sheldon, Snyder, Spanel and Thibaudeau.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6363 Prime Sponsor, Senator Swecker: Eliminating fish passage barriers. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6363 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6372 Prime Sponsor, Senator Thibaudeau: Providing tax exemptions for child care providers. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6372 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6377 Prime Sponsor, Senator McCaslin: Regulating mobile or manufactured homes. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6377 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Rossi, Schow, B. Sheldon, Snyder, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6391 Prime Sponsor, Senator Wood: Protecting certain public transportation information. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6391 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Goings, Haugen, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6392 Prime Sponsor, Senator Strannigan: Providing financial support to licensed overnight youth shelters. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6396 Prime Sponsor, Senator Wood: Creating the Washington center for real estate research. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6396 as recommended by Committee on Higher Education be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6399 Prime Sponsor, Senator Oke: Increasing security of drivers' licenses. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6399 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

MINORITY Recommendation: Do not pass. Signed by Senator Benton, Vice Chair.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6406 Prime Sponsor, Senator Anderson: Exempting income from the adoption support program from gross family income calculations for the basic health plan. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Brown, Fraser, Hochstatter, Loveland, Roach, Rossi, Schow, B. Sheldon, Spanel and Thibaudeau.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6433 Prime Sponsor, Senator Long: Conforming sexual predator registration to federal requirements. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6433 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6445 Prime Sponsor, Senator Long: Modifying provisions relating to children placed in community facilities. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6445 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6461 Prime Sponsor, Senator Prince: Creating partnerships for strategic freight investments. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6461 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Wood, Vice Chair; Goings, Haugen, Horn, Morton, Newhouse, Prentice, Rasmussen and Sellar.

MINORITY Recommendation: Do not pass. Signed by Senators Benton, Vice Chair; Heavey and Jacobsen.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6464 Prime Sponsor, Senator Goings: Increasing the penalty for manufacture of methamphetamine. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6474 Prime Sponsor, Senator Jacobsen: Adopting the fertilizer regulation act. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6474 as recommended by Committee on Agriculture and Environment be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Loveland, McDonald, Rossi, Schow, Snyder and Swecker.

MINORITY Recommendation: Do not pass. Signed by Senators Brown, Fraser, Spanel and Thibaudeau.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6500 Prime Sponsor, Senator Jacobsen: Creating a scenic byways designation program. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Wood, Vice Chair; Goings, Haugen, Horn, Jacobsen, Morton, Oke, Patterson and Prentice.

MINORITY Recommendation: Do not pass. Signed by Senator Benton, Vice Chair.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6509 Prime Sponsor, Senator Hochstatter: Requiring training for reading instruction. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6509 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, Swecker and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Bauer, Brown, Fraser, Kohl, Loveland, B. Sheldon, Snyder, Spanel and Thibaudeau.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6517 Prime Sponsor, Senator Roach: Making the deadly weapon sentencing enhancement the same as the firearm sentencing enhancement. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6540 Prime Sponsor, Senator Schow: Providing criteria for establishing and siting vehicle licensing agencies. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.



February 10, 1998

SB 6544 Prime Sponsor, Senator Deccio: Providing for adult family home and boarding home training. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6544 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6546 Prime Sponsor, Senator Deccio: Establishing nurse/student ratios for schools. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6546 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Brown, Fraser, Kohl, Long, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6557 Prime Sponsor, Senator Kohl: Establishing a toll-free telephone number for information on child day-care providers. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6557 as recommended by Committee on Human Services and Corrections be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Kohl, Long, Loveland, McDonald, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6558 Prime Sponsor, Senator Zarelli: Creating citizen review panels to review child abuse and neglect cases. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6558 as recommended by Committee on Human Services and Corrections be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Kohl, Long, Roach, Rossi, Schow, Spanel, Swecker and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6559 Prime Sponsor, Senator Zarelli: Revising time limits for the seventy-two hour evaluation and treatment period for mental disorders. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Kohl, Long, McDonald, Roach, Rossi, Schow, Swecker and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Loveland, B. Sheldon and Thibaudeau.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6593 Prime Sponsor, Senator Swecker: Funding a study of locations for finfish net-pen aquaculture. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6593 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, Snyder, Swecker and Winsley.

MINORITY Recommendation: Do not pass. Signed by Senator Spanel.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6600 Prime Sponsor, Senator T. Sheldon: Establishing an education program for juveniles incarcerated in adult correctional facilities. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6600 as recommended by Committee on Education be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6602 Prime Sponsor, Senator Anderson: Crediting carbonated beverage taxes against business and occupation taxes. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6602 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Swecker, Winsley and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator Fraser.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6628 Prime Sponsor, Senator Benton: Clarifying transportation planning. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Rasmussen and Sellar.

MINORITY Recommendation: Do not pass. Signed by Senators Haugen and Prentice.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6662 Prime Sponsor, Senator Strannigan: Eliminating the business and occupation tax on property managers' compensation. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, McDonald, Roach, Rossi, Schow, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6668 Prime Sponsor, Senator Heavey: Extending tax deferrals for new thoroughbred race tracks. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Hochstatter, Kohl, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6672 Prime Sponsor, Senator Roach: Increasing penalties for specified crimes against children. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, McDonald, Roach, Rossi, Schow, Snyder and Swecker.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6677 Prime Sponsor, Senator Strannigan: Exempting boarding homes from business and occupation tax. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6677 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6678 Prime Sponsor, Senator Rasmussen: Developing a vehicle-oriented highway access management program. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6678 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6709 Prime Sponsor, Senator Wood: Requiring regional transit authority trains to be from Washington manufacturers and made in Washington. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6709 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Jacobsen, Morton, Oke, Patterson, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6727 Prime Sponsor, Senator West: Modifying the savings incentive and education savings accounts. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6727 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6728 Prime Sponsor, Senator Newhouse: Providing tax exemptions for activities conducted for hop commodity commissions or boards. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 9, 1998

SB 6731 Prime Sponsor, Senator Newhouse: Removing a property tax exemption for airport property belonging to out-of-state municipal corporations. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6731 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6737 Prime Sponsor, Senator Deccio: Regulating property taxation of residential housing occupied by low-income developmentally disabled persons. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6737 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6740 Prime Sponsor, Senator West: Verifying the income of subsidized enrollees of the state basic health plan. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6740 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 10, 1998

SB 6752 Prime Sponsor, Senator Haugen: Providing for an additional certification exemption for municipal transportation services. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6752 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke, Patterson, Prentice, Rasmussen and Sellar.

MINORITY Recommendation: Do not pass. Signed by Senator Benton, Vice Chair.

Passed to Committee on Rules for second reading.

February 9, 1998

SJM 8023 Prime Sponsor, Senator Deccio: Regarding recovery of damages in tobacco litigation. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Joint Memorial No. 8023 be substituted therefor, and the substitute joint memorial do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker and Winsley.

Passed to Committee on Rules for second reading.

February 10, 1998

SJM 8029 Prime Sponsor, Senator McDonald: Regarding a petition to authorize federal block grant funds directly to school districts. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Rossi, Schow, Swecker, Winsley and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Bauer, Brown, Fraser, Kohl, Loveland, B. Sheldon, Snyder, Spanel and Thibaudeau.

Passed to Committee on Rules for second reading.

February 10, 1998

SJM 8031 Prime Sponsor, Senator Finkbeiner: Petitioning for amendment to the Federal Communications Commission ruling barring direct reimbursement to state agencies that provide telecommunications services. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

MOTION

At 7:33 p.m., on motion of Senator Johnson, the Senate adjourned until 8:30 a.m., Wednesday, February 11, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

THIRTIETH DAY, FEBRUARY 10, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**THIRTY-FIRST DAY**

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MORNING SESSION  
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Senate Chamber, Olympia, Wednesday, February 11, 1998

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Brown and Zarelli. On motion of Senator Franklin, Senator Brown was excused. On motion of Senator Hale, Senator Zarelli was excused.

The Sergeant at Arms Color Guard, consisting of Eagle Scouts, Richard Marlet, Brian Marlet, Chris Baschuk and Brandon Snow, members of Boy Scout Troop 10 of Olympia, presented the Colors. Reverend Bruce Armstrong, pastor of the Lacey Presbyterian Church, offered the prayer.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved. At 8:40 a.m., there being no objection, the President declared the Senate to be at ease.

The Senate was called to order at 9:00 a.m. by President Owen.

MESSAGES FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 13, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Linda Sprenger, reappointed January 13, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Green River Community College District No. 10.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

January 16, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Larry Brown, appointed January 16, 1998, for a term ending September 30, 2001, as a member of the Board of Trustees for Green River Community College District No. 10.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

January 16, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Elmer J. Ward, appointed January 16, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Yakima Valley Community College District No. 16.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

January 16, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Arnold Wright, reappointed January 16, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Clover Park Technical College District No. 29.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

January 22, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Patrick McElligott, reappointed January 22, 1998, for a term ending December 31, 2000, as a member of the Investment Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Ways and Means.

January 29, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Andrew Palmer, appointed January 29, 1998, for a term ending December 26, 1998, as a member of the Board of Pilotage Commissioners.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Transportation.

#### MESSAGE FROM THE HOUSE

February 9, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1490,  
SECOND SUBSTITUTE HOUSE BILL NO. 1501,  
SUBSTITUTE HOUSE BILL NO. 1829,  
SUBSTITUTE HOUSE BILL NO. 2299,  
SUBSTITUTE HOUSE BILL NO. 2316,  
SUBSTITUTE HOUSE BILL NO. 2326,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2330,  
HOUSE BILL NO. 2387,  
SUBSTITUTE HOUSE BILL NO. 2389, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1490 by House Committee on Law and Justice (originally sponsored by Representatives Thompson, Mielke, L. Thomas, McMorris, Chandler, Sterk and Delvin)

Clarifying liability of drivers of authorized emergency vehicles.

Referred to Committee on Law and Justice.

SHB 1829 by House Committee on Commerce and Labor (originally sponsored by Representative Van Luven)

Requiring a record of transaction for trade-in or exchange of computer hardware.

Referred to Committee on Commerce and Labor.

SHB 2299 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Linville, Carlson and Costa) (by request of Department of Ecology)

Allowing continued use of pollution control tax credits after facilities are modified to maintain effective pollution control.

Referred to Committee on Agriculture and Environment.

SHB 2316 by House Committee on Criminal Justice and Corrections (originally sponsored by Representatives Ballasiotes, Scott, Sheahan and McDonald)

Revising provisions relating to release of information about sex offenders and kidnapping offenders.

Referred to Committee on Human Services and Corrections.



SHB 2326 by House Committee on Law and Justice (originally sponsored by Representatives Sterk, Bush, Van Luven, Dunn and Sheahan)

Limiting access to law enforcement personnel records and internal affairs files.

Referred to Committee on Law and Justice.

ESHB 2330 by House Committee on Education (originally sponsored by Representatives Hickel, Johnson, Backlund and D. Sommers)

Authorizing church schools.

Referred to Committee on Education.

HB 2387 by Representatives Sheahan, Constantine and Costa

Regulating shareholder rights under the Washington business corporation act.

Referred to Committee on Law and Justice.

SHB 2389 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Constantine and Costa)

Allowing for interstate professional services corporations.

Referred to Committee on Law and Justice.

#### MOTION

On motion of Senator West, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8696

By Senators West, McDonald, Fairley, Benton, Oke, Schow, Sellar, Johnson, Newhouse, Zarelli, Strannigan, Roach, Patterson, Rossi, McAuliffe, Brown, Prince, Snyder, Horn, Rasmussen, T. Sheldon, Goings, Kohl, Loveland, Spanel, Franklin, Bauer, Prentice, McCaslin, Haugen, Wojahn, Long and Fraser

WHEREAS, The Boy Scouts of America has been an integral part of youth activities in the United States for over eighty-eight years; and

WHEREAS, The Boy Scouts of America's official mission statement is to "serve others by helping to instill values in young people and, in other ways, to prepare them to make ethical choices during their lifetime in achieving their full potential"; and

WHEREAS, The Scout law which reads, "A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean and reverent" provides an ethical code we would all do well to follow; and

WHEREAS, The Scout motto of "be prepared" and the Scout slogan of, "do a good turn daily" help furnish all youth and adults positive goals to guide them; and

WHEREAS, The learning for life program helps to instill children with the values of good character, citizenship and personal fitness; and

WHEREAS, Scouts around the nation have participated in numerous community programs, such as, Scouting for Food, and the Organ Donor Awareness Drive; and

WHEREAS, Nationally more than 4.5 million youth are involved in scouting activities, ranging from Tiger Cubs through Explorers, which is a four percent increase in membership from 1996; and

WHEREAS, Gary Locke, the Governor of the state of Washington has been awarded the distinguished Eagle Scout award and is a former counselor at a Boy Scout summer camp; and

WHEREAS, More than forty-eight members of the Washington State Legislature have been members of scouting organizations or volunteer their time to assist scouting activities;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognizes the positive influence the Boy Scouts of America have on the youth of our state and the Senate applauds the work of the six councils of the Boy Scouts of America for the programs they provide to our children; and

BE IT FURTHER RESOLVED, That the Washington State Senate encourages all agencies of the state to recognize the service and benefits that the Boy Scouts of America provide; and

BE IT FURTHER RESOLVED, That a copy of this resolution be transmitted by the Secretary of the Senate to Gary Locke, Governor; the Governor's cabinet officers; all statewide elected officials; the National Boy Scouts of America Office; the Western Region Office of the Boy Scouts of America; and to the six Boy Scout Councils serving Washington State.

#### INTRODUCTION OF SPECIAL GUESTS

The President thanked the Eagle Scouts who presented the Colors for the opening of the session this morning and also welcomed and introduced the Boy Scouts, who were seated in the gallery.

#### MOTION

On motion of Senator Franklin, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8697

By Senators Franklin, Prentice, Loveland, Snyder, Thibaudeau, Spanel, B. Sheldon, Fraser, T. Sheldon, Roach, Winsley, Rasmussen, Stevens, Wojahn, Long, McAuliffe, Kline, Patterson, Zarelli, Bauer, Deccio, Fairley, Haugen, Jacobsen, Rossi, Strannigan, Horn, Morton, Goings, Prince, Wood, West, Johnson, McCaslin and Kohl

WHEREAS, The month of February, 1998, marks the sixth-first anniversary of an official Black History celebration; and

WHEREAS, This month also marks the twenty-first anniversary of the official observance of Black History Month; and

WHEREAS, There is still a widespread lack of knowledge among the general population that African Americans have played major roles and contributed in every aspect to the development and building of our country; and

WHEREAS, The actual history of Africans, in Africa and around the world, is that of a fascinating and enlightening journey of both African peoples and individuals; and

WHEREAS, The history of Africans in the Americas dates back to 1619, a year before the Mayflower landed, with the arrival of the first African slaves; and

WHEREAS, The full story of Africans at home and abroad goes far beyond the traditionally emphasized experience of domination by and subjugation to others in the New World; and

WHEREAS, Black History Month affords students of all backgrounds the chance to see the accomplishments and contributions of Africans, both in Africa and around the world; and

WHEREAS, For many young people, Black History Month has led to exposure to literature, art, philosophy, and culture that they otherwise might never experience; and

WHEREAS, The study of the history of African Americans and their contributions can broaden our views and strengthen racial relations within our country's diverse population;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize and appreciate the many benefits of Black History Month to our citizenry and to our culture in general, and that we urge all citizens of the state of Washington to join with us in taking the opportunity this month to explore this rich history and expand our world view.

Senators Franklin, Long and Jacobsen spoke to Senate Resolution 1998-8697.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator West, Gubernatorial Appointment No. 9126, Richard Thompson, as Director of the Office of Financial Management, was confirmed.

APPOINTMENT OF RICHARD THOMPSON

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Excused: Senators Brown and Zarelli -

2. MOTION

On motion of Senator Betti Sheldon, Gubernatorial Appointment No. 9300, William Marler, as a member of the Board of Regents for Washington State University, was confirmed.

APPOINTMENT OF WILLIAM MARLER

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Absent: Senator Benton - 1. Excused:

Senator Zarelli - 1. SECOND READING

SENATE BILL NO. 6192, by Senators Sellar, Snyder and Winsley (by request of State Investment Board)

Providing for the operation of the state investment board.

The bill was read the second time.

MOTION

On motion of Senator Sellar, the rules were suspended, Senate Bill No. 6192 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6192.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6192 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SENATE BILL NO. 6192, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

SECOND READING

SENATE BILL NO. 6182, by Senators Johnson and Roach

Allowing for interstate professional services corporations.

#### MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 6182 was substituted for Senate Bill No. 6182 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Substitute Senate Bill No. 6182 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6182.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6182 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1.

SUBSTITUTE SENATE BILL NO. 6182, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE SENATE BILL NO. 5305, by Senate Committee on Health and Long-Term Care (originally sponsored by Senators Fairley, Wojahn, Goings, McAuliffe, Patterson and Kohl)

Controlling drugs used to facilitate rape.

The bill was read the second time.

#### MOTION

Senator Deccio moved that the following Committee on Health and Long-Term Care amendment be adopted:

On page 30, after line 27, insert the following:

"**Sec. 6.** RCW 9A.44.050 and 1997 c 392 s 514 are each amended to read as follows:

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

(a) By forcible compulsion;

(b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated, including controlled substance-induced physical helplessness or mental incapacity caused by the perpetrator of the rape;

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment;

(e) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim.

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

**Sec. 7.** RCW 9A.44.100 and 1997 c 392 s 515 are each amended to read as follows:

(1) A person is guilty of indecent liberties when he or she knowingly causes another person who is not his or her spouse to have sexual contact with him or her or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless, including controlled substance-induced physical helplessness or mental incapacity caused by the perpetrator of the rape;

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim.

(2) Indecent liberties is a class B felony.

**NEW SECTION. Sec. 8.** A new section is added to chapter 9A.44 RCW to read as follows:

Rape crisis centers, law enforcement, and hospital emergency rooms shall provide to all personnel investigating cases of sexual assault training on how to recognize the presence of sedating substances, how to test for such substances, and the appropriate chain of custody procedure to follow so that such evidence may be used in a court of law. The training required by this section may be incorporated into existing training programs."

#### MOTION

On motion of Senator Johnson, further consideration of Substitute Senate Bill No. 5305 was deferred.

#### SECOND READING

SENATE BILL NO. 6213, by Senators McCaslin, Snyder, B. Sheldon, Roach, T. Sheldon, Bauer and West

Extending the long arm statute to district court civil cases.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6213 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6213.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6213 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SENATE BILL NO. 6213, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6303, by Senators Bauer, Long, Franklin, Winsley, Rossi, Roach and Fraser (by request of Joint Committee on Pension Policy)

Restoring retirement service credit.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6303 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6303.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6303 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SENATE BILL NO. 6303, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6259, by Senators Swecker, Rasmussen and Winsley

Authorizing the creation of lake management service areas.

#### MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 6259 was substituted for Senate Bill No. 6259 and the substitute bill was placed on second reading and read the second time.

Senator Fraser moved that the following amendment by Senators Fraser and Swecker be adopted:

On page 3, line 11, after "property" delete ", and except that the special assessments or rates and charges imposed on public property may not exceed the special assessments or rates and charges imposed on adjacent private property"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser and Swecker on page 3, line 11, to Substitute Senate Bill No. 6259.

The motion by Senator Fraser carried and the amendment was adopted.

#### MOTION

On motion of Senator Morton, the rules were suspended, Engrossed Substitute Senate Bill No. 6259 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Roach: "Senator Swecker, I'm looking at this and many of us represent rather urban areas and we have a lot of people that live around the lakes. This came through the Ag committee and maybe some of us haven't had a chance to look at it - as specifically as we would like to. Am I reading this correctly, then--we are going to be creating a new governmental body and they would be what--elected by the people around the lake? Who defines the area that will be the electorate and what powers

will this new governing body have and from where will they be taking the power--granted from the people--but does this mean from a county government, a city government--who is doing the job now?"

Senator Swecker: "Thank you for your question. When the Lake Health Task Force began its meetings, the first thing that we recognized was that there weren't very many good options for dealing with in-lake problems. These problems, of course, have been increasing over the years with urbanization. They are particularly bad in the urban areas. So, this bill was designed to add another tool for lake residents to set up a district and help to control problems like, you know, weed infestation--and other kinds of things. This bill allows for this body to be set up--let me clarify the point--yes, the district is set up--I'll get that information for you, Senator Roach."

#### MOTION

On motion of Senator Johnson, further consideration of Engrossed Substitute Senate Bill No. 6259 was deferred.

#### SECOND READING

SENATE BILL NO. 6210, by Senators Prince, Loveland, Morton and Rasmussen

Providing a sales tax exemption for parts used for and repairs to farm machinery and implements used outside the state.

The bill was read the second time.

#### MOTION

On motion of Senator Morton, the rules were suspended, Senate Bill No. 6210 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6210.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6210 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SENATE BILL NO. 6210, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6228, by Senators Haugen, Morton, Rasmussen, Prentice, Prince and Wood

Adjusting aircraft dealers' license fees and their distribution.

The bill was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Bill No. 6228 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6228.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6228 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 45. Voting nay: Senators Benton, Hochstatter and Stevens - 3. Excused: Senator Zarelli - 1. SENATE BILL NO. 6228, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6516, by Senators Roach, Goings, Hochstatter, Benton, Rossi, Patterson, Oke, Schow, Johnson, McDonald, Stevens, Strannigan, Fraser, Sellar, Prentice, Bauer and Rasmussen

Providing for the possibility of life imprisonment for first degree murder.

## MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6516 was substituted for Senate Bill No. 6516 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 6516 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6516.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6516 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wojahn and Wood - 40. Voting nay: Senators Fairley, Franklin, Kline, Kohl, Prentice, Sheldon, B., Spanel and Thibaudeau - 8. Excused: Senator Zarelli - 1. SUBSTITUTE SENATE BILL NO. 6516, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6122, by Senators Morton and Rasmussen (by request of Department of Agriculture)

Inspecting horticultural products.

The bill was read the second time.

## MOTION

On motion of Senator Morton, the rules were suspended, Senate Bill No. 6122 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6122.



## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6122 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SENATE BILL NO. 6122, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6183, by Senators Johnson and Roach

Regulating shareholder rights under the Washington business corporation act.

The bill was read the second time.

## MOTION

On motion of Senator Johnson, the rules were suspended, Senate Bill No. 6183 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6183.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6183 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SENATE BILL NO. 6183, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5873, by Senators Benton and Winsley

Determining liability under the model toxics control act.

## MOTIONS

On motion of Senator Winsley, Substitute Senate Bill No. 5873 was substituted for Senate Bill No. 5873 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Winsley, the rules were suspended, Substitute Senate Bill No. 5873 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5873.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5873 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SUBSTITUTE SENATE BILL NO. 5873, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6501, by Senators Horn, Haugen, Benton, Goings, Wood, Winsley and Oke

Requiring performance budgeting for transportation agencies.

#### MOTIONS

On motion of Senator Horn, Substitute Senate Bill No. 6501 was substituted for Senate Bill No. 6501 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Horn, the rules were suspended, Substitute Senate Bill No. 6501 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6501.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6501 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SUBSTITUTE SENATE BILL NO. 6501, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6285, by Senators Goings, McCaslin, Haugen, Winsley, Patterson and Rasmussen

Revising provisions relating to imposition of benefit charges by fire protection districts.

#### MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 6285 was substituted for Senate Bill No. 6285 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Goings, the rules were suspended, Substitute Senate Bill No. 6285 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6285.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6285 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SUBSTITUTE SENATE BILL NO. 6285, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6130, by Senators Swecker, Fraser, Patterson and Winsley (by request of Department of Ecology)

Regulating underground storage tanks.

#### MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 6130 was substituted for Senate Bill No. 6130 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 6130 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6130.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6130 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Absent: Senator Sellar - 1. Excused: Senator Zarelli - 1. SUBSTITUTE SENATE BILL NO. 6130, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### POINT OF INQUIRY

Senator McCaslin: "Other than the first bill, are we going to go straight down the calendar, Senator Johnson?"

Senator Johnson: "Well, that's the plan."

Senator McCaslin: "That's the plan. Then, those of us who have to speak will know when we are coming up?"

Senator Johnson: "Yes."

Senator McCaslin: "Thank you."

#### MOTION

On motion of Senator Hale, Senators Anderson and Sellar were excused.

#### SECOND READING

SENATE BILL NO. 5631, by Senators Wood, Jacobsen and Oke

Exempting education loan guarantee services from business and occupation tax.

The bill was read the second time.

## MOTION

On motion of Senator Wood, the rules were suspended, Senate Bill No. 5631 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5631.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5631 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 46. Excused: Senators Anderson, Sellar and Zarelli - 3. SENATE BILL NO. 5631, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTIONS

On motion of Senator Hale, Senator Schow was excused.

On motion of Senator Goings, Senator Hargrove was excused.

On motion of Senator Kline, Senators Loveland, Tim Sheldon and Snyder were excused.

## SECOND READING

SENATE BILL NO. 5660, by Senators Kohl, Long, Hargrove and Winsley

Requiring notice of enforcement actions taken against child day-care centers and family day-care providers.

## MOTIONS

On motion of Senator Long, Second Substitute Senate Bill No. 5660 was substituted for Senate Bill No. 5660 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Long, the rules were suspended, Second Substitute Senate Bill No. 5660 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 5660.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5660 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 42. Excused: Senators Anderson, Hargrove, Loveland, Schow, Sheldon, T., Snyder and Zarelli - 7. SECOND SUBSTITUTE SENATE BILL NO. 5660, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6076, by Senators West, Wood, Bauer, Anderson, Kohl, Long, Spanel, Swecker, Finkbeiner, Winsley, Hale, Horn and Hochstatter

Changing the adjustment of state appropriations for needy student financial aid.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6076 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6076.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6076 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 1; Absent, 0; Excused, 6.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 42.

Voting nay: Senator Prince - 1.

Excused: Senators Anderson, Hargrove, Loveland, Sheldon, T., Snyder and Zarelli - 6. SENATE BILL NO. 6076, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6113, by Senators Wood, West, Thibaudeau, Kohl, Long and Rasmussen

Exempting from taxation property of nonprofit organizations providing medical research or training of medical personnel.

The bill was read the second time.

#### MOTION

On motion of Senator Wood, the rules were suspended, Senate Bill No. 6113 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6113.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6113 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn and Wood - 42. Absent: Senator Swecker - 1. Excused: Senators Anderson, Hargrove, Loveland, Sheldon, T., Snyder and Zarelli - 6. SENATE BILL NO. 6113, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 11:17 a.m., on motion of Senator Johnson the Senate recessed until 1:30 p.m.

The Senate was called to order at 1:30 p.m. by President Owen.

#### SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

### MOTION

On motion of Senator Prince, Gubernatorial Appointment No. 9168, Captain Ioannis A. Karakoulakis, as a member of the Board of Pilotage Commissioners, was confirmed.

### MOTION

On motion of Senator Franklin, Senators Jacobsen and Betti Sheldon were excused.

### APPOINTMENT OF CAPTAIN IOANNIS A. KARAKOULAKIS

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 36; Nays, 0; Absent, 7; Excused, 6.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Spanel, Stevens, Swecker, Thibaudeau, Wojahn and Wood - 36. Absent: Senators Finkbeiner, Heavey, McAuliffe, Schow, Strannigan, West and Winsley - 7. Excused: Senators Anderson, Jacobsen, Sheldon, B., Sheldon, T., Snyder and Zarelli - 6.

### MOTION

On motion of Senator Oke, Gubernatorial Appointment No. 9152, Mickey Fearn, as a member of the Parks and Recreation Commission, was confirmed.

### MOTION

On motion of Senator Hale, Senators Strannigan and Winsley were excused.

### APPOINTMENT OF MICKEY FEARN

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Swecker, Thibaudeau, West, Wojahn and Wood - 45.

Excused: Senators Snyder, Strannigan, Winsley and Zarelli - 4.

### SECOND READING

SENATE BILL NO. 5468, by Senators Rasmussen, Morton, Fraser, Newhouse, Oke and Jacobsen

Promoting beekeeping operations.

### MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 5468 was substituted for Senate Bill No. 5468 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 5468 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5468.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5468 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Wojahn and Wood - 46.

Excused: Senators Snyder, Winsley and Zarelli - 3.

SUBSTITUTE SENATE BILL NO. 5468 having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6203, by Senators Morton, Fraser, Snyder and Swecker

Authorizing exemptions from solid waste designations.

## MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 6203 was substituted for Senate Bill No. 6203 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Morton, the following amendment was adopted:

On page 6, line 1, after "section" delete "3" and insert "2"

## MOTION

On motion of Senator Morton, the rules were suspended, Engrossed Substitute Senate Bill No. 6203 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6203.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6203 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley and Wood - 44.

Voting nay: Senators Kline, Rasmussen and Wojahn - 3.

Excused: Senators Snyder and Zarelli - 2.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6203, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6341, by Senator Snyder

Allowing certain charter boats to be operated by persons without an alternate operator's license in specific circumstances.

## MOTIONS

On motion of Senator Oke, Substitute Senate Bill No. 6341 was substituted for Senate Bill No. 6341 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Substitute Senate Bill No. 6341 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6341.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6341 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Excused: Senators Snyder and Zarelli - 2. SUBSTITUTE SENATE BILL NO. 6341, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6217, by Senators Franklin, Long, Hargrove, Goings, Rasmussen, B. Sheldon, Fraser, Schow and Winsley

Changing provisions relating to guardians ad litem.

#### MOTIONS

On motion of Senator Long, Substitute Senate Bill No. 6217 was substituted for Senate Bill No. 6217 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Long, the rules were suspended, Substitute Senate Bill No. 6217 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6217.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6217 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Excused: Senators Snyder and Zarelli - 2. SUBSTITUTE SENATE BILL NO. 6217, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6640, by Senators Morton, Roach, Swecker, McCaslin, Fairley, Goings, Anderson, Oke and Benton

Requiring sex offenders to notify the county sheriff and the state patrol before changing his or her name.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, Senate Bill No. 6640 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.



Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6640.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6640 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Excused: Senators Snyder and Zarelli - 2. SENATE BILL NO. 6640, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6635, by Senators Sellar, Bauer, Long and Fraser (by request of Department of Retirement Systems)

Administering the deferred compensation plan.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6635 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6635.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6635 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 46. Absent: Senator Hargrove - 1. Excused: Senators Snyder and Zarelli - 2. SENATE BILL NO. 6635, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6492, by Senators Newhouse, Deccio, Johnson, Loveland and McCaslin (by request of Board for Judicial Administration)

Creating two new superior court positions for Yakima county.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6492 was substituted for Senate Bill No. 6492 and the substitute bill was placed on second reading and read the second time.

Senator Swecker moved that the following amendment by Senators Swecker, Deccio, Newhouse and Bauer be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 2.08.062 and 1996 c 208 s 1 are each amended to read as follows:

There shall be in the counties of Chelan and Douglas jointly, five judges of the superior court; in the county of Clark ~~((seven))~~ eight judges of the superior court; in the county of Grays Harbor three judges of the superior court; in the county of Kitsap seven judges of the superior court; in the county of Kittitas one judge of the superior court; in the county of Lewis ~~((two))~~ three judges of the superior court.

**Sec. 2.** RCW 2.08.063 and 1992 c 189 s 3 are each amended to read as follows:

There shall be in the county of Lincoln one judge of the superior court; in the county of Skagit, three judges of the superior court; in the county of Walla Walla, two judges of the superior court; in the county of Whitman, one judge of the superior court; in the county of Yakima ~~((six))~~ eight judges of the superior court; in the county of Adams, one judge of the superior court; in the county of Whatcom, three judges of the superior court.

**NEW SECTION. Sec. 3.** (1) The additional judicial position created by section 1 of this act for the county of Clark takes effect on the effective date of this act, but the actual starting date for this position may be established by the Clark county commissioners upon the request of the superior court.

(2) The additional judicial position created by section 1 of this act for the county of Lewis takes effect on the effective date of this act, but the actual starting date for this position may be established by the Lewis county commissioners upon the request of the superior court.

(3) The additional judicial positions created by section 2 of this act for the county of Yakima take effect on the effective date of this act, but the actual starting dates for these positions may be established by the Yakima county commissioners upon the request of the superior court.

**NEW SECTION. Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### MOTION

Senator Sellar moved that the following amendments by Senator Sellar and Deccio to the striking amendment by Senators Swecker, Deccio, Newhouse and Bauer be considered simultaneously and be adopted:

On page 1, beginning on line 9 of the amendment, after "be in the" strike "counties of Chelan and Douglas jointly, five judges" and insert "~~((counties))~~ county of Chelan ~~((and))~~ four judges of the superior court; in the county of Douglas ~~((jointly, five judges))~~ one judge"

On page 1, after line 24 of the amendment, insert the following:

"**Sec. 3.** 1996 c 208 s 2 (uncodified) is amended to read as follows:

(1) The three judicial positions serving Chelan and Douglas counties jointly are allocated to Chelan county, effective upon appointment of a judge to the Douglas county superior court. The additional judicial positions created by section 1 ~~((of this act are)),~~ chapter 208, Laws of 1996, are allocated one to Chelan county and one to Douglas county and each position becomes effective only if ~~((Chelan and Douglas counties jointly))~~ each county, through ~~((their))~~ its duly constituted legislative ~~((authorities))~~ authority, documents ~~((their))~~ its approval of the additional position(s) and ~~((their))~~ its agreement that ~~((they))~~ it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position(s) as provided by state law or the state Constitution.

(2) The judicial positions created by section 1 ~~((of this act)),~~ chapter 208, Laws of 1996, shall be effective January 1, 1997."

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Sellar and Deccio on page 1, beginning on line 9, and page 1, after line 24, to the striking amendment by Senators Swecker, Deccio, Newhouse and Bauer to Substitute Senate Bill No. 6492.

The motion by Senator Sellar carried and the amendments to the striking amendment were adopted.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Swecker, Deccio, Newhouse and Bauer, as amended, to Substitute Senate Bill No. 6492.

Debate ensued.

The motion by Senator Swecker carried and the striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On page 1, line 1 of the title, after "judges;" strike the remainder of the title and insert "amending RCW 2.08.062 and 2.08.063; creating a new section; and declaring an emergency."

On page 2, line 14 of the title amendment, after "2.08.063;" insert "amending 1996 c 208 s 2 (uncodified);"

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 6492 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6492.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6492 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Excused: Senators Snyder and Zarelli - 2. ENGROSSED SUBSTITUTE SENATE BILL NO. 6492, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6191, by Senators Johnson, Roach and Fairley

Changing statutes affecting deeds of trust.

#### MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 6191 was substituted for Senate Bill No. 6191 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, the following amendments were adopted:

On page 1, line 19, strike "61.24.010(3)" and insert "61.24.010(2)"

On page 16, line 16, strike "61.24.030(6)" and insert "61.24.030(7)"

#### MOTION

On motion of Senator Johnson, the rules were suspended, Engrossed Substitute Senate Bill No. 6191 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Franklin, Senators Loveland, McAuliffe and Spanel were excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6191.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6191 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 44. Excused: Senators Loveland, McAuliffe, Snyder, Spanel and Zarelli - 5. ENGROSSED SUBSTITUTE SENATE BILL NO. 6191, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senators McDonald and West were excused.

#### SECOND READING

SENATE BILL NO. 6114, by Senators Jacobsen, Oke, Spanel, Kline, Snyder and Haugen

Preventing the spread of zebra mussel and European green crab.

#### MOTIONS

On motion of Senator Oke, Substitute Senate Bill No. 6114 was substituted for Senate Bill No. 6114 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Oke, the rules were suspended, Substitute Senate Bill No. 6114 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6114.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6114 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 43. Excused: Senators Loveland, McDonald, Snyder, Spanel, West and Zarelli - 6. SUBSTITUTE SENATE BILL NO. 6114, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6489, by Senators McCaslin, Long, Hargrove, Fairley, Goings, Hale, Kline, Thibaudeau, Prince, Patterson, Winsley, Kohl, Oke and Haugen

Specifying that there will be no primary for a district court position when there are no more than two candidates filed for the position.

#### MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 6489 was substituted for Senate Bill No. 6489 and the substitute bill was placed on second reading and read the second time.

On motion of Senator McCaslin, the rules were suspended, Substitute Senate Bill No. 6489 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6489.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6489 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan,

Swecker, Thibaudeau, Winsley, Wojahn and Wood - 43. Excused: Senators Loveland, McDonald, Snyder, Spanel, West and Zarelli - 6. SUBSTITUTE SENATE BILL NO. 6489, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of Substitute Senate Bill No. 5305 and the pending Committee on Health and Long-Term Care amendment on page 30, after line 27, deferred earlier today.

The President declared the question before the Senate to be the adoption of the Committee on Health and Long-Term Care amendment on page 30, after line 27, to Substitute Senate Bill No. 5305.

The motion by Senator Deccio carried and the committee amendment was adopted.

#### MOTION

Senator Benton moved that the following amendment by Senators Benton, Hargrove, Fairley and Deccio be adopted:

On page 12, after line 32, strike all of section 4 and insert the following:

"Sec. 4. RCW 9.94A.120 and 1997 c 340 s 2, 1997 c 338 s 4, 1997 c 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and amended to read as follows:

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

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

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

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

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

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

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

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

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

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

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

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

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

(i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes, and the violation does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

(i) Devote time to a specific employment or training;

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

(iii) Report as directed to a community corrections officer;

(iv) Pay all court-ordered legal financial obligations;

(v) Perform community service work;

(vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

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

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

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

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

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

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

(D) Anticipated length of treatment; and

(E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

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

(A) The court shall place the defendant on community custody for the length of the suspended sentence or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section;

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

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

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

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

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

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

(C) Sex offenders sentenced under this special sex offender sentencing alternative are not eligible to accrue any earned early release time while serving a suspended sentence.

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

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

(A) Modify conditions of community custody, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community custody.

(v) If a violation of conditions occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.205(2)(a) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in (a)(vi) of this subsection.

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

(vii) Except as provided in (a)(viii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(viii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

(ix) For purposes of this subsection (8), "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(x) If the defendant was less than eighteen years of age when the charge was filed, the state shall pay for the cost of initial evaluation and treatment.

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

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

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

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

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

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

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, a serious violent offense, vehicular homicide, or vehicular assault, committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

- (i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;
- (ii) The offender shall work at department of corrections-approved education, employment, and/or community service;
- (iii) The offender shall not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- (iv) The offender shall pay supervision fees as determined by the department of corrections;
- (v) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement; and
- (vi) The offender shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the department.

(c) As a part of any sentence imposed under (a) or (b) of this subsection, the court may also order any of the following special conditions:

- (i) The offender shall remain within, or outside of, a specified geographical boundary;
- (ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;
- (iii) The offender shall participate in crime-related treatment or counseling services;



(iv) The offender shall not consume alcohol;

(v) The offender shall comply with any crime-related prohibitions; or

(vi) For an offender convicted of a felony sex offense against a minor victim after June 6, 1996, the offender shall comply with any terms and conditions of community placement imposed by the department of corrections relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

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

(10)(a) When a court sentences a person to the custody of the department of corrections for an offense categorized as a sex offense committed on or after June 6, 1996, the court shall, in addition to other terms of the sentence, sentence the offender to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community custody shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2).

(b) Unless a condition is waived by the court, the terms of community custody shall be the same as those provided for in subsection (9)(b) of this section and may include those provided for in subsection (9)(c) of this section. As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section.

(c) At any time prior to the completion of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.195 and may be punishable as contempt of court as provided for in RCW 7.21.040.

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

(12) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department for ten years following the entry of the judgment and sentence or ten years following the offender's release from total confinement. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered unless the superior court extends the criminal judgment an additional ten years. If the legal financial obligations including crime victims' assessments are not paid during the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years as provided in RCW 9.94A.140, 9.94A.142, and 9.94A.145. If jurisdiction under the criminal judgment is extended, the department is not responsible for supervision of the offender during the subsequent period. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

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

(14) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the department of corrections and shall follow explicitly the instructions and conditions of the department of corrections. The department may require an offender to perform affirmative acts it deems appropriate to monitor compliance with the conditions of the sentence imposed.

(a) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(b) For offenders sentenced to terms involving community custody for crimes committed on or after June 6, 1996, the department may include, in addition to the instructions in (a) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals. The conditions authorized under this subsection (14)(b) may be imposed by the department prior to or during an offender's community custody term. If a violation of conditions

imposed by the court or the department pursuant to subsection (10) of this section occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.207 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.205. At any time prior to the completion of a sex offender's term of community custody, the department may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to subsection (10) of this section be continued beyond the expiration of the offender's term of community custody as authorized in subsection (10)(c) of this section.

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(15) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

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

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

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

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

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

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

(22)(a) If the offense is not one for which the conviction results in the offender's being a persistent offender, the court shall, at the time of sentencing, impose as a condition of release such treatment, including the use of medroxyprogesterone acetate together with any other mental health or chemical dependency treatment, as the court finds appropriate to reduce the likelihood of the offender's commission of a subsequent sex offense upon release, for any of the following offenses:

(i) Rape in the first degree;

(ii) Rape in the second degree;

(iii) Rape of a child in the first degree; and

(iv) Child molestation in the first degree, if it is the person's second conviction for child molestation in the first degree.

(b)(i) At least thirty days before the department sets a release date for an offender who has had a treatment regimen imposed as a condition of release under (a) of this subsection, the offender must be brought back before the court for a hearing, including an examination by medical experts, for the purpose of determining whether to impose the regimen. At the hearing, the offender has the right to all due process rights including counsel, cross-examination, testimony, experts, and the provision of counsel if the offender is indigent, but not the presence of a jury.

(ii) At the hearing under (b)(i) of this subsection, the court shall determine, by a preponderance of the evidence, whether a proposed treatment regimen, including treatment with medroxyprogesterone acetate, makes it likely that the regimen will reduce the chance that the offender will commit a sex offense upon release. In making its determination, the court shall consider:

(A) Whether the offender has a mental abnormality as defined in RCW 71.09.020;

(B) Whether the offender is likely to engage in predatory acts, as defined in RCW 71.09.020, if the regimen is not required; and

(C) Whether the regimen is likely to decrease the offender's likelihood to engage in predatory acts, as defined in RCW 71.09.020.

(c) If the court decides that the offender and the treatment regimen meet the criteria in (b) of this subsection, the court shall impose the requirement of the treatment regimen as a condition of release and the treatment must begin before the release of the offender. The court may set the treatment regimen period for as long as the court finds it necessary. If the court decides that the criteria are not met, then the court shall suspend the imposition of the treatment regimen, but may reimpose it if, following a hearing, the court finds the offender meets the criteria in (b)(ii) of this subsection. The offender, to the extent private resources are available, shall bear the cost of the treatment regimen.

(d) Imposition and successful use of the treatment regimen shall in no way otherwise reduce the time in confinement an offender would otherwise serve.

(e) The court may require the offender to return at any time in order for the court to monitor the progress and effect of the treatment regimen.

(f) An offender may appeal any determination made under this subsection, but a determination under this subsection is of record and the offender shall continue any treatment regimen imposed under this subsection pending a decision on the appeal.

(g) An offender may at any time seek early termination of a treatment regimen imposed under this subsection, but an early termination may not be granted unless, by clear and convincing evidence, the offender proves that the offender no longer has a mental abnormality, as defined in RCW 71.09.020, and that a continued treatment regimen is not necessary to prevent the offender's commission of a predatory act, as defined in RCW 71.09.020.

(h) The offender may at any time agree to surgical alternatives to medroxyprogesterone acetate treatment if the offender voluntarily, knowingly, and intelligently petitions the court in writing.

(i) An offender who unlawfully stops treatment imposed under this subsection is guilty of a class B felony.

**Sec. 5.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XV Aggravated Murder 1 (RCW 10.95.020)
- XIV Murder 1 (RCW 9A.32.030)
  - Homicide by abuse (RCW 9A.32.055)
  - Malicious explosion 1 (RCW 70.74.280(1))
- XIII Murder 2 (RCW 9A.32.050)
  - Malicious explosion 2 (RCW 70.74.280(2))
  - Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
  - Assault of a Child 1 (RCW 9A.36.120)
  - Rape 1 (RCW 9A.44.040)
  - Rape of a Child 1 (RCW 9A.44.073)
  - Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
- XI Rape 2 (RCW 9A.44.050)
  - Rape of a Child 2 (RCW 9A.44.076)
  - Manslaughter 1 (RCW 9A.32.060)
- X Kidnapping 1 (RCW 9A.40.020)
  - Child Molestation 1 (RCW 9A.44.083)
  - Malicious explosion 3 (RCW 70.74.280(3))
  - Over 18 and deliver heroin ((~~or~~), a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)
  - Leading Organized Crime (RCW 9A.82.060(1)(a))
  - Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
- IX Assault of a Child 2 (RCW 9A.36.130)
  - Robbery 1 (RCW 9A.56.200)
  - Explosive devices prohibited (RCW 70.74.180)
  - Malicious placement of an explosive 2 (RCW 70.74.270(2))
  - Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic except for flunitrazepam from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
  - Controlled Substance Homicide (RCW 69.50.415)
  - Sexual Exploitation (RCW 9.68A.040)
  - Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
  - Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
  - Promoting Prostitution 1 (RCW 9A.88.070)

- Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
- Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
- Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- Manslaughter 2 (RCW 9A.32.070)
- VII Burglary 1 (RCW 9A.52.020)
  - Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
  - Introducing Contraband 1 (RCW 9A.76.140)
  - Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
  - Child Molestation 2 (RCW 9A.44.086)
  - Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
  - Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
  - Involving a minor in drug dealing (RCW 69.50.401(f))
  - Drive-by Shooting (RCW 9A.36.045)
  - Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
  - Malicious placement of an explosive 3 (RCW 70.74.270(3))
- VI Bribery (RCW 9A.68.010)
  - Rape of a Child 3 (RCW 9A.44.079)
  - Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
  - Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
  - Incest 1 (RCW 9A.64.020(1))
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))
  - Intimidating a Judge (RCW 9A.72.160)
  - Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
  - Theft of a Firearm (RCW 9A.56.300)
- V Persistent prison misbehavior (RCW 9.94.070)
  - Criminal Mistreatment 1 (RCW 9A.42.020)
  - Abandonment of dependent person 1 (RCW 9A.42.060)
  - Rape 3 (RCW 9A.44.060)
  - Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
  - Child Molestation 3 (RCW 9A.44.089)
  - Kidnapping 2 (RCW 9A.40.030)
  - Extortion 1 (RCW 9A.56.120)
  - Incest 2 (RCW 9A.64.020(2))
  - Perjury 1 (RCW 9A.72.020)
  - Extortionate Extension of Credit (RCW 9A.82.020)
  - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
  - Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
  - Rendering Criminal Assistance 1 (RCW 9A.76.070)
  - Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
  - Sexually Violating Human Remains (RCW 9A.44.105)
  - Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
  - Possession of a Stolen Firearm (RCW 9A.56.310)
  - Unlawful termination of sex offender reoffense reduction treatment (RCW 9.94A.120(22))
- IV Residential Burglary (RCW 9A.52.025)
  - Theft of Livestock 1 (RCW 9A.56.080)
  - Robbery 2 (RCW 9A.56.210)
  - Assault 2 (RCW 9A.36.021)

Escape 1 (RCW 9A.76.110)  
 Arson 2 (RCW 9A.48.030)  
 Commercial Bribery (RCW 9A.68.060)  
 Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)  
 Malicious Harassment (RCW 9A.36.080)  
 Threats to Bomb (RCW 9.61.160)  
 Willful Failure to Return from Furlough (RCW 72.66.060)  
 Hit and Run--Injury Accident (RCW 46.52.020(4))  
 Hit and Run with Vessel--Injury Accident (RCW 88.12.155(3))  
 Vehicular Assault (RCW 46.61.522)  
 Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or  
     nonnarcotics from Schedule I-V (except marijuana ((~~or~~), methamphetamines, or  
     flunitrazepam) (RCW 69.50.401 (a)(1) (iii) through (v))  
 Influencing Outcome of Sporting Event (RCW 9A.82.070)  
 Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))  
 Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))  
 III Criminal Gang Intimidation (RCW 9A.46.120)  
     Criminal Mistreatment 2 (RCW 9A.42.030)  
     Abandonment of dependent person 2 (RCW 9A.42.070)  
     Extortion 2 (RCW 9A.56.130)  
     Unlawful Imprisonment (RCW 9A.40.040)  
     Assault 3 (RCW 9A.36.031)  
     Assault of a Child 3 (RCW 9A.36.140)  
     Custodial Assault (RCW 9A.36.100)  
     Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))  
     Harassment (RCW 9A.46.020)  
     Promoting Prostitution 2 (RCW 9A.88.080)  
     Willful Failure to Return from Work Release (RCW 72.65.070)  
     Burglary 2 (RCW 9A.52.030)  
     Introducing Contraband 2 (RCW 9A.76.150)  
     Communication with a Minor for Immoral Purposes (RCW 9.68A.090)  
     Patronizing a Juvenile Prostitute (RCW 9.68A.100)  
     Escape 2 (RCW 9A.76.120)  
     Perjury 2 (RCW 9A.72.030)  
     Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))  
     Intimidating a Public Servant (RCW 9A.76.180)  
     Tampering with a Witness (RCW 9A.72.120)  
     Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))  
     Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))  
     Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW  
         69.52.030(1))  
         Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))  
     Theft of livestock 2 (RCW 9A.56.080)  
     Securities Act violation (RCW 21.20.400)  
 II Unlawful Practice of Law (RCW 2.48.180)  
     Malicious Mischief 1 (RCW 9A.48.070)  
     Possession of Stolen Property I (RCW 9A.56.150)  
     Theft 1 (RCW 9A.56.030)  
     Class B Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))  
     Trafficking in Insurance Claims (RCW 48.30A.015)  
     Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))  
     Health Care False Claims (RCW 48.80.030)  
     Possession of controlled substance that is either heroin or narcotics from Schedule I or II or  
         flunitrazepam from Schedule IV (RCW 69.50.401(d))

Possession of phencyclidine (PCP) (RCW 69.50.401(d))  
Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))  
Computer Trespass 1 (RCW 9A.52.110)  
Escape from Community Custody (RCW 72.09.310)  
I Theft 2 (RCW 9A.56.040)  
Class C Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))  
Possession of Stolen Property 2 (RCW 9A.56.160)  
Forgery (RCW 9A.60.020)  
Taking Motor Vehicle Without Permission (RCW 9A.56.070)  
Vehicle Prowl 1 (RCW 9A.52.095)  
Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)  
Malicious Mischief 2 (RCW 9A.48.080)  
Reckless Burning 1 (RCW 9A.48.040)  
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
False Verification for Welfare (RCW 74.08.055)  
Forged Prescription (RCW 69.41.020)  
Forged Prescription for a Controlled Substance (RCW 69.50.403)  
Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from  
Schedule I-V (except phencyclidine or flunitrazepam) (RCW 69.50.401(d))"

Renumber the remaining sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton, Hargrove, Fairley and Deccio on page 12, after line 32, to Substitute Senate Bill No. 5305.

The motion by Senator Benton carried and the amendment was adopted.

#### MOTIONS

On motion of Senator Deccio, the following title amendments were considered simultaneously and were adopted:

On page 1, line 2 of the title, after "69.50.406," strike "and" and after "13.40.0357" insert ", 9A.44.050, and 9A.44.100"

On page 1, line 3 of the title, after "9.94A.320;" insert "adding a new section to chapter 9A.44 RCW;"

On page 29, line 22 of the title amendment, after "9.94A.030," insert "9.94A.120,"

On motion of Senator Deccio, the rules were suspended, Engrossed Substitute Senate Bill No. 5305 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Franklin, Senator Prentice was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5305.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5305 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 42. Excused: Senators Loveland, McDonald, Prentice, Snyder, Spanel, West and Zarelli - 7. ENGROSSED SUBSTITUTE SENATE BILL NO. 5305, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6429, by Senators Long, Kline, Wojahn, Fairley, Winsley and Kohl (by request of Washington Council for Prevention of Child Abuse and Neglect)

Allowing the children's trust fund to retain its proportionate share of earnings.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, Senate Bill No. 6429 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6429.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6429 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 42. Excused: Senators Loveland, McDonald, Prentice, Snyder, Spanel, West and Zarelli - 7. SENATE BILL NO. 6429, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6159, by Senators Morton and Rasmussen

Repealing the authority for the Washington land bank.

The bill was read the second time.

#### MOTION

On motion of Senator Morton, the rules were suspended, Senate Bill No. 6159 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6159.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6159 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 42. Excused: Senators Loveland, McDonald, Prentice, Snyder, Spanel, West and Zarelli - 7. SENATE BILL NO. 6159, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6157, by Senator Swecker

Limiting to one hundred eighty days the length of imprisonment for contempt of court.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, Senate Bill No. 6157 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6157.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6157 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 42. Excused: Senators Loveland, McDonald, Prentice, Snyder, Spanel, West and Zarelli - 7. SENATE BILL NO. 6157, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6175, by Senators McCaslin, Strannigan, Haugen, Sellar, Brown and Loveland (by request of State Treasurer Murphy)

Authorizing financing contracts.

#### MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 6175 was substituted for Senate Bill No. 6175 and the substitute bill was placed on second reading and read the second time.

On motion of Senator McCaslin, the rules were suspended, Substitute Senate Bill No. 6175 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6175.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6175 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 42. Excused: Senators Loveland, McDonald, Prentice, Snyder, Spanel, West and Zarelli - 7. SUBSTITUTE SENATE BILL NO. 6175, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6229, by Senators Haugen, Morton, Goings, Winsley, Prince, Rasmussen, Prentice and Wood

Enhancing compliance with aircraft registration laws.

#### MOTIONS



On motion of Senator Haugen, Substitute Senate Bill No. 6229 was substituted for Senate Bill No. 6229 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6229 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6229.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6229 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 5; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Swecker, Thibaudeau, Winsley, Wojahn and Wood - 37. Voting nay: Senators Finkbeiner, Hochstatter, Roach, Stevens and Strannigan - 5. Excused: Senators Loveland, McDonald, Prentice, Snyder, Spanel, West and Zarelli - 7. SUBSTITUTE SENATE BILL NO. 6229, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6298, by Senators B. Sheldon, Winsley, Rasmussen, Anderson, Snyder and Oke

Assisting the unemployed to become self-employed.

#### MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6298 was substituted for Senate Bill No. 6298 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the rules were suspended, Substitute Senate Bill No. 6298 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6298.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6298 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 41. Absent: Senator Hargrove - 1. Excused: Senators Loveland, McDonald, Prentice, Snyder, Spanel, West and Zarelli - 7. SUBSTITUTE SENATE BILL NO. 6298, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6541, by Senators Sellar, Snyder, Schow, Hale, Haugen and Kohl (by request of Department of Community, Trade, and Economic Development)

Funding tourism development.

The bill was read the second time.

## MOTION

Senator Fraser moved that the following amendment by Senators Fraser and Heavey be adopted:

Beginning on page 2, line 12, strike everything through "2008." on page 3, line 26

Renumber the remaining sections consecutively and correct internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser and Heavey beginning on page 2, line 12, to Senate Bill No. 6541.

The motion by Senator Fraser failed and the amendment was not adopted.

## MOTION

On motion of Senator Schow, the rules were suspended, Senate Bill No. 6541 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6541.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6541 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 43. Excused: Senators Loveland, Prentice, Snyder, Spanel, West and Zarelli - 6. SENATE BILL NO. 6541, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the seventh order of business.

## THIRD READING

SUBSTITUTE SENATE JOINT MEMORIAL NO. 8010, by Senate Committee on Transportation (originally sponsored by Senators Strannigan and Oke)

Encouraging the federal government to enact laws requiring airbag deactivation switches be installed in new vehicles.

## MOTIONS

On motion of Senator Strannigan, the rules were suspended and Substitute Senate Joint Memorial No. 8010 was returned to second reading and read the second time.

On motion of Senator Strannigan, the following amendment was adopted:

Beginning on page 1, line 9, strike the remainder of the memorial and insert the following:

"WHEREAS, The Secretary of Transportation has prescribed motor vehicle safety standards under the authority of the National Traffic and Motor Vehicle Safety Act of 1966; and

WHEREAS, The current standards require that vehicles be equipped with an automatic occupant crash protection system consisting of lap and shoulder seat belts and an inflatable restraint device otherwise known as an "airbag" in the two front seating positions; and

WHEREAS, Despite recent actions to authorize installation of redesigned airbag devices in new vehicles, many serious and dangerous safety problems remain unaddressed; and

WHEREAS, Millions of vehicles on our roads, and some in our driveways, have older model airbags; and

WHEREAS, The newly announced process for installation of airbag deactivation switches is overly limiting, cumbersome, and requires the permission of federal authorities; and

WHEREAS, Airbags do save lives, but due to these unaddressed problems, airbags continue to be responsible for the shocking and gruesome deaths of any children and adults; and

WHEREAS, This situation has effectively rendered the front passenger side seating area in many vehicles useless in a large number of cases; and

WHEREAS, It is possible to improve upon this situation; and

WHEREAS, Federal law expressly preempts states from altering present standards or enacting other safety standards in this field;

NOW, THEREFORE, Your Memorialists respectfully pray that the United States Congress and the United States Department of Transportation adopt new laws, regulations, and standards to protect the safety of occupants of passenger vehicles by encouraging the installation of airbag systems where the driver, free from government supervision, has the ability to deactivate the driver's side and passenger side airbag in any type of vehicle.

BE IT RESOLVED, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the Secretary of the United States Department of Transportation, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

#### MOTION

On motion of Senator Strannigan, the rules were suspended, Engrossed Substitute Senate Joint Memorial No. 8010 was advanced to third reading, the second reading considered the third and the joint memorial was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Joint Memorial No. 8010.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Joint Memorial No. 8010 and the joint memorial passed the Senate by the following vote: Yeas, 40; Nays, 4; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley and Wood - 40. Voting nay: Senators Fairley, Haugen, Rasmussen and Wojahn - 4. Excused: Senators Loveland, Prentice, Snyder, Spanel and Zarelli - 5. ENGROSSED SUBSTITUTE SENATE JOINT MEMORIAL NO. 8010, having received the constitutional majority, was declared passed.

There being no objection, the President returned the Senate to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6118, by Senators Long and Spanel

Clarifying "gifts" for purposes of ethics in public service.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6118 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6118.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6118 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 45. Excused: Senators Prentice, Snyder, Spanel

and Zarelli - 4. SENATE BILL NO. 6118, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6129, by Senators Swecker, Fraser and Winsley (by request of Department of Ecology)

Allowing continued use of pollution control tax credits after facilities are modified to maintain effective pollution control.

#### MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 6129 was substituted for Senate Bill No. 6129 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 6129 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6129.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6129 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 45. Absent: Senator Kline - 1. Excused: Senators Prentice, Snyder and Zarelli - 3. SUBSTITUTE SENATE BILL NO. 6129, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6131, by Senators Oke, Snyder and Swecker (by request of Department of Health)

Regulating sanitary control of shellfish.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, Senate Bill No. 6131 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6131.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6131 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 3; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 43. Absent: Senators Johnson, Kline and Newhouse - 3. Excused: Senators Prentice, Snyder and Zarelli - 3. SENATE BILL NO. 6131, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senators Johnson and Newhouse were excused.

#### SECOND READING

SENATE BILL NO. 6134, by Senators Oke, Rasmussen, Benton and Fraser

Freeing the base for transfers of marine and nonhighway fuel taxes.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, Senate Bill No. 6134 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6134.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6134 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 44. Excused: Senators Johnson, Newhouse, Prentice, Snyder and Zarelli - 5. SENATE BILL NO. 6134, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6136, by Senators Oke and Long

Including drug offenses in background checks.

#### MOTIONS

On motion of Senator Long, Substitute Senate Bill No. 6136 was substituted for Senate Bill No. 6136 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Long, the rules were suspended, Substitute Senate Bill No. 6136 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6136.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6136 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 46. Excused: Senators Prentice, Snyder and Zarelli - 3. SUBSTITUTE SENATE BILL NO. 6136, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6143, by Senators Schow, McAuliffe, Horn and Fraser (by request of Department of Labor and Industries)

Revising the regulation of elevators, escalators, and other conveyances.

### MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6143 was substituted for Senate Bill No. 6143 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the rules were suspended, Substitute Senate Bill No. 6143 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6143.

### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6143 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 45. Absent: Senator Finkbeiner - 1. Excused: Senators Prentice, Snyder and Zarelli - 3. SUBSTITUTE SENATE BILL NO. 6143, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6144, by Senators Schow, Heavey and Horn (by request of Department of Labor and Industries)

Recovering industrial insurance benefit payments.

The bill was read the second time.

### MOTION

On motion of Senator Schow, the rules were suspended, Senate Bill No. 6144 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6144.

### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6144 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn and Wood - 45. Absent: Senator Thibaudeau - 1. Excused: Senators Prentice, Snyder and Zarelli - 3. SENATE BILL NO. 6144, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### MOTION

On motion of Senator Hale, Senator Schow was excused.

## SECOND READING

SENATE BILL NO. 6145, by Senators Roach, Kline and Strannigan (by request of Department of Labor and Industries)

Revising provisions for crime victims' compensation.

The bill was read the second time.

## MOTION

On motion of Senator Roach, the rules were suspended, Senate Bill No. 6145 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6145.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6145 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn and Wood - 44. Absent: Senator Thibaudeau - 1. Excused: Senators Prentice, Schow, Snyder and Zarelli - 4. SENATE BILL NO. 6145, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

On motion of Senator Franklin, Senator Thibaudeau was excused.

## SECOND READING

SENATE BILL NO. 6153, by Senators Fairley, Thibaudeau, Kohl and Winsley

Revising procedures for bringing actions for the injury or death of a child.

## MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6153 was substituted for Senate Bill No. 6153 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 6153 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6153.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6153 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn and Wood - 44. Excused: Senators Prentice, Schow, Snyder, Thibaudeau

and Zarelli - 5. SUBSTITUTE SENATE BILL NO. 6153, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

SECOND READING

SENATE BILL NO. 6155, by Senators Roach and Fairley

Revising supervision of municipal court probation services.

The bill was read the second time.

MOTION

On motion of Senator Roach, the rules were suspended, Senate Bill No. 6155 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6155.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6155 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn and Wood - 43. Absent: Senator Hargrove - 1. Excused: Senators Prentice, Schow, Snyder, Thibaudeau and Zarelli - 5. SENATE BILL NO. 6155, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MOTION

At 4:49 p.m., on motion of Senator Johnson, the Senate adjourned until 8:30 a.m., Thursday, February 12, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

JOURNAL OF THE SENATE

THIRTY-FIRST DAY, FEBRUARY 11, 1998

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**THIRTY-SECOND DAY**

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MORNING SESSION  
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Senate Chamber, Olympia, Thursday, February 12, 1998

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Anderson, Benton, Brown, Hargrove, Haugen, Heavey, Patterson, Rasmussen, Strannigan, West and Zarelli. On motion of Senator Hale, Senators Benton, Strannigan and Zarelli were excused. On motion of Senator Franklin, Senators Brown, Haugen, Heavey, Patterson and Rasmussen were excused.

The Sergeant at Arms Color Guard consisting of Pages Lia Frederiksen and Shani Ledah, presented the Colors. Reverend Bruce Armstrong, pastor of the Lacey Presbyterian Church, offered the prayer.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

MESSAGES FROM THE HOUSE

February 10, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 1405,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1898,  
HOUSE BILL NO. 2314,  
SUBSTITUTE HOUSE BILL NO. 2333,  
HOUSE BILL NO. 2343,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2344,  
HOUSE BILL NO. 2376,  
SUBSTITUTE HOUSE BILL NO. 2394,  
SUBSTITUTE HOUSE BILL NO. 2413,  
SUBSTITUTE HOUSE BILL NO. 2442,  
SUBSTITUTE HOUSE BILL NO. 2445,  
HOUSE BILL NO. 2472,  
HOUSE BILL NO. 2474,  
SUBSTITUTE HOUSE BILL NO. 2481,  
HOUSE BILL NO. 2503,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2508,  
SUBSTITUTE HOUSE BILL NO. 2511,  
SUBSTITUTE HOUSE BILL NO. 2523,  
SUBSTITUTE HOUSE BILL NO. 2529,  
HOUSE BILL NO. 2534, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 10, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 2356,  
SUBSTITUTE HOUSE BILL NO. 2364,  
SUBSTITUTE HOUSE BILL NO. 2368,  
HOUSE BILL NO. 2383,  
SUBSTITUTE HOUSE BILL NO. 2386,  
SUBSTITUTE HOUSE BILL NO. 2399,  
SUBSTITUTE HOUSE BILL NO. 2411,  
HOUSE BILL NO. 2463,  
HOUSE BILL NO. 2499,  
HOUSE BILL NO. 2500,  
HOUSE BILL NO. 2515,

HOUSE BILL NO. 2516,  
SUBSTITUTE HOUSE BILL NO. 2525,  
HOUSE BILL NO. 2550,  
SUBSTITUTE HOUSE BILL NO. 2560,  
HOUSE BILL NO. 2582,  
SUBSTITUTE HOUSE BILL NO. 2613,  
HOUSE BILL NO. 2665,  
SUBSTITUTE HOUSE BILL NO. 2672,  
HOUSE BILL NO. 2717,  
HOUSE BILL NO. 2723,  
HOUSE JOINT MEMORIAL NO. 4014, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 10, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1769,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2346,  
SUBSTITUTE HOUSE BILL NO. 2366,  
SUBSTITUTE HOUSE BILL NO. 2369,  
SUBSTITUTE HOUSE BILL NO. 2401,  
HOUSE BILL NO. 2402,  
HOUSE BILL NO. 2441,  
HOUSE BILL NO. 2444,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2477,  
HOUSE BILL NO. 2486,  
ENGROSSED HOUSE BILL NO. 2501,  
HOUSE BILL NO. 2548,  
HOUSE BILL NO. 2557,  
HOUSE BILL NO. 2568,  
SUBSTITUTE HOUSE BILL NO. 2634,  
SUBSTITUTE HOUSE BILL NO. 2656,  
ENGROSSED HOUSE BILL NO. 2707,  
HOUSE BILL NO. 2732,  
HOUSE BILL NO. 2735,  
HOUSE BILL NO. 2784,  
SUBSTITUTE HOUSE BILL NO. 2790,  
SUBSTITUTE HOUSE BILL NO. 2826,  
HOUSE BILL NO. 2841,  
HOUSE BILL NO. 2847,  
HOUSE BILL NO. 2907,  
HOUSE BILL NO. 2908,  
SUBSTITUTE HOUSE BILL NO. 2910,  
SUBSTITUTE HOUSE BILL NO. 2914,  
SUBSTITUTE HOUSE BILL NO. 2931,  
HOUSE BILL NO. 2954,  
HOUSE BILL NO. 2965,  
SUBSTITUTE HOUSE BILL NO. 2977,  
SUBSTITUTE HOUSE BILL NO. 2988,  
SUBSTITUTE HOUSE BILL NO. 2989,  
HOUSE BILL NO. 3050,  
SUBSTITUTE HOUSE BILL NO. 3056,

SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4035, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 10, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1619,  
SUBSTITUTE HOUSE BILL NO. 1977,  
HOUSE BILL NO. 2537,  
HOUSE BILL NO. 2558,  
HOUSE BILL NO. 2574,  
SUBSTITUTE HOUSE BILL NO. 2576,  
HOUSE BILL NO. 2577,  
SUBSTITUTE HOUSE BILL NO. 2588,  
SUBSTITUTE HOUSE BILL NO. 2611,  
HOUSE BILL NO. 2663,  
SUBSTITUTE HOUSE BILL NO. 2680,  
HOUSE BILL NO. 2682,  
SUBSTITUTE HOUSE BILL NO. 2688,  
HOUSE BILL NO. 2692,  
HOUSE BILL NO. 2704,  
SUBSTITUTE HOUSE BILL NO. 2710,  
HOUSE BILL NO. 2788,  
HOUSE BILL NO. 2797,  
SUBSTITUTE HOUSE BILL NO. 2842,  
SUBSTITUTE HOUSE BILL NO. 2858,  
SUBSTITUTE HOUSE BILL NO. 2888,  
SUBSTITUTE HOUSE BILL NO. 2890,  
SUBSTITUTE HOUSE BILL NO. 2917,  
SUBSTITUTE HOUSE BILL NO. 2932,  
HOUSE BILL NO. 2945,  
SUBSTITUTE HOUSE BILL NO. 2953,  
SUBSTITUTE HOUSE BILL NO. 2998,  
SUBSTITUTE HOUSE BILL NO. 3001,  
HOUSE JOINT MEMORIAL NO. 4030, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1405 by Representatives McMorris, Robertson, Wood, Conway, Boldt and Delvin

Authorizing joint bingo games.

Referred to Committee on Commerce and Labor.

2SHB 1501 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Robertson, Scott and Mielke) (by request of Department of Licensing)

Clarifying and making technical corrections to driver's license statutes.

Referred to Committee on Law and Justice.

ESHB 1619 by House Committee on Health Care (originally sponsored by Representatives Zellinsky, Dyer, Cody, Skinner, Parlette, Sherstad and Clements)

Increasing compensation for members of medical boards.

Referred to Committee on Health and Long-Term Care.

ESHB 1769 by House Committee on Health Care (originally sponsored by Representatives Zellinsky, Sheldon and L. Thomas)

Providing for the electronic transfer of prescriptions.

Referred to Committee on Health and Long-Term Care.

E2SHB 1898 by House Committee on Appropriations (originally sponsored by Representatives Johnson, Cole, Blalock, Zellinsky, Cooper, Tokuda, Dickerson, Keiser, Regala, Ogden, Conway and Linville) (by request of Board of Education)

Establishing teacher assessments for certification.

Referred to Committee on Education.

SHB 1977 by House Committee on Education (originally sponsored by Representatives Honeyford, Boldt and Dunn)

Allowing arrangements for running start students to attend out-of-state community colleges.

Referred to Committee on Education.

HB 2314 by Representatives Hatfield, Honeyford and Conway (by request of Department of Labor and Industries)

Recovering industrial insurance benefit payments.

Referred to Committee on Commerce and Labor.

SHB 2333 by House Committee on Education (originally sponsored by Representatives Hickel, Johnson and B. Thomas)

Allowing school districts to allow students funded at basic transportation rates to use school transportation that qualifies for special transportation rates.

Referred to Committee on Education.

HB 2343 by Representatives Hickel and Johnson

Changing school safety provisions.

Referred to Committee on Education.

ESHB 2344 by House Committee on House Government Reform and Land Use (originally sponsored by Representatives Reams, Dyer and Sullivan)

Attempting to integrate planning, review, and terminology among growth management, environmental and ecological protection, and other related areas.

Referred to Committee on Government Operations.

ESHB 2346 by House Committee on Select Vendor Committee (originally sponsored by Representatives Clements, Scott, Dickerson, Gardner, Hatfield, Anderson, Dyer, Thompson, O'Brien, Boldt, Skinner, D. Schmidt, Mulliken and Backlund) (by request of Department of Social and Health Services)

Allowing the department of social and health services to recover revenue from vendors that have been overpaid.

Referred to Committee on Human Services and Corrections.

HB 2356 by Representatives Reams, Romero, Gardner and Linville (by request of Department of Revenue)

Eliminating requirements for filing certificates or annual summaries for sales and use tax exemptions on manufacturing machinery and equipment.

Referred to Committee on Government Operations.

SHB 2364 by House Committee on Health Care (originally sponsored by Representatives Dyer, Cody and Backlund) (by request of Department of Health)

Extending the time for the secretary of health to establish administrative procedures and requirements for health professions.

Referred to Committee on Health and Long-Term Care.

SHB 2366 by House Committee on Health Care (originally sponsored by Representatives Carlson, Pennington, Radcliff, Mielke, Mulliken, Boldt, Gardner, Sheahan, Bush, Anderson, Mitchell, Dyer, Schoesler and McDonald)

Providing free infectious disease testing to good samaritans.

Referred to Committee on Health and Long-Term Care.

SHB 2368 by House Committee on Criminal Justice and Corrections (originally sponsored by Representatives Carlson, Kenney, Radcliff, Gardner, Anderson, Constantine and Mason)

Requiring sex offenders and kidnappers on college campuses to register with campus security.

Referred to Committee on Human Services and Corrections.

SHB 2369 by House Committee on Law and Justice (originally sponsored by Representatives Carlson, Sheahan, Radcliff, Constantine, Kastama, Mulliken, Gardner, Linville, Benson, Kessler, Anderson, Mitchell, Schoesler, D. Sommers, Van Luven, Dunn, Lambert, Boldt and McDonald)

Prohibiting slayers from receiving benefits because of the victim's death.

Referred to Committee on Law and Justice.

HB 2376 by Representatives Carlson, Kenney, Radcliff, Mason, Talcott and Conway

Changing Washington award for vocational excellence provisions.

Referred to Committee on Higher Education.

HB 2383 by Representatives Dunn, Carlson, Pennington, Sheahan, Mulliken, Gardner and Dunshee

Concerning the crime of possessing stolen property in the second degree.

Referred to Committee on Law and Justice.

SHB 2386 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Appelwick, Constantine, Kenney and Costa)

Creating the revised uniform partnership act.

Referred to Committee on Law and Justice.

SHB 2394 by House Committee on Appropriations (originally sponsored by Representatives Alexander, D. Schmidt, H. Sommers, Gardner, Doumit, Lambert and Thompson) (by request of Department of General Administration)

Consolidating general administration funds and accounts.

Referred to Committee on Ways and Means.

SHB 2399 by House Committee on Government Administration (originally sponsored by Representatives Romero, D. Schmidt and Thompson)

Revising provisions relating to use of small works rosters by state agencies.

Referred to Committee on Government Operations.

SHB 2401 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan and Hatfield)

Clarifying the authority of courthouse facilitators.

Referred to Committee on Law and Justice.

HB 2402 by Representatives Sheahan, Lambert, Hatfield, Thompson, McDonald and Dunn

Authorizing the use of electronic copies for preservation of court record.

Referred to Committee on Law and Justice.

SHB 2411 by House Committee on Government Administration (originally sponsored by Representatives Alexander, Wolfe, D. Schmidt, DeBolt, Gardner, D. Sommers and Thompson)

Refining statutes related to county treasurers.

Referred to Committee on Government Operations.

SHB 2413 by House Committee on Health Care (originally sponsored by Representatives Pennington, Carlson, Ogden, Thompson, Dunn and Backlund)

Disclosing sexually transmitted disease information.

Referred to Committee on Health and Long-Term Care.

HB 2441 by Representatives Scott, Sheahan, Costa, Radcliff, Constantine, Hatfield, O'Brien, Dickerson, Ogden, Cooper, Cooke, Gardner, Kenney, Thompson, Wood, Conway, Anderson and Butler

Clarifying that electronic communications are included in the crimes of harassment and stalking.

Referred to Committee on Law and Justice.

HB 2444 by Representatives Ballasiotes and Costa (by request of Sentencing Guidelines Commission)

Making technical corrections to sentencing laws enacted in 1997.

Referred to Committee on Law and Justice.

SHB 2445 by House Committee on Health Care (originally sponsored by Representatives Zellinsky, Chandler, Carrell, Lambert, O'Brien, Smith, Lisk, Dyer, Honeyford, Huff, Clements, Cooke, McDonald and Mulliken)

Establishing the Washington state organ donor medal.

Referred to Committee on Government Operations.

HB 2463 by Representatives Sheahan, Costa and Mulliken

Prescribing garnishee's processing fees.

Referred to Committee on Law and Justice.

HB 2472 by Representatives Honeyford, Sehlin, Van Luven, Veloria and Ogden (by request of Department of Community, Trade, and Economic Development)

Repealing public works board rural natural resources loans.

Referred to Committee on Commerce and Labor.

HB 2474 by Representatives Pennington, Appelwick, O'Brien, Dunshee and Kessler (by request of Legislative Ethics Board)

Clarifying "gifts" for purposes of ethics in public service.

Referred to Committee on Government Operations.

ESHB 2477 by House Committee on Commerce and Labor (originally sponsored by Representatives Schoesler, McMorris, Chandler, Mulliken, Sump, Honeyford and Sheahan)

Adding theatrical agencies to definition of employment agency.

Referred to Committee on Commerce and Labor.

SHB 2481 by House Committee on Higher Education (originally sponsored by Representatives Schoesler, Sump, Sheahan, Honeyford, Mulliken and McCune)

Requiring approval of certain higher education personnel arrangements that exceed fifty thousand dollars in value.

Referred to Committee on Higher Education.

HB 2486 by Representatives Morris, B. Thomas, Dunshee and Kastama (by request of Department of Revenue)

Concerning the ad valorem taxation of vessels or ferries.

Referred to Committee on Ways and Means.

HB 2499 by Representatives Sheahan, Appelwick, McMorris, Radcliff, Alexander, Grant, O'Brien, Doumit, Ogden and Thompson

Extending the long arm statute to district court civil cases.

Referred to Committee on Law and Justice.

HB 2500 by Representatives Sheahan, Appelwick, McMorris, Radcliff, Alexander, Grant, O'Brien, Doumit, Ogden and Thompson

Amending uniform act on fresh pursuit.

Referred to Committee on Law and Justice.

EHB 2501 by Representatives Zellinsky, Robertson, L. Thomas and Carrell

Exempting wholesale auto auctions from certain regulations.

Referred to Committee on Transportation.

HB 2503 by Representatives Robertson, Sullivan and Carrell

Authorizing consideration of the income level of customers when setting rates and charges for a storm water control facility.

Referred to Committee on Energy and Utilities.

ESHB 2508 by House Committee on Government Administration (originally sponsored by Representatives Van Luven, Chopp, D. Schmidt, Radcliff, H. Sommers, Mitchell, Dyer, Dickerson and Kenney)

Modifying the way metropolitan park districts are managed.

Referred to Committee on Government Operations.

SHB 2511 by House Committee on Government Administration (originally sponsored by Representatives Wolfe, Chopp, Ogden, Gardner, Butler, Appelwick and Anderson)

Creating a limited exception for members of boards, commissions, and committees to have a small financial interest in the board's, commission's, or committee's transactions.

Referred to Committee on Government Operations.

HB 2515 by Representatives Chandler, Linville and Sterk

Deregulating apiaries.

Referred to Committee on Agriculture and Environment.

HB 2516 by Representatives Chandler, Linville and Schoesler

Providing a lien for artificial insemination or materials.

Referred to Committee on Agriculture and Environment.



SHB 2523 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Linville, Mulliken, Schoesler, Hatfield, Cooper, Skinner and Clements)

Regarding fire training activities.

Referred to Committee on Agriculture and Environment.

SHB 2525 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Backlund, Fisher, K. Schmidt, Dunshee, B. Thomas, Mielke, Wood and Mitchell) (by request of Department of Transportation)

Phasing in lightweight tire studs.

Referred to Committee on Transportation.

SHB 2529 by House Committee on Trade and Economic Development (originally sponsored by Representatives Van Luven, Veloria, McDonald, Kenney, Tokuda, Dickerson, Mason, Kessler, Constantine, Thompson and Ogden) (by request of Department of Community, Trade, and Economic Development)

Assisting small business exporters.

Referred to Committee on Commerce and Labor.

HB 2534 by Representatives Parlette, Carlson, Anderson, Wensman, Alexander and Doumit

Waiving operating fees for students registered for a doctor of pharmacy.

Referred to Committee on Higher Education.

HB 2537 by Representatives Butler, Romero, Buck, Hatfield and Kessler (by request of Department of Health)

Regulating sanitary control of shellfish.

Referred to Committee on Natural Resources and Parks.

HB 2548 by Representatives K. Schmidt, Fisher, Chandler and Thompson (by request of Department of Transportation)

Clarifying procedures for environmental protection change orders in public projects.

Referred to Committee on Transportation.

HB 2550 by Representatives L. Thomas and Wolfe (by request of Insurance Commissioner Senn)

Regulating the charitable gift annuity business.

Referred to Committee on Financial Institutions, Insurance and Housing.

HB 2557 by Representatives Tokuda, Cooke and O'Brien (by request of Department of Social and Health Services)

Concerning judicial review for certain out-of-home child placements.

Referred to Committee on Human Services and Corrections.

HB 2558 by Representatives Tokuda and Cooke (by request of Department of Social and Health Services)

Correcting statutory references.

Referred to Committee on Human Services and Corrections.

SHB 2560 by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas and Wolfe) (by request of Department of Financial Institutions)

Regulating trust companies.

Referred to Committee on Financial Institutions, Insurance and Housing.

HB 2568 by Representatives Smith, D. Schmidt, Gardner, Doumit and Thompson (by request of Department of General Administration)

Terminating state motor vehicle management programs.

Referred to Committee on Government Operations.

HB 2574 by Representative Reams (by request of Board of Tax Appeals)

Revising provisions for filing with the state tax board.

Referred to Committee on Government Operations.

SHB 2576 by House Representative Commerce and Labor (originally sponsored by Representatives Honeyford, Hatfield, Mulliken, Grant, Conway, O'Brien, Bush, Boldt, Mielke, Delvin, Backlund, Ogden and Koster)

Negotiating land transfers involving manufactured or mobile homes.

Referred to Committee on Commerce and Labor.

HB 2577 by Representatives Hankins and Delvin

Using and administering the Hanford area economic investment fund.

Referred to Committee on Energy and Utilities.

HB 2582 by Representatives Mitchell, Fisher and Hankins (by request of Transportation Improvement Board)

Updating references to the transportation improvement board bond retirement account.

Referred to Committee on Transportation.

SHB 2588 by House Committee on Children and Family Services (originally sponsored by Representatives Boldt, Mielke, Mulliken, Carrell, Lambert and Clements)

Regarding controlled substances as a risk factor in determining negligent treatment of a child.

Referred to Committee on Human Services and Corrections.

SHB 2611 by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives Keiser, Wolfe, Benson, Gardner and Dickerson)

Regulating mortgage insurance.

Referred to Committee on Financial Institutions, Insurance and Housing.

SHB 2613 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Zellinsky, K. Schmidt, Mitchell, Radcliff, O'Brien, Robertson, Chandler, Fisher, Hatfield, D. Sommers, Murray and Dyer)

Requiring backup alerts or crossview mirrors on delivery trucks.

Referred to Committee on Transportation.

SHB 2634 by House Committee on Children and Family Services (originally sponsored by Representatives H. Sommers, Cooke, Dickerson, McDonald, Gombosky, Bush, Tokuda, Wolfe, O'Brien, Kessler, Keiser, Anderson, Ogden, B. Thomas and Thompson)

Denying public assistance to fugitives from justice.

Referred to Committee on Health and Long-Term Care.

SHB 2656 by House Committee on Education (originally sponsored by Representatives Quall and Cooper)

Clarifying the review process for appeals from decisions of the Washington Interscholastic Activities Association.

Referred to Committee on Education.

HB 2663 by Representative Crouse (by request of Utilities and Transportation Commission)

Requiring companies that seek to contract with an affiliated interest to file with the utilities and transportation commission.

Referred to Committee on Energy and Utilities.

HB 2665 by Representatives Smith and D. Schmidt (by request of Secretary of State Munro)

Regulating voting system tests.

Referred to Committee on Government Operations.

SHB 2672 by House Committee on Government Administration (originally sponsored by Representatives Smith, D. Schmidt, Scott, Gardner, Doumit and D. Sommers)

Requiring election procedures manuals.

Referred to Committee on Government Operations.

SHB 2680 by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas and Wolfe)

Clarifying the definition of capitalized cost for purposes of the consumer leasing act.

Referred to Committee on Financial Institutions, Insurance and Housing.

HB 2682 by Representatives McMorris, Chandler, Linville and Clements (by request of Superintendent of Public Instruction Bergeson)

Changing disbursement of medicaid incentive payments to school districts.

Referred to Committee on Ways and Means.

SHB 2688 by House Committee on Health Care (originally sponsored by Representatives Skinner, Cody, Backlund, Conway and Anderson)

Modifying the educational requirements for licensure as a hearing instrument fitter/dispenser.

Referred to Committee on Health and Long-Term Care.

HB 2692 by Representatives Clements, H. Sommers, Tokuda and Cooke (by request of Department of Social and Health Services)

Clarifying references to food stamps or food stamp benefits transferred electronically.

Referred to Committee on Health and Long-Term Care.

HB 2704 by Representatives Skinner, Cody and Anderson

Creating inactive license status for physical therapists.

Referred to Committee on Health and Long-Term Care.

EHB 2707 by Representatives Backlund, Quall, Dickerson, Koster, O'Brien, Scott, Sullivan, Lambert, Cairnes, Wood, McDonald, Sherstad, Mulliken, Kessler, Ogden, Cooke, Conway, Anderson, Dunshee, Gardner, Ballasiotes and Dunn

Prohibiting sex offenders in inmate work programs from obtaining private individuals' names.

Referred to Committee on Human Services and Corrections.

SHB 2710 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler and Honeyford)

Changing irrigation district administration.

Referred to Committee on Government Operations.

HB 2717 by Representatives Chandler, Regala and Dunn

Implementing House Joint Resolution No. 4209.

Referred to Committee on Agriculture and Environment.

HB 2723 by Representatives Cairnes, Mulliken, Reams, Sherstad, Thompson, Mielke, Bush and O'Brien

Providing a procedure for designating industrial land banks.

Referred to Committee on Government Operations.

HB 2732 by Representatives Robertson, Ogden, L. Thomas, McCune, Constantine, Wood, Zellinsky, Ballasiotes, Delvin and Hickel

Regarding wage assignment orders for child support or spousal maintenance payments.

Referred to Committee on Law and Justice.

HB 2735 by Representatives Ogden, Huff, Butler, Cooper, Doumit, Constantine, Carlson, Chopp and Schoesler

Regarding Lewis and Clark bicentennial advisory committee.

Referred to Committee on Government Operations.

HB 2784 by Representatives Johnson, D. Schmidt, Wensman, Cairnes, Zellinsky and Clements

Adding inhabitants of county as recipients of water works benefits.

Referred to Committee on Government Operations.

HB 2788 by Representatives Backlund, Cody, Dyer and Kenney

Training nursing assistants.

Referred to Committee on Health and Long-Term Care.

SHB 2790 by House Committee on Law and Justice (originally sponsored by Representatives Mastin, Sheahan, Costa and Lambert)

Requiring restitution hearings for juvenile offenders to occur within one hundred eighty days of the disposition hearing.

Referred to Committee on Law and Justice.

HB 2797 by Representatives Regala, Buck, Ogden, Tokuda, Hatfield and Kessler

Modifying the membership of the natural heritage advisory council.

Referred to Committee on Natural Resources and Parks.

SHB 2826 by House Committee on Natural Resources (originally sponsored by Representatives Schoesler, Hatfield, Buck, Butler, Kessler and Robertson)

Authorizing distribution of nonhighway vehicle funds to nonprofit off-road vehicle organizations.

Referred to Committee on Natural Resources and Parks.

HB 2841 by Representatives McMorris and Conway (by request of Liquor Control Board)

Allowing the liquor control board to receive grants and other funds or donations to implement programs about alcohol and tobacco.

Referred to Committee on Commerce and Labor.

SHB 2842 by House Committee on Health Care (originally sponsored by Representative Dyer)

Repealing the health care liability risk management training program.

Referred to Committee on Health and Long-Term Care.

HB 2847 by Representatives McMorris and Conway (by request of Liquor Control Board)

Making technical changes regarding designations for liquor licenses.

Referred to Committee on Commerce and Labor.

SHB 2858 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Zellinsky and Fisher)

Reflecting current practice for payment of taxes on rental cars.

Referred to Committee on Transportation.

SHB 2888 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Mitchell, Fisher, K. Schmidt, Radcliff, Cairnes, Zellinsky, Backlund, Skinner, Chandler, DeBolt, Sterk, Gardner, Hankins, Mielke, Wood, O'Brien, Ogden, McCune, Sherstad, B. Thomas and Lambert)

Deleting reference to obsolete transportation accounts.

Referred to Committee on Transportation.

SHB 2890 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Mitchell, Fisher, K. Schmidt, Radcliff, Cairnes, Zellinsky, Backlund, Skinner, Chandler, Robertson, DeBolt, Sterk, Romero, Gardner, Hankins, Constantine, Mielke, Wood, McCune, Sherstad, Ogden, O'Brien, Linville, Cooke, Cooper, Boldt, Lambert, Tokuda, Anderson, Dickerson, Thompson and Conway)

Requiring performance budgeting for transportation agencies.

Referred to Committee on Transportation.

HB 2907 by Representatives Sheahan, Robertson, Dunshee, Mason and Lantz

Clarifying the process of appealing small claims cases.

Referred to Committee on Law and Justice.

HB 2908 by Representatives Sheahan, Mason, Dunshee, Robertson and Lantz

Clarifying provisions affecting court commissioners.

Referred to Committee on Law and Justice.

SHB 2910 by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas, Kessler, Zellinsky, Grant, Lisk, Anderson, Ballasiotes, Radcliff, DeBolt, Wensman, D. Schmidt, Scott, Doumit, McDonald, Cooke and O'Brien)

Regulating insurance payments of insureds who are victims of domestic abuse.

Referred to Committee on Financial Institutions, Insurance and Housing.

SHB 2914 by House Committee on Health Care (originally sponsored by Representatives Dyer, Talcott, Backlund, Bush, Mielke, Sump, Crouse, Benson, Smith, Mulliken, Boldt, Lambert, Carlson, Carrell, Sehlin, Huff, Sullivan, Thompson, L. Thomas and Lisk)

Diagnosing and reporting sexually transmitted diseases.

Referred to Committee on Health and Long-Term Care.

SHB 2917 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives K. Schmidt and Fisher) (by request of Department of Licensing)

Regulating fuel tax and international registration plan payments.

Referred to Committee on Transportation.

SHB 2931 by House Committee on Commerce and Labor (originally sponsored by Representatives McMorris, Conway and B. Thomas) (by request of Secretary of State Munro)

Refining electronic signature law.

Referred to Committee on Energy and Utilities.

SHB 2932 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Zellinsky, O'Brien, Talcott and Wensman)

Requiring stops at intersections with nonfunctioning signal lights.

Referred to Committee on Transportation.

HB 2945 by Representatives McCune and Cairnes

Notifying the legislature regarding transportation funding and planning.

Referred to Committee on Transportation.

SHB 2953 by House Committee on Health Care (originally sponsored by Representatives Sherstad, Sterk, Koster, Carrell, McDonald and Carlson)

Allowing a physician or osteopathic physician licensed in Oregon to register with the medical quality assurance commission to work at nonprofit health clinics in this state.

Referred to Committee on Health and Long-Term Care.

HB 2954 by Representatives D. Schmidt, Eickmeyer, Schoesler, D. Sommers, McMorris and Cole

Specifying declaration of candidacy requirements for school director candidates in joint districts.

Referred to Committee on Government Operations.

HB 2965 by Representatives Ballasiotes, Costa, Hatfield, Linville and McDonald (by request of Department of Labor and Industries)

Revising provisions for crime victims' compensation.

Referred to Committee on Law and Justice.

SHB 2977 by House Committee on House Government Reform and Land Use (originally sponsored by Representatives Sheahan and Appelwick)

Changing provisions that relate to binding site plans.

Referred to Committee on Government Operations.

SHB 2988 by House Committee on Education (originally sponsored by Representatives Schoesler, Cole and Hickel)

Regarding qualifications for school director positions.

Referred to Committee on Education.

SHB 2989 by House Committee on Law and Justice (originally sponsored by Representatives Mitchell, Tokuda, Sheahan, Costa and Veloria)

Augmenting provisions regarding guardians and guardians ad litem.

Referred to Committee on Human Services and Corrections.

SHB 2998 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Costa and K. Schmidt)

Regulating privately owned semiautomatic external defibrillators.

Referred to Committee on Law and Justice.

SHB 3001 by House Committee on Commerce and Labor (originally sponsored by Representatives Honeyford, Delvin, Lisk and Cole)

Creating an exemption for wineries furnishing wine to nonprofit charitable organizations.

Referred to Committee on Commerce and Labor.

HB 3050 by Representatives Smith, Carrell and D. Schmidt

Regulating the sale of surplus state cars.

Referred to Committee on Government Operations.

SHB 3056 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Linville and Constantine)

Implementing the recommendations of the on-site wastewater certification work group.

Referred to Committee on Agriculture and Environment.

HJM 4014 by Representatives Costa, Ballasiotes, Poulsen, Sheahan, Morris, Keiser, McDonald, Mitchell, Kenney, Hankins, Sullivan, D. Sommers, Sterk, Lantz, Cody, Radcliff, Robertson, Sherstad, Veloria, Tokuda, Anderson, Cole, Quall, H. Sommers, Murray, Constantine, Conway, Fisher, Doumit, Dunshee, Cairnes, Cooke, Blalock, O'Brien, Gombosky, Dickerson, Gardner, Ogden, D. Schmidt, Kessler, Linville and Mason

Requesting Congress adopt the proposed victims' rights amendment to the Constitution of the United States.

Referred to Committee on Law and Justice.

HJM 4030 by Representatives Backlund, Cody, Dyer, Lambert, Carrell, Koster, Zellinsky, Sherstad and Anderson

Petitioning for Medicaid flexibility.



Referred to Committee on Health and Long-Term Care.

SHJM 4035 by House Committee on Natural Resources (originally sponsored by Representatives Dyer, Butler, Schoesler, Mastin, Linville, Sehlin, Buck, Huff, Mulliken, Chandler and Koster)

Urging legislation facilitating forest land exchange.

Referred to Committee on Natural Resources and Parks.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Schow, Gubernatorial Appointment No. 9233, Barbara Shinpoch, as a member of the Horse Racing Commission, was confirmed.

APPOINTMENT OF BARBARA SHINPOCH

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 38; Nays, 0; Absent, 3; Excused, 8.

Voting yea: Senators Bauer, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 38. Absent: Senators Anderson, Hargrove and West - 3. Excused: Senators Benton, Brown, Haugen, Heavey, Patterson, Rasmussen, Strannigan and Zarelli - 8.

MOTION

On motion of Senator Hale, Senator Anderson was excused.

MOTION

On motion of Senator Schow, Gubernatorial Appointment No. 9238, Carver Gayton, as Commissioner of the Employment Security Department, was confirmed.

APPOINTMENT OF CARVER GAYTON

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Bauer, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 41. Excused: Senators Anderson, Benton, Brown, Haugen, Heavey, Patterson, Rasmussen and Zarelli - 8.

MOTION

On motion of Senator Hale, Senator Sellar was excused.

SECOND READING

SENATE BILL NO. 6158, by Senators Morton and Rasmussen

Repealing duplicate authority for the Washington state wheat commission.

The bill was read the second time.

#### MOTION

On motion of Senator Morton, the rules were suspended, Senate Bill No. 6158 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6158.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6158 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 42. Excused: Senators Brown, Haugen, Heavey, Patterson, Rasmussen, Sellar and Zarelli - 7. SENATE BILL NO. 6158, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6160, by Senators Morton and Rasmussen

Repealing the authority for reclamation districts over one million acres.

The bill was read the second time.

#### MOTION

On motion of Senator Morton, the rules were suspended, Senate Bill No. 6160 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6160.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6160 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 43. Excused: Senators Brown, Haugen, Heavey, Patterson, Sellar and Zarelli - 6. SENATE BILL NO. 6160, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 9:02 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 10:41 a.m. by President Owen.

#### SECOND READING

SENATE BILL NO. 6142, by Senators Kline, Roach, Patterson, Fairley, Swecker, T. Sheldon, Goings, Rasmussen, Oke and Benton

Imposing administrative license suspensions on first-time DUI offenders.

The bill was read the second time.

#### MOTION

Senator Kline moved that the following amendment by Senators Kline and Roach be adopted:

On page 9, after line 36, insert the following:

"**Sec. 4.** RCW 46.20.391 and 1995 c 332 s 12 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide or vehicular assault, or who has had his or her license suspended under RCW 46.20.3101 (2)(a) or (3)(a), may submit to the department an application for an occupational driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is engaged in an occupation or trade that makes it essential that the petitioner operate a motor vehicle, may issue an occupational driver's license and may set definite restrictions as provided in RCW 46.20.394. No person may petition for, and the department shall not issue, an occupational driver's license that is effective during the first thirty days of any suspension or revocation imposed for a violation of RCW 46.61.502 or 46.61.504 or pursuant to RCW 46.20.3101 (2)(a) or (3)(a). A person aggrieved by the decision of the department on the application for an occupational driver's license may request a hearing as provided by rule of the department.

(2) An applicant for an occupational driver's license is eligible to receive such license only if:

(a) Within one year immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not committed any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory; and

(b) Within five years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed any of the following offenses: (i) Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor; (ii) vehicular homicide under RCW 46.61.520; or (iii) vehicular assault under RCW 46.61.522; and

(c) The applicant is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle; and

(d) The applicant files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

(3) The director shall cancel an occupational driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense that pursuant to chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kline and Roach on page 9, after line 36, to Senate Bill No. 6142.

The motion by Senator Kline carried and the amendment was adopted.

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen, Loveland, Winsley and Wood be adopted:

On page 9, after line 36, insert the following:

"**NEW SECTION. Sec. 4.** This act mandates an increased level of service by local government. Under RCW 43.135.060 and chapter 4.92 RCW, local governments may submit claims for reimbursement by the legislature, subject to verification by the office of financial management."

Debate ensued.

#### MOTION

Senator Haugen moved that the following amendment to the amendment by Senators Haugen, Loveland, Winsley and Wood be adopted:

On line 2 of the amendment, after **Sec. 4.**, and before "This", insert "If"

#### POINT OF ORDER

Senator West: "Mr. President, I am going to raise the point--and I can't find the rule reference, but I know it is here from memory--that amendments have to be in writing. This amendment is so critical that we could find ourselves in a court of law--that if it is drafted improperly, we may find ourselves ending up costing the state money that we shouldn't have to pay and so I would object very strenuously to doing this as an oral amendment on the floor and would raise that as a point of order."

## REPLY BY THE PRESIDENT

President Owen: "Senator West, you are correct, but the practice has been without objection, we have allowed for oral amendments. There is an objection, therefore, there would have to be a written amendment."

## MOTION

On motion of Senator Haugen, and there being no objection, the amendment by Senators Haugen, Loveland, Winsley and Wood on page 9, after line 36, as well as the amendment to the amendment, to Senate Bill No. 6142 were withdrawn.

## MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 4 of the title, after "46.20.3101," strike "and" and after "46.20.355" insert ", and 46.20.391"

On motion of Senator Roach, the rules were suspended, Engrossed Senate Bill No. 6142 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6142.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6142 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West and Wojahn - 40. Voting nay: Senators Benton, Finkbeiner, Heavey, Horn, Newhouse, Prince, Winsley and Wood - 8. Excused: Senator Zarelli - 1. ENGROSSED SENATE BILL NO. 6142, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6166, by Senators Rossi, Roach, Fairley, Goings, T. Sheldon, McCaslin, Strannigan, Zarelli, Long, Deccio, Oke, Rasmussen, Wood, Kline, Schow, Patterson, Swecker, Stevens, Haugen, McAuliffe, Kohl, Johnson and Benton

Increasing penalties for drunk driving.

## MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6166 was substituted for Senate Bill No. 6166 and the substitute bill was placed on second reading and read the second time.

Senator Rossi moved that the following amendment by Senators Rossi, Fairley and Kline be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are each reenacted and amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense (~~within five years~~) shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense (~~within five years~~) shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of nine hundred days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses (~~within five years~~) shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock or other biological or technical device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8)((a)) A "prior offense" means any of the following:

((i)) (a) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

((ii)) (b) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

((iii)) (c) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

((iv)) (d) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

((v)) (e) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

((vi)) (f) An out-of-state conviction for a violation that would have been a violation of (a)((i)), ((ii)) (b), ((iii)) (c), ((iv)) (d), or ((v)) (e) of this subsection if committed in this state;

((vii)) (g) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

((viii)) (h) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

((b) "Within five years" means that the arrest for a prior offense occurred within five years of the arrest for the current offense.)

**Sec. 2.** RCW 46.61.5058 and 1995 c 332 s 6 are each amended to read as follows:

(1) Upon the arrest of a person or upon the filing of a complaint, citation, or information in a court of competent jurisdiction, based upon probable cause to believe that a person has violated RCW 46.61.502 or 46.61.504 or any similar municipal ordinance, if such person has a prior offense ((within five years)) as defined in RCW 46.61.5055, and where the person has been provided written notice that any transfer, sale, or encumbrance of such person's interest in the vehicle over which that person was actually driving or had physical control when the violation

occurred, is unlawful pending either acquittal, dismissal, sixty days after conviction, or other termination of the charge, such person shall be prohibited from encumbering, selling, or transferring his or her interest in such vehicle, except as otherwise provided in (a), (b), and (c) of this subsection, until either acquittal, dismissal, sixty days after conviction, or other termination of the charge. The prohibition against transfer of title shall not be stayed pending the determination of an appeal from the conviction.

(a) A vehicle encumbered by a bona fide security interest may be transferred to the secured party or to a person designated by the secured party;

(b) A leased or rented vehicle may be transferred to the lessor, rental agency, or to a person designated by the lessor or rental agency; and

(c) A vehicle may be transferred to a third party or a vehicle dealer who is a bona fide purchaser or may be subject to a bona fide security interest in the vehicle unless it is established that (i) in the case of a purchase by a third party or vehicle dealer, such party or dealer had actual notice that the vehicle was subject to the prohibition prior to the purchase, or (ii) in the case of a security interest, the holder of the security interest had actual notice that the vehicle was subject to the prohibition prior to the encumbrance of title.

(2) On conviction for a violation of either RCW 46.61.502 or 46.61.504 or any similar municipal ordinance where the person convicted has a prior offense (~~within five years~~) as defined in RCW 46.61.5055, the motor vehicle the person was driving or over which the person had actual physical control at the time of the offense, if the person has a financial interest in the vehicle, is subject to seizure and forfeiture pursuant to this section.

(3) A vehicle subject to forfeiture under this chapter may be seized by a law enforcement officer of this state upon process issued by a court of competent jurisdiction. Seizure of a vehicle may be made without process if the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) Seizure under subsection (3) of this section automatically commences proceedings for forfeiture. The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized vehicle to be served within fifteen days after the seizure on the owner of the vehicle seized, on the person in charge of the vehicle, and on any person having a known right or interest in the vehicle, including a community property interest. The notice of seizure may be served by any method authorized by law or court rule, including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected on a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the vehicle is deemed forfeited.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the vehicle is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the vehicle involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the legal owner or the person claiming to have the lawful right to possession of the vehicle. The seizing law enforcement agency shall promptly return the vehicle to the claimant upon a determination by the administrative law judge or court that the claimant is the present legal owner under Title 46 RCW or is lawfully entitled to possession of the vehicle.

(7) When a vehicle is forfeited under this chapter the seizing law enforcement agency may sell the vehicle, retain it for official use, or upon application by a law enforcement agency of this state release the vehicle to that agency for the exclusive use of enforcing this title; provided, however, that the agency shall first satisfy any bona fide security interest to which the vehicle is subject under subsection (1) (a) or (c) of this section.

(8) When a vehicle is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the vehicle, the disposition of the vehicle, the value of the vehicle at the time of seizure, and the amount of proceeds realized from disposition of the vehicle.

(9) Each seizing agency shall retain records of forfeited vehicles for at least seven years.

(10) Each seizing agency shall file a report including a copy of the records of forfeited vehicles with the state treasurer each calendar quarter.

(11) The quarterly report need not include a record of a forfeited vehicle that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(12) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of vehicles forfeited during the preceding calendar year. Money remitted shall be deposited in the public safety and education account.

(13) The net proceeds of a forfeited vehicle is the value of the forfeitable interest in the vehicle after deducting the cost of satisfying a bona fide security interest to which the vehicle is subject at the time of seizure; and in the case of a sold vehicle, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(14) The value of a sold forfeited vehicle is the sale price. The value of a retained forfeited vehicle is the fair market value of the vehicle at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing. A seizing agency may, but need not, use an independent qualified appraiser to determine the value of retained vehicles. If an appraiser is used, the value of the vehicle appraised is net of the cost of the appraisal.

**Sec. 3.** RCW 46.61.520 and 1996 c 199 s 7 are each amended to read as follows:

(1) When the death of any person ensues within three years as a proximate result of injury proximately caused by the driving of any vehicle by any person, the driver is guilty of vehicular homicide if the driver was operating a motor vehicle:

- (a) While under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502; or
- (b) In a reckless manner; or
- (c) With disregard for the safety of others.

(2) Vehicular homicide is a class A felony punishable under chapter 9A.20 RCW, except that, for a conviction under subsection (1)(a) of this section, an additional two years shall be added to the sentence for each prior offense as defined in RCW 46.61.5055.

**Sec. 4.** RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are each reenacted and amended to read as follows:

(1) TABLE 1  
Sentencing Grid

SERIOUSNESS

SCORE OFFENDER SCORE

9 or

0 1 2 3 4 5 6 7 8 more

XV Life Sentence without Parole/Death Penalty

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

XIII 14y4m 15y4m 16y2m 17y 17y11m 18y9m 20y5m 22y2m 25y7m 29y  
123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
220 234 244 254 265 275 295 316 357 397

XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m  
93- 102- 111- 120- 129- 138- 162- 178- 209- 240-  
123 136 147 160 171 184 216 236 277 318

XI 7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m  
78- 86- 95- 102- 111- 120- 146- 159- 185- 210-  
102 114 125 136 147 158 194 211 245 280

X 5y 5y6m 6y 6y6m 7y 7y6m 9y6m 10y6m 12y6m 14y6m  
51- 57- 62- 67- 72- 77- 98- 108- 129- 149-



68 75 82 89 96 102 130 144 171 198

IX 3y 3y6m 4y 4y6m 5y 5y6m 7y6m 8y6m 10y6m 12y6m  
31- 36- 41- 46- 51- 57- 77- 87- 108- 129-  
41 48 54 61 68 75 102 116 144 171

VIII 2y 2y6m 3y 3y6m 4y 4y6m 6y6m 7y6m 8y6m 10y6m  
21- 26- 31- 36- 41- 46- 67- 77- 87- 108-  
27 34 41 48 54 61 89 102 116 144

VII 18m 2y 2y6m 3y 3y6m 4y 5y6m 6y6m 7y6m 8y6m  
15- 21- 26- 31- 36- 41- 57- 67- 77- 87-  
20 27 34 41 48 54 75 89 102 116

VI 13m 18m 2y 2y6m 3y 3y6m 4y6m 5y6m 6y6m 7y6m  
12+- 15- 21- 26- 31- 36- 46- 57- 67- 77-  
14 20 27 34 41 48 61 75 89 102

V 9m 13m 15m 18m 2y2m 3y2m 4y 5y 6y 7y  
6- 12+- 13- 15- 22- 33- 41- 51- 62- 72-  
12 14 17 20 29 43 54 68 82 96

IV 6m 9m 13m 15m 18m 2y2m 3y2m 4y2m 5y2m 6y2m  
3- 6- 12+- 13- 15- 22- 33- 43- 53- 63-  
9 12 14 17 20 29 43 57 70 84

III 2m 5m 8m 11m 14m 20m 2y2m 3y2m 4y2m 5y  
1- 3- 4- 9- 12+- 17- 22- 33- 43- 51-  
3 8 12 12 16 22 29 43 57 68

II 4m 6m 8m 13m 16m 20m 2y2m 3y2m 4y2m  
0-90 2- 3- 4- 12+- 14- 17- 22- 33- 43-  
Days 6 9 12 14 18 22 29 43 57

I 3m 4m 5m 8m 13m 16m 20m 2y2m  
0-60 0-90 2- 2- 3- 4- 12+- 14- 17- 22-  
Days Days 5 6 8 12 14 18 22 29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) Three years for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Eighteen months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, any and all firearm enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(4) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon as defined in this chapter other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) One year for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Six months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, any and all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(5) The following additional times shall be added to the presumptive sentence if the offender or an accomplice committed the offense while in a county jail or state correctional facility as that term is defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility as that term is defined in this chapter, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section:

- (a) Eighteen months for offenses committed under RCW 69.50.401(a)(1) (i) or (ii) or 69.50.410;
- (b) Fifteen months for offenses committed under RCW 69.50.401(a)(1) (iii), (iv), and (v);
- (c) Twelve months for offenses committed under RCW 69.50.401(d).

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

(7) An additional two years shall be added to the presumptive sentence for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

**Sec. 5.** RCW 9.94A.360 and 1997 c 338 s 5 are each amended to read as follows:

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

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

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

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

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

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

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

(i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

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

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

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

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11) or (12) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and ½ point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), or (12) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for Murder 1 or 2, Assault 1, Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

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

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult and ½ point for each juvenile prior conviction. This subsection shall not apply when additional time is added to a sentence pursuant to RCW 46.61.520(2).

(12) If the present conviction is for a drug offense count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(13) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, Willful Failure to Return from Work Release, RCW 72.65.070, or Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as ½ point.

(14) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as ½ point.

(15) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(16) If the present conviction is for a sex offense, count priors as in subsections (7) through (15) of this section; however count three points for each adult and juvenile prior sex offense conviction.

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

**Sec. 6.** RCW 10.05.010 and 1985 c 352 s 4 are each amended to read as follows:

In a court of limited jurisdiction a person charged with a misdemeanor or gross misdemeanor may petition the court to be considered for a deferred prosecution program. The petition shall be filed with the court at least seven days before the date set for trial but, upon a written motion and affidavit establishing good cause for the delay and failure to comply with this section, the court may waive this requirement subject to the defendant's reimbursement to the court of the witness fees and expenses due for subpoenaed witnesses who have appeared on the date set for trial.

A person charged with a traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020. Such person shall not be eligible for a deferred prosecution program more than once ~~((in any five year period))~~. Separate offenses committed more than seven days apart may not be consolidated in a single program.

**Sec. 7.** RCW 10.05.100 and 1985 c 352 s 13 are each amended to read as follows:

If a petitioner ~~((is subsequently convicted of a similar offense while in a deferred prosecution program))~~, within five years after entry of an order of deferred prosecution, engages in conduct which results in conviction of an offense listed in RCW 46.61.5055(8), upon notice the court shall remove the petitioner's docket from the deferred prosecution file and the court shall enter judgment pursuant to RCW 10.05.020.

**Sec. 8.** RCW 10.05.120 and 1994 c 275 s 19 are each amended to read as follows:

~~((Upon))~~ Three years after receiving proof of successful completion of the two-year treatment program, but not before five years following entry of the order of deferred prosecution, the court and prosecutor shall review and verify the defendant's criminal history and driving record as provided in section 9 of this act. If the petitioner has not been arrested for or convicted of an offense listed in RCW 46.61.5055(8) since entry of the order of deferred prosecution, the court shall dismiss the charges pending against the petitioner. If the defendant has been arrested for an offense listed in RCW 46.61.5055(8) since entry of the order of deferred prosecution, and there has been no disposition of the charge or charges, the court shall maintain the case in deferred prosecution status until a disposition has occurred. Unless the disposition was a conviction of an offense listed in RCW 46.61.5055(8), the court shall dismiss the charges pending against the petitioner.

**NEW SECTION. Sec. 9.** A new section is added to chapter 46.61 RCW to read as follows:

(1) Immediately before the court defers prosecution under RCW 10.05.020, dismisses a charge, or orders a sentence for any offense listed in subsection (2) of this section, the court and prosecutor shall verify the defendant's criminal history and driving record. The order shall include specific findings as to the criminal history and driving record. For purposes of this section, the criminal history shall include all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in subsection (3) of this section before the date of the order. For purposes of this section, the driving record shall include all information reported to the court by the department of licensing.

(2) The offenses to which this section applies are violations of: (a) RCW 46.61.502 or an equivalent local ordinance; (b) RCW 46.61.504 or an equivalent local ordinance; (c) RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug; (d) RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; and (e) RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(3) The periods applicable to previous convictions and orders of deferred prosecution are: (a) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and (b) seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

**Sec. 10.** RCW 10.05.160 and 1985 c 352 s 18 are each amended to read as follows:

The prosecutor may appeal an order granting deferred prosecution on any or all of the following grounds:

- (1) Prior deferred prosecution has been granted to the defendant (~~(within five years)~~);
- (2) Failure of the court to obtain proof of insurance or a treatment plan conforming to the requirements of this chapter;
- (3) Failure of the court to comply with the requirements of RCW 10.05.100;
- (4) Failure of the evaluation facility to provide the information required in RCW 10.05.040 and 10.05.050, if the defendant has been referred to the facility for treatment. If an appeal on such basis is successful, the trial court may consider the use of another treatment facility.

**Sec. 11.** RCW 46.01.260 and 1997 c 66 s 11 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director, in his or her discretion, may destroy applications for vehicle licenses, copies of vehicle licenses issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, records or supporting papers on file in his or her office which have been microfilmed or photographed or are more than five years old. If the applications for vehicle licenses are renewal applications, the director may destroy such applications when the computer record thereof has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW ~~46.61.502, 46.61.504, 46.61.520,~~ and 46.61.522 and shall maintain such records permanently on file.

(b) The director shall not, within ten years from the date of conviction, adjudication, or entry of deferred prosecution, destroy records of the following:

(i) ~~(Convictions or adjudications of the following offenses: RCW 46.61.502 or 46.61.504;~~  
~~(ii))~~ If the offense was originally charged as one of the offenses designated in (a) ~~(or (b)(i))~~ of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.5249 or any other violation that was originally charged as one of the offenses designated in (a) ~~(or (b)(i))~~ of this subsection; or

~~(iii))~~ (ii) Deferred prosecutions granted under RCW 10.05.120.

(c) For purposes of RCW 46.52.100 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses.

**Sec. 12.** RCW 46.20.285 and 1996 c 199 s 5 are each amended to read as follows:

The department shall forthwith revoke the license of any driver for the period of one calendar year unless otherwise provided in this section, upon receiving a record of the driver's conviction of any of the following offenses, when the conviction has become final:

(1) For vehicular homicide the period of revocation shall be two years. The revocation period shall be tolled during any period of total confinement for the offense;

(2) Vehicular assault. The revocation period shall be tolled during any period of total confinement for the offense;

(3) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle, ~~((upon a showing by the department's records that the conviction is the second such conviction for the driver within a period of five years. Upon a showing that the conviction is the third such conviction for the driver within a period of five years, the period of revocation shall be two years))~~ for the period prescribed in RCW 46.61.5055;

(4) Any felony in the commission of which a motor vehicle is used;

(5) Failure to stop and give information or render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another or resulting in damage to a vehicle that is driven or attended by another;

(6) Perjury or the making of a false affidavit or statement under oath to the department under Title 46 RCW or under any other law relating to the ownership or operation of motor vehicles;

(7) Reckless driving upon a showing by the department's records that the conviction is the third such conviction for the driver within a period of two years.

**Sec. 13.** RCW 46.20.308 and 1995 c 332 s 1 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person

had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration of 0.02 or more in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility in which a breath testing instrument is not present or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(4). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that:

(a) His or her license, permit, or privilege to drive will be revoked or denied if he or she refuses to submit to the test;

(b) His or her license, permit, or privilege to drive will be suspended, revoked, denied, or placed in probationary status if the test is administered and the test indicates the alcohol concentration of the person's breath or blood is 0.10 or more, in the case of a person age twenty-one or over, or 0.02 or more in the case of a person under age twenty-one; and

(c) His or her refusal to take the test may be used in a criminal trial.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.10 or more if the person is age twenty-one or over, or is 0.02 or more if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, deny, or place in probationary status the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration of 0.02 or more;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.10 or more if the person is age twenty-one or over, or was 0.02 or more if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, deny, or place in probationary status the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, denial, or placement in probationary status to

be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within thirty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of one hundred dollars as part of the request. If the request is mailed, it must be postmarked within thirty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required one hundred dollar fee, the department shall afford the person an opportunity for a hearing. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more and was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.10 or more if the person was age twenty-one or over at the time of the arrest, or was 0.02 or more if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, denial, or placement in probationary status either be rescinded or sustained.

(9) If the suspension, revocation, denial, or placement in probationary status is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, denied, or placed in probationary status has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, denial, or placement in probationary status. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, denial, or placement in probationary status as expeditiously as possible. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, denial, or placement in probationary status it may impose conditions on such stay.

(10) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, denied, or placed in probationary status under subsection (7) of this section, other than as a result of a breath test refusal, and who has not committed ~~((an))~~ any prior offense ~~((within the last five years))~~ for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, the court may direct the department to stay any actual or proposed suspension, revocation, denial, or placement in probationary status for at least forty-five days but not more than ninety days. If the court stays the suspension, revocation, denial, or placement in probationary status, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

A suspension, revocation, or denial imposed under this section, other than as a result of a breath test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

**Sec. 14.** RCW 46.20.3101 and 1995 c 332 s 3 are each amended to read as follows:

Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal (~~((within five years))~~), where there has not been a previous incident (~~((within five years))~~) that resulted in administrative action under this section, revocation or denial for one year;

(b) For a second or subsequent refusal (~~((within five years))~~), or for a first refusal where there has been one or more previous incidents (~~((within five years))~~) that have resulted in administrative action under this section, revocation or denial for two years or until the person reaches age twenty-one, whichever is longer. A revocation imposed under this subsection (1)(b) shall run consecutively to the period of any suspension, revocation, or denial imposed pursuant to a criminal conviction arising out of the same incident.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.10 or more:

(a) For a first incident (~~((within five years))~~), where there has not been a previous incident (~~((within five years))~~) that resulted in administrative action under this section, placement in probationary status as provided in RCW 46.20.355;

(b) For a second or subsequent incident (~~((within five years))~~), revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.02 or more:

(a) For a first incident (~~((within five years))~~), suspension or denial for ninety days;

(b) For a second or subsequent incident (~~((within five years))~~), revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

**Sec. 15.** RCW 46.20.391 and 1995 c 332 s 12 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide or vehicular assault, may submit to the department an application for an occupational driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is engaged in an occupation or trade that makes it essential that the petitioner operate a motor vehicle, may issue an occupational driver's license and may set definite restrictions as provided in RCW 46.20.394. No person may petition for, and the department shall not issue, an occupational driver's license that is effective during the first thirty days of any suspension or revocation imposed for a violation of RCW 46.61.502 or 46.61.504. A person aggrieved by the decision of the department on the application for an occupational driver's license may request a hearing as provided by rule of the department.

(2) An applicant for an occupational driver's license is eligible to receive such license only if:

(a) Within one year immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not committed any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory; and

(b) (~~((Within five years immediately preceding))~~) Prior to the date of the offense that gave rise to the present conviction, the applicant has not committed any of the following offenses: (i) Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor; (ii) vehicular homicide under RCW 46.61.520; or (iii) vehicular assault under RCW 46.61.522; and

(c) The applicant is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle; and

(d) The applicant files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

(3) The director shall cancel an occupational driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense that pursuant to chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title."

## MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Loveland to the striking amendment by Senators Rossi, Fairley and Kline be adopted:

On page 31, after line 23 of the amendment, insert the following:



**"NEW SECTION. Sec. 16.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Loveland on page 31, after line 23, to the striking amendment by Senators Rossi, Fairley and Kline to Substitute Senate Bill No. 6166.

The motion by Senator Haugen carried and the amendment to the striking amendment was adopted.

The President declared the question before the Senate to be the adoption of the striking amendment, as amended, by Senators Rossi, Fairley and Kline to Substitute Senate Bill No. 6166.

The motion by Senator Rossi carried and the striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On page 1, line 1 of the title, after "influence;" strike the remainder of the title and insert "amending RCW 46.61.5058, 46.61.520, 9.94A.360, 10.05.010, 10.05.100, 10.05.120, 10.05.160, 46.01.260, 46.20.285, 46.20.308, 46.20.3101, and 46.20.391; reenacting and amending RCW 46.61.5055 and 9.94A.310; adding a new section to chapter 46.61 RCW; and prescribing penalties."

On page 31, line 32 of the title amendment, after "RCW;" insert "creating a new section;"

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 6166 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6166.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6166 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Voting nay: Senator Prince - 1. Excused: Senator Zarelli - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6166, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6165, by Senators Rossi, Roach, Rasmussen, Goings, T. Sheldon, McCaslin, Strannigan, Zarelli, Long, Deccio, Oke, Kline, Wood, Schow, Swecker, Stevens, Haugen, Johnson, Benton and Winsley

Strengthening penalties for violation of ignition interlock orders.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6165 was substituted for Senate Bill No. 6165 and the substitute bill was placed on second reading and read the second time.

Senator Rossi moved that the following amendment by Senators Rossi, Kline, Roach and Fairley be adopted:

Beginning on page 1, line 5, strike all of section 1 and insert the following:

"**Sec. 1.** RCW 46.20.720 and 1997 c 229 s 8 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device.

(2) If a person is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance, the court shall order that after a period of suspension, revocation, or denial of driving privileges, the person may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device.

(3) The court shall establish a specific calibration setting at which the ignition interlock or other biological or technical device will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction. In the case of a person under subsection (2) of this section, the period of time of the restriction will be as follows:

(a) For a person subject to RCW 46.61.5055 (1)(b), (2), or (3) who has not previously been restricted under this section, a period of not less than one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of not less than five years;

(c) For a person who has previously been restricted under (b) of this subsection, a permanent, lifetime restriction.

For purposes of this section, "convicted" means being found guilty of an offense or being placed on a deferred prosecution program under chapter 10.05 RCW."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Rossi, Kline, Roach and Fairley beginning on page 1, line 5, to Substitute Senate Bill No. 6165.

The motion by Senator Rossi carried and the amendment was adopted.

#### MOTION

Senator Rossi moved that the following amendment be adopted:

On page 1, after line 4, insert the following:

"NEW SECTION. Sec. 1. This act may be known and cited as the Mary Johnsen Act."

Renumber the sections following consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rossi on page 1, after line 4, to Substitute Senate Bill No. 6165.

The motion by Senator Rossi carried and the amendment was adopted.

#### MOTIONS

On motion of Senator Haugen, the following amendment by Senators Haugen, Loveland, Wood and Deccio was adopted:

On page 9, after line 27, insert the following:

"NEW SECTION. Sec. 5. If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

On motion of Senator Roach, the following title amendments were considered simultaneously and adopted:

On page 1, line 3 of the title, after "5055;" insert "creating a new section;"

On line 3 of the title, after "46.61.5055;" insert "creating a new section;"

#### MOTION

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 6165 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Franklin: "Senator Rossi, on the amendment on line 20, it mentions 'biological or technical device.' I have a question about--tell me what is a 'biological device?'"

Senator Rossi: "That is on the Governor's amendment that we just passed?"

Senator Franklin: "Yes, Senator."

Senator Rossi: "Actually, it means physical device of some sort."

Senator Franklin: "It means--well--because that poses a question. I support the amendment, because changes were made in order to answer my concerns. It makes it, now, discretionary, but the 'biological,' does that mean the insertion of a device into someone or--?"

Senator Rossi: "No, Senator, that is not what it means."

Senator Franklin: "Do you have an example of what a 'biological device' is?"

Senator Rossi: "No, I don't."

Senator Franklin: "Will you clarify that later?"

Senator Rossi: "Yes, I will."

Senator Franklin: "Thank you."

#### REMARKS BY SENATOR KLINE

Senator Kline: "Mr. President, to help answer Senator Franklin's question, and to address a concern of Senator Fairley. The technology of this device is interesting. It is a tube into which the driver must blow. The air sample will be picked up and measured by a mechanism inside the tube. The tube is also computer programed to listen to that person's own voice. It is a hum that you have to make when you blow into it. It knows that it is you and starts your engine for you--when you turn the key. If it ain't you, it won't start the engine.

"Furthermore, if you were somehow able to fake it and have somebody else outside the car start it for you, the mechanism requires that you blow again into that tube--I believe it is every eight or ten minutes--so you can drive, but if it ain't you that blew it, you are going to have a problem eight minutes down the road. The flasher goes on, the horn goes on, you are saying to every police officer anywhere around, 'Arrest me.' Plus, there is a little device, similar to the black box on a plane that records all these things. These are inspected, so if you weren't picked up on the road, you will be picked up by the inspection every two weeks or so."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6165.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6165 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6165, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6257, by Senators Strannigan, Roach, Goings, Anderson, Long, Oke, Swecker, Benton, Wood, Stevens, Rasmussen and Patterson

Lowering statutory levels for legal alcohol intoxication.

The bill was read the second time.

#### MOTION

Senator Winsley moved that the following amendment by Senators Winsley, Deccio, Franklin, Horn, Wood, Haugen, Prentice, Wojahn, Kohl, Spanel, Fraser, Patterson, Goings, Snyder and Loveland be adopted:

On page 12, after line 23, insert the following:

"**NEW SECTION. Sec. 7.** If implementation of this act results in increased costs to any local government, that local government is not required to comply with this act."

Debate ensued.

#### POINT OF ORDER

Senator McCaslin: "A point of order, Mr. President, I believe he is addressing the bill and not the amendment."

Senator Kline: "No, this is the amendment."

Senator McCaslin: "Do I have the wrong amendment?"

#### REPLY BY THE PRESIDENT

President Owen: "Senator Kline, be sure your remarks are relevant to the amendment."

Further debate ensued.

Senator Winsley demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on of the amendment by Senators Winsley, Deccio, Franklin, Horn, Wood, Haugen, Prentice, Wojahn, Kohl, Spanel, Fraser, Patterson, Goings, Snyder and Loveland on page 12, after line 23, to Senate Bill No. 6257.

#### ROLL CALL

The Secretary called the roll and the amendment was adopted by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Horn, Jacobsen, Kohl, Long, Loveland, McAuliffe, McCaslin, Newhouse, Patterson, Prentice, Prince, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau, Winsley, Wojahn and Wood - 29. Voting nay: Senators Anderson, Benton, Finkbeiner, Heavey, Hochstatter, Johnson, Kline, McDonald, Morton, Oke, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker and West - 19. Excused: Senator Zarelli - 1.

#### MOTION

On motion of Senator Haugen, the following amendment by Senators Haugen, Loveland and West was adopted:

On page 12, after line 23, insert the following:

**"NEW SECTION. Sec. 7.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

#### MOTION

On motion of Senator Johnson, further consideration of Senate Bill No. 6257 was deferred.

#### MOTION

At 11:54 a.m., on motion of Senator Johnson, the Senate recessed until 1:30 p.m.

The Senate was called to order at 1:30 p.m. by President Owen.

#### NOTICE FOR RECONSIDERATION

Senator Fairley, having voted on the prevailing side, served notice that she would move to reconsider the vote by which the amendment by Senators Winsley, Deccio, Franklin, Horn, Wood, Haugen, Prentice, Wojahn, Kohl, Spanel, Fraser, Patterson, Goings, Snyder and Loveland on page 12, after line 23, to Substitute Senate Bill No. 6257 was adopted earlier today.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9277, Edith L. Nelson, as a member of the Board of Trustees for Shoreline Community College District No. 7, was confirmed.

#### APPOINTMENT OF EDITH L. NELSON

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 7; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 41. Absent: Senators Finkbeiner, McCaslin, McDonald, Newhouse, Schow, Sellar and West - 7. Excused: Senator Zarelli - 1.

#### MOTION

On motion of Senator Hale, Senators McCaslin, Newhouse, Schow, Sellar and West were excused.

#### MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9244, Dean S. Lum, as a member of the Board of Trustees for Seattle, South Seattle and North Seattle Community Colleges District No. 6, was confirmed.

#### APPOINTMENT OF DEAN S. LUM

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 43.

Excused: Senators McCaslin, Newhouse, Schow, Sellar, West and Zarelli - 6.

#### SECOND READING

SENATE BILL NO. 6179, by Senators Wood, Kohl, Prince, Bauer, Patterson, McAuliffe, Rasmussen and Hale

Changing Washington award for vocational excellence provisions.

The bill was read the second time.

#### MOTION

On motion of Senator Wood, the rules were suspended, Senate Bill No. 6179 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6179.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6179 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 46. Excused: Senators Newhouse, Schow and

Zarelli - 3. SENATE BILL NO. 6179, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6172, by Senator McCaslin

Clarifying requirements for service of petitions for review on agencies.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6172 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6172.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6172 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 46. Absent: Senator Fairley - 1. Excused: Senators Newhouse and Zarelli - 2. SENATE BILL NO. 6172, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6173, by Senators McCaslin, Fairley, Bauer, Swecker, T. Sheldon and Benton

Removing the requirement that the veterans' preference must be used within eight years.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6173 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6173.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6173 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47.

Excused: Senators Newhouse and Zarelli - 2. SENATE BILL NO. 6173, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6195, by Senators Long and Hargrove (by request of Department of Social and Health Services)

Correcting statutory references.

#### MOTIONS

On motion of Senator Long, Substitute Senate Bill No. 6195 was substituted for Senate Bill No. 6195 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Long, the rules were suspended, Substitute Senate Bill No. 6195 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6195.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6195 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Excused: Senators Newhouse and Zarelli - 2. SUBSTITUTE SENATE BILL NO. 6195, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Deccio was excused.

#### SECOND READING

SENATE BILL NO. 6202, by Senators Winsley and Prentice (by request of Department of Financial Institutions)

Changing the securities act to conform with federal statute.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Senate Bill No. 6202 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6202.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6202 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 46. Excused: Senators Deccio, Newhouse and Zarelli - 3. SENATE BILL NO. 6202, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6205, by Senators McCaslin, Haugen, Patterson, Benton, Bauer, Winsley and Oke

Allowing waiver of interest and penalties on property taxes delinquent because of hardship.

#### MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 6205 was substituted for Senate Bill No. 6205 and the substitute bill was placed on second reading and read the second time.

Senator McCaslin moved that the following amendment by Senators McCaslin, Haugen and Patterson be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 84.56.025 and 1984 c 185 s 1 are each amended to read as follows:

(1) The interest and penalties for delinquencies on property taxes, which taxes are levied on real estate in the year of a conveyance of the real estate and which are collected in the following year, shall be waived by the county treasurer under the following circumstances:

~~((+))~~ (a) Records conveying the real estate were filed with the county auditor on or before November 30 of the year the taxes are levied;

~~((2))~~ (b) A grantee's name and address are included in the records; and

~~((3))~~ (c) The notice for these taxes due, as provided in RCW 84.56.050, was not sent to a grantee due to error by the county. Where such waiver of interest and penalties has occurred, the full amount of interest and penalties shall be reinstated if the grantee fails to pay the delinquent taxes within thirty days of receiving notice that the taxes are due. Each county treasurer shall, subject to guidelines prepared by the department of revenue, establish administrative procedures to determine if grantees are eligible for this waiver.

(2) In addition to the waiver under subsection (1) of this section, the interest and penalties for delinquencies on property taxes shall be waived by the county treasurer under the following circumstances:

(a) The taxpayer fails to make one payment under RCW 84.56.020 by the due date on the taxpayer's personal residence because of hardship caused by the death of the taxpayer's spouse if the taxpayer notifies the county treasurer of the hardship within sixty days of the tax due date; or

(b) The taxpayer fails to make one payment under RCW 84.56.020 by the due date on the taxpayer's parent's personal residence because of hardship caused by the death of the taxpayer's parent if the taxpayer notifies the county treasurer of the hardship within sixty days of the tax due date."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators McCaslin, Haugen and Patterson to Substitute Senate Bill No. 6205.

The motion by Senator McCaslin carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, line 3 of the title, after "parent;" strike the remainder of the title and insert "and amending RCW 84.56.025."

On motion of Senator McCaslin, the rules were suspended, Engrossed Substitute Senate Bill No. 6205 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6205.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6205 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Excused: Senators Newhouse and Zarelli - 2. ENGROSSED SUBSTITUTE SENATE BILL NO. 6205, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6212, by Senators McCaslin, Snyder, B. Sheldon, Roach, T. Sheldon, Goings, Bauer, Zarelli, West, Haugen and Oke

Amending uniform act on fresh pursuit.



## MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 6212 was substituted for Senate Bill No. 6212 and the substitute bill was placed on second reading and read the second time.

On motion of Senator McCaslin, the rules were suspended, Substitute Senate Bill No. 6212 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6212.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6212 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Excused: Senators Newhouse and Zarelli - 2. SUBSTITUTE SENATE BILL NO. 6212, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6223, by Senators McCaslin, Winsley, West, Haugen and Sellar (by request of Board of Tax Appeals)

Revising provisions for filing with the state tax board.

The bill was read the second time.

## MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6223 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6223.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6223 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 46. Absent: Senator Prentice - 1. Excused: Senators Newhouse and Zarelli - 2. SENATE BILL NO. 6223, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6258, by Senators Roach, Kline and Hargrove (by request of Statute Law Committee)

Making technical corrections to the Revised Code of Washington.

## MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 6258 was substituted for Senate Bill No. 6258 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Substitute Senate Bill No. 6258 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6258.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6258 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SUBSTITUTE SENATE BILL NO. 6258, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6152, by Senator Swecker (by request of Parks and Recreation Commission)

Managing state park lands.

#### MOTIONS

On motion of Senator Swecker, Substitute Senate Bill No. 6152 was substituted for Senate Bill No. 6152 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Swecker, the following amendment was adopted:

On page 3, after line 2, insert the following:

"Sec. 3. RCW 43.84.092 and 1997 c 218 s 5 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve fund, the federal forest revolving account, the health services account, the public health

services account, the health system capacity account, the personal health services account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the park land acquisition account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the department of licensing services account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the gasohol exemption holding account, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the marine operating fund, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the small city account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation revolving loan account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section."

#### MOTIONS

On motion of Senator Swecker, the following title amendment was adopted:

On page 1, line 1 of the title, after "RCW 43.51.210" strike the remainder of the title and insert ", 43.51.215, and 43.84.092."

On motion of Senator Swecker, the rules were suspended, Engrossed Substitute Senate Bill No. 6152 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6152.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6152 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6152, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6270, by Senators Anderson, Spanel, Swecker, West and Oke (by request of Department of Revenue)

Eliminating the business and occupation tax on internal distributions.

The bill was read the second time.

#### MOTION

On motion of Senator Strannigan, the rules were suspended, Senate Bill No. 6270 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6270.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6270 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SENATE BILL NO. 6270, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6272, by Senators Long, Strannigan, Kline, Wood, Johnson, Anderson and McAuliffe

Authorizing Snohomish county to create one additional district court position.

The bill was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Bill No. 6272 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Goings, Senator Loveland was excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6272.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6272 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Excused: Senators Loveland and Zarelli - 2. SENATE BILL NO. 6272, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6279, by Senators Long, Kohl, Hargrove, Zarelli, Franklin, Stevens, Schow and Oke

Imposing an additional assessment for persons entering diversion agreements in regard to prostitution offenses.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, Senate Bill No. 6279 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6279.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6279 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 48. Excused: Senator Zarelli - 1. SENATE BILL NO. 6279, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 2:58 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 4:00 p.m. by President Owen.

There being no objection, the President returned the Senate to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SB 6758 by Senators Long, Hargrove and West

AN ACT Relating to the work ethic camp program; and repealing RCW 72.09.420.  
Referred to Committee on Human Services and Corrections.

There being no objection, the President advanced the Senate to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6301, by Senators Schow, Horn, Franklin and Heavey

Regulating franchise agreements between motor vehicle manufacturers and dealers.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, Senate Bill No. 6301 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6301.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6301 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Newhouse - 1. SENATE BILL NO. 6301, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senators Newhouse and Schow were excused.

#### SECOND READING

SENATE BILL NO. 6302, by Senators Winsley and Prentice (by request of Insurance Commissioner Senn)

Establishing risk-based capital standards for health carriers.

#### MOTIONS

On motion of Senator Winsley, Substitute Senate Bill No. 6302 was substituted for Senate Bill No. 6302 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Winsley, the rules were suspended, Substitute Senate Bill No. 6302 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6302.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6302 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Kline - 1. Excused: Senators Newhouse and Schow - 2. SUBSTITUTE SENATE BILL NO. 6302, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the seventh order of business.

There being no objection, the Senate resumed consideration of Senate Bill No. 5271, deferred on third reading January 30, 1998.

#### MOTION

On motion of Senator Horn, the rules were suspended, Senate Bill No. 5271 was returned to second reading and read the second time.

#### MOTION

Senator Patterson moved that the following amendment be adopted:

On page 2, line 32, after "authority" insert "only if the elected official is not currently seeking election"

Debate ensued.

#### POINT OF INQUIRY

Senator West: "Senator Patterson, is it your intent or is it a potential unintended consequence, perhaps, that this amendment would prevent a Senator that is up for reelection from submitting a letter to the editor, which would also be printed on the editorial pages and prevent us from exercising our free speech rights?"

Senator Patterson: "Thank you, Senator West. No, that is not my intent. My intent is simply to prevent politicians who are running for state office from using public facilities and state employees to express their opinions on ballot issues in the newspapers in an election year. Now, I want to make it clear that those opinions that the different caucuses, for instance, might have can still be expressed because half of the Senate is not up for election."

Senator West: "Senator Patterson, if I don't use any of my personal staff--my Senate staff--don't use any of my caucus staff, I can write--and I am a pretty good writer myself actually--I could write a guest editorial? How would anybody--?"

Senator Patterson: "My intent is to prevent us from using state facilities and state employees. My intention is not to prevent you from expressing yourself if you use your own computer at home."

The President declared the question before the Senate to be the adoption of the amendment by Senator Patterson on page 2, line 32, to Senate Bill No. 5271.

The motion by Senator Patterson carried and the amendment was adopted on a rising vote.

#### MOTION

On motion of Senator Horn, the rules were suspended, Engrossed Senate Bill No. 5271 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Johnson: "Senator Patterson, the language of the amendment--I'm sorry I'm not looking at the bill--says, 'Only if the elected official is not currently seeking election.' I think under Public Disclosure Commission Rules, the minute you receive a dollar, even though the election is a year or two away, you are a candidate. Maybe that's not the same, but it is something that I am asking you about."

Senator Patterson: "Thank you, Senator Johnson. The intent of the amendment is to make that period of time begin the day that you file for reelection. That is what the intent of the amendment is."

Further debate ensued.

#### POINT OF INQUIRY

Senator Deccio: "Senator Patterson, let me give you a scenario. You are a candidate, so you can't use a guest editorial on a ballot issue or whatever, but your opponent who is supported by the paper is asked to do a guest editorial and he does. What opportunity do you have to respond to that in the same fashion that your opponent did--the way that your amendment reads?"

Senator Patterson: "Thank you, Senator Deccio, for that question. You would have the same opportunity to respond, Senator, but you would not be able to use state facilities, you would not be able to use your legislative assistant, or any of the state employees to provide that opinion to the newspaper. That is what the amendment is all about, Senator. You can use your own computer at home or your typewriter or your office at home. As long as it is not being supported with tax payers dollars, it is fine."

Further debate ensued.

#### POINT OF INQUIRY

Senator Schow: "Senator Patterson, are you saying that if I'm not--if I haven't declared as a candidate, then I could use state facilities to answer that guest editorial that somebody else wrote? Well, if someone who is going to be an opponent of mine sometime in the future wrote an article against a guest editorial, but I hadn't declared yet that I was going to be a candidate--I

hadn't officially declared--then I could then use my office or state facilities to answer it as long as he or she did this before I had declared?"

Senator Patterson: "Senator, the intent of the amendment is to prevent us from using state facilities and state employees to respond to a ballot measure, when invited by a newspaper after that period of time which we file for reelection or for election for public office. The intent is not to prevent you from responding with your own personal computer or facilities. Maybe, it would help to put your mind at ease--I would be willing to help those of you with concerns to clarify this amendment in the House. The intent for the record, I think, should be very clear. You may use your own personal computer to express yourself during election time, but you simply may not use state facilities."

Further debate ensued.

#### MOTION

On motion of Senator Johnson, further consideration of Engrossed Senate Bill No. 5271 was deferred.

#### THIRD READING

SENATE BILL NO. 5258, by Senators Hochstatter, Zarelli, Finkbeiner, McAuliffe, Rasmussen and Goings

Providing medical assistance in public schools.

The bill was read the third time.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5258.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5258 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 5258, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President returned the Senate to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 5853, by Senators Goings, McCaslin, Haugen, Winsley and Rasmussen

Providing for fire protection district finance officers.

#### MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 5853 was substituted for Senate Bill No. 5853 and the substitute bill was placed on second reading and read the second time.

On motion of Senator McCaslin, the rules were suspended, Substitute Senate Bill No. 5853 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5853.



## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5853 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 5853, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6346, by Senators Johnson and Heavey

Allowing withdrawals from regional transportation authorities.

## MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 6346 was substituted for Senate Bill No. 6346 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Substitute Senate Bill No. 6346 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6346.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6346 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 6346, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6599, by Senators Benton, Spanel, Kohl and Oke (by request of Department of Revenue)

Exempting fund-raising activities by nonprofit organizations from sales and use taxation.

The bill was read the second time.

## MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6599 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6599.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6599 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 6599, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6439, by Senators Wood, Haugen, Prince and Horn (by request of Department of Transportation)

Authorizing design-build demonstration projects.

#### MOTION

On motion of Senator Wood, Substitute Senate Bill No. 6439 was substituted for Senate Bill No. 6439 and the substitute bill was placed on second reading and read the second time.

#### MOTION

On motion of Senator Johnson, further consideration of Substitute Senate Bill No. 6439 was deferred.

There being no objection, the President advanced the Senate to the seventh order of business.

There being no objection, the Senate resumed consideration of Engrossed Substitute Senate Bill No. 6259, deferred on third reading February 11, 1998.

#### MOTION

On motion of Senator Swecker, the rules were suspended, Engrossed Substitute Senate Bill No. 6259 was returned to second reading and read the second time.

#### MOTIONS

On motion of Senator Swecker, the following amendment by Senators Roach and Swecker was adopted:

On page 2, line 11, after "purchase," strike "condemn by power of eminent domain pursuant to chapters 8.08 and 8.25 RCW,"

Senator Swecker moved that the following amendment by Senators Roach and Swecker be adopted:

On page 2, line 24, after "elected to" delete "six-year" and insert "three-year"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Roach and Swecker on page 2, line 24, to Engrossed Substitute Senate Bill No. 6259.

The motion by Senator Swecker carried and the amendment was adopted.

#### MOTION

On motion of Senator Johnson, further consideration of Engrossed Substitute Senate Bill No. 6259 was deferred.

There being no objection, the President returned the Senate to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6251, by Senators Horn, T. Sheldon, Patterson and Rossi (by request of Department of Information Services)

Exempting specified computer software from public disclosure.

#### MOTIONS

On motion of Senator Horn, Substitute Senate Bill No. 6251 was substituted for Senate Bill No. 6251 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Horn, the rules were suspended, Substitute Senate Bill No. 6251 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Hochstatter was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6251.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6251 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Hochstatter - 1. SUBSTITUTE SENATE BILL NO. 6251, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of Substitute Senate Bill No. 6439, deferred on second reading earlier today.

#### MOTION

Senator Benton moved that the following amendment by Senators Benton, Bauer and Zarelli be adopted:

On page 2, line 10, after "projects" insert ", one of which must be the SR 14/192nd Street interchange."

#### POINT OF INQUIRY

Senator Patterson: "Senator Benton, I just wondered if you would accept an oral amendment to add State Route 509 in the thirty-third legislative district on to the list as well?"

Senator Benton: "Well, actually no, I can't accept that amendment and I will tell you why. In fairness, I think that we should give the department the right to choose one project and the Legislature should have the right to choose one project."

Further debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton, Bauer and Zarelli on page 2, line 10, to Substitute Senate Bill No. 6439.

The motion by Senator Benton failed and the amendment was not adopted.

#### MOTION

On motion of Senator Wood, the rules were suspended, Substitute Senate Bill No. 6439 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6439.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6439 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Deccio, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Kline, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 32. Voting nay: Senators Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Heavey, Johnson, Kohl, Loveland, McAuliffe, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 17. SUBSTITUTE SENATE BILL NO. 6439, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the following members of the Washington State Future Farmers of America, who were seated in the gallery: Andy Cockle, State President from Nooksack Valley; LeAnn Crossland, State Vice President from Yelm; Melissa Ney, District Vice President from Yelm, and Ron Crawford, State Advisor from Olympia.

#### SECOND READING

SENATE BILL NO. 6254, by Senators Schow, Franklin, Horn, Heavey, Johnson and Rasmussen

Negotiating land transfers involving manufactured or mobile homes.

#### MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6254 was substituted for Senate Bill No. 6254 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the rules were suspended, Substitute Senate Bill No. 6254 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6254.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6254 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 48. Absent: Senator Wood - 1. SUBSTITUTE SENATE BILL NO. 6254, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 5:29 p.m., on motion of Senator Johnson, the Senate recessed until 7:00 p.m.

The Senate was called to order at 7:00 p.m. by President Owen.

#### MOTION

On motion of Senator Hale, Senator McCaslin was excused.

#### SECOND READING

SENATE BILL NO. 6315, by Senators Horn, Wood and Haugen (by request of Transportation Improvement Board)

Updating references to the transportation improvement board bond retirement account.

The bill was read the second time.

#### MOTION

On motion of Senator Prince, the rules were suspended, Senate Bill No. 6315 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6315.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6315 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Oke - 1. Excused: Senator McCaslin - 1. SENATE BILL NO. 6315, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6324, by Senators Morton, Rasmussen, Oke, Swecker and West

Rehabilitating salmon and trout populations with a remote site incubator program.

#### MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 6324 was substituted for Senate Bill No. 6324 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 6324 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6324.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6324 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McCaslin - 1. SUBSTITUTE SENATE BILL NO. 6324, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6196, by Senators Hargrove and Long (by request of Department of Social and Health Services)

Concerning judicial review for certain out-of-home child placements.

### MOTIONS

On motion of Senator Long, Substitute Senate Bill No. 6196 was substituted for Senate Bill No. 6196 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Hargrove, the following amendment by Senators Hargrove and Long was adopted:

On page 3, beginning on line 10, after "home." strike all material through "home." on line 21, and insert "If the department does not accept a voluntary placement agreement signed by the parent, a petition may be filed and an action pursued under chapter 13.34 RCW. The department shall inform the parent, guardian, or legal custodian in writing of their right to civil action under chapter 13.34 RCW."

### MOTION

On motion of Senator Long, the rules were suspended, Engrossed Substitute Senate Bill No. 6196 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6196.

### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6196 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McCaslin - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6196, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6264, by Senators Oke, Rasmussen, Morton, Swecker and Anderson

Providing for the mass marking of chinook salmon.

### MOTIONS

On motion of Senator Oke, Second Substitute Senate Bill No. 6264 was substituted for Senate Bill No. 6264 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Oke, the rules were suspended, Second Substitute Senate Bill No. 6264 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6264.

### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6264 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Fairley, Fraser, McAuliffe and Thibaudeau - 4. Excused: Senator McCaslin - 1. SECOND SUBSTITUTE SENATE BILL NO. 6264, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6329, by Senators Deccio, Thibaudeau, Wood and Loveland

Providing for a certain disclosure of health care information without patient's authorization.

The bill was read the second time.

#### MOTION

On motion of Senator Deccio, the rules were suspended, Senate Bill No. 6329 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6329.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6329 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McCaslin - 1. SENATE BILL NO. 6329, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6150, by Senator Swecker

Requiring recommendations concerning selective fishing strategies.

#### MOTIONS

On motion of Senator Oke, Substitute Senate Bill No. 6150 was substituted for Senate Bill No. 6150 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Oke, the rules were suspended, Substitute Senate Bill No. 6150 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6150.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6150 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McCaslin - 1. SUBSTITUTE SENATE BILL NO. 6150, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6293, by Senators Benton, Roach, T. Sheldon, Rossi, McDonald and Oke

Permanently revoking drivers' licenses upon a drunk driving violation.

#### MOTIONS

On motion of Senator Benton, Second Substitute Senate Bill No. 6293 was substituted for Senate Bill No. 6293 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Haugen, the following amendment by Senators Haugen, Wood, Winsley and Deccio was adopted:

On page 9, after line 22, insert the following:

"NEW SECTION. **Sec. 5.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

Renumber the remaining section and correct any internal references accordingly.

#### MOTIONS

On motion of Senator Benton, the following title amendment was adopted:

On page 1, line 3 of the title, after "RCW" strike "creating a new section" and insert "creating new sections"

On motion of Senator Benton, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6293 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Fairley: "Senator Benton, I notice that you have electronic home monitoring required for each of the penalties. There has been some concern raised that some of the smaller counties could not provide this. Can you address that issue, please?"

Senator Benton: "Yes, thank you, Senator Fairley, for raising that question. That was a question that was considered as this bill came to the Transportation Committee and I believe it was answered to the satisfaction of those on that committee that had that concern in that this is a new technology and it is getting newer and better all the time and within a year will be available by satellite even in the remotest areas of the world--they will be able to use this. The cost is shifted to the offender, so the offender will pay for the cost, so I think that question has been asked and was answered as it came to Transportation--and the answer was, 'Yes, even small remote areas can use this technology for relatively inexpensive cost.'"

Senator Fairley: "Thank you."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6293.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6293 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McCaslin -



1. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6293, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6375, by Senators Winsley, Prentice, Sellar, Hale and Benton

Setting the rates of interest and other fees charged by pawnbrokers.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Senate Bill No. 6375 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6375.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6375 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Swecker, West, Winsley, Wood and Zarelli - 34. Voting nay: Senators Brown, Fairley, Finkbeiner, Heavey, Jacobsen, Kline, Kohl, Oke, Patterson, Snyder, Spanel, Strannigan, Thibaudeau and Wojahn - 14. Excused: Senator McCaslin - 1. SENATE BILL NO. 6375, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6352, by Senators Wood and Haugen (by request of Washington State Patrol)

Specifying examination eligibility requirements for Washington state patrol officers.

The bill was read the second time.

#### MOTION

On motion of Senator Wood, the rules were suspended, Senate Bill No. 6352 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6352.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6352 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McCaslin - 1. SENATE BILL NO. 6352, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6353, by Senators Sellar and Goings (by request of Washington State Patrol)

Reflecting actual working hours for disability of Washington state patrol officers.

The bill was read the second time.

#### MOTION

On motion of Senator Sellar, the rules were suspended, Senate Bill No. 6353 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6353.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6353 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McCaslin - 1. SENATE BILL NO. 6353, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6359, by Senators Finkbeiner, Rossi, Brown and Jacobsen (by request of Utilities and Transportation Commission)

Requiring companies that seek to contract with an affiliated interest to file with the utilities and transportation commission.

The bill was read the second time.

#### MOTION

On motion of Senator Finkbeiner, the rules were suspended, Senate Bill No. 6359 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6359.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6359 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McCaslin - 1. SENATE BILL NO. 6359, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6360, by Senators Johnson and Kline

Prescribing garnishee's processing fees.

The bill was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Bill No. 6360 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6360.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6360 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 47. Voting nay: Senator Wojahn - 1. Excused: Senator McCaslin - 1. SENATE BILL NO. 6360, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6379, by Senators Anderson, Spanel and Roach

Extending the retail sales tax exemption for sales of laundry service.

#### MOTIONS

On motion of Senator Strannigan, Substitute Senate Bill No. 6379 was substituted for Senate Bill No. 6379 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Strannigan, the rules were suspended, Substitute Senate Bill No. 6379 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6379.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6379 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McCaslin - 1. SUBSTITUTE SENATE BILL NO. 6379, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6380, by Senators Winsley, Prentice, Hale, Oke, Patterson and Goings (by request of Department of Community, Trade, and Economic Development)

Providing mobile home relocation assistance.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Senate Bill No. 6380 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6380.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6380 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Hargrove - 1. Excused: Senator McCaslin - 1. SENATE BILL NO. 6380, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6383, by Senators Wood and Fairley

Creating inactive license status for physical therapists.

The bill was read the second time.

#### MOTION

On motion of Senator Wood, the rules were suspended, Senate Bill No. 6383 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6383.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6383 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Prentice - 1. Excused: Senator McCaslin - 1. SENATE BILL NO. 6383, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Goings, Senator Prentice was excused.

#### SECOND READING

SENATE BILL NO. 6387, by Senators Fraser, Swecker, Fairley, Rasmussen and Winsley

Authorizing charitable deductions from retirement allowances.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6387 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6387.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6387 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McCaslin and Prentice - 2. SENATE BILL NO. 6387, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6398, by Senators McCaslin and Winsley (by request of Secretary of State Munro)

Regulating voting system tests.

The bill was read the second time.

#### MOTION

On motion of Senator Hale, the rules were suspended, Senate Bill No. 6398 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6398.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6398 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McCaslin and Prentice - 2. SENATE BILL NO. 6398, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6400, by Senators Brown, Finkbeiner, Oke and Thibaudeau (by request of Department of Social and Health Services)

Extending the Washington telephone assistance program through 2003.

The bill was read the second time.

#### MOTION

On motion of Senator Finkbeiner, the rules were suspended, Senate Bill No. 6400 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6400.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6400 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McCaslin and Prentice - 2. SENATE BILL NO. 6400, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6409, by Senators Hargrove and Long (by request of Department of Social and Health Services)

Redistributing responsibilities for care for children with developmental disabilities provided by the department of social and health services in the division of developmental disabilities.

#### MOTIONS

On motion of Senator Long, Substitute Senate Bill No. 6409 was substituted for Senate Bill No. 6409 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Long, the rules were suspended, Substitute Senate Bill No. 6409 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6409.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6409 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McCaslin and Prentice - 2. SUBSTITUTE SENATE BILL NO. 6409, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6420, by Senators Schow, Heavey and Winsley (by request of Employment Security Department)

Allowing an application for initial determination to be in writing or in another form determined by the commissioner of the employment security department.

#### MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6420 was substituted for Senate Bill No. 6420 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the rules were suspended, Substitute Senate Bill No. 6420 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6420.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6420 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McCaslin and Prentice - 2. SUBSTITUTE SENATE BILL NO. 6420, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6422, by Senators Schow, Heavey and Winsley (by request of Employment Security Department)

Providing support for collaborative efforts toward worker reemployment.

#### MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6422 was substituted for Senate Bill No. 6422 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the rules were suspended, Substitute Senate Bill No. 6422 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6422.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6422 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McCaslin and Prentice - 2. SUBSTITUTE SENATE BILL NO. 6422, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 9:01 p.m., on motion of Senator Johnson, the Senate adjourned until 9:00 a.m., Friday, February 13, 1998.

BRAD OWEN, President of the Senate

IKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

THIRTY-SECOND DAY, FEBRUARY 12, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**THIRTY-THIRD DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Friday, February 13, 1998

The Senate was called to order at 9:00 a.m. by President Pro Tempore Newhouse. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present except Senators Brown, Finkbeiner, McAuliffe and Patterson. On motion of Senator Hale, Senator Finkbeiner was excused. On motion of Senator Franklin, Senators Brown, McAuliffe and Patterson were excused.

The Sergeant at Arms Color Guard, consisting of Pages Lucas Swanson and Kristin Whitener, presented the Colors. Reverend Bruce Armstrong, pastor of the Lacey Presbyterian Church, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**REPORT OF STANDING COMMITTEE**

February 12, 1998

SB 6295 Prime Sponsor, Senator Benton: Tax exemptions for transportation facilities. Reported by Committee on Rules

**MAJORITY Recommendation:** Refer to Committee on Ways and Means without recommendation. Signed by Lieutenant Governor Owen, Chair; Senators Newhouse, Vice Chair; Bauer, Hale, Horn, Johnson, Loveland, McAuliffe, McDonald, Sellar, B. Sheldon, Snyder, Stevens, Swecker, Thibaudeau and Wojahn.

Referred to Committee on Ways and Means.

MESSAGES FROM STATE OFFICES

**STATE OF WASHINGTON**

Department of Social and Health Services  
Olympia, Washington 98504-5000

February 5, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. O'Connell:

Enclosed is the Children's Administration Report to the Legislature entitled "Decline of Youth in Police Custody." This report is mandated under RCW 13.32A.060(1)(c).

If you have any questions about the report, please call Art Cantrall at 902-7956.

Sincerely,

LYLE QUASIM, Secretary



The Department of Social and Health Services Report on Decline of Youth in Police Custody is on file in the Office of the Secretary of Senate.

STATE OF WASHINGTON  
Department of Social and Health Services  
Olympia, Washington 98504-5000

February 5, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. O'Connell:

Enclosed is the Juvenile Rehabilitation Administration Report to the Legislature entitled "An Assessment of Sexually Aggressive Youth and Youth Vulnerable to Sexual Victimization in Juvenile Rehabilitation Administration Facilities." This report is mandated under Chapter 386, Laws of 1997, Section 51.

If you have any questions about the report, please call Corinne Mason at 902-8106.

Sincerely,

LYLE QUASIM, Secretary

The Department of Social and Health Services Report on an Assessment of Sexually Aggressive Youth and Youth Vulnerable to Sexual Victimization in Juvenile Rehabilitation Administration Facilities is on file in the Office of the Secretary of Senate.

MESSAGES FROM THE HOUSE

February 11, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 2671,  
HOUSE BILL NO. 2779,  
SUBSTITUTE HOUSE BILL NO. 2817,  
HOUSE BILL NO. 2837,  
SUBSTITUTE HOUSE BILL NO. 2840,  
HOUSE BILL NO. 2889,  
SUBSTITUTE HOUSE BILL NO. 2912, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 11, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED HOUSE BILL NO. 2414,  
ENGROSSED HOUSE BILL NO. 2596,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2730,  
ENGROSSED HOUSE BILL NO. 2791,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2821, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 11, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 1992,  
HOUSE BILL NO. 3098,  
HOUSE JOINT MEMORIAL NO. 4032, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 11, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED HOUSE BILL NO. 1637,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2317,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2360,  
ENGROSSED HOUSE BILL NO. 2465,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2483,  
ENGROSSED HOUSE BILL NO. 2549, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 11, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 2311,  
HOUSE BILL No. 2349,  
HOUSE BILL No. 2434,  
SUBSTITUTE HOUSE BILL NO. 2459,  
SUBSTITUTE HOUSE BILL NO. 2469,  
HOUSE BILL NO. 2476,  
SUBSTITUTE HOUSE BILL NO. 2532,  
HOUSE BILL NO. 2553,  
SUBSTITUTE HOUSE BILL No. 2555,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2823,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2363,  
SUBSTITUTE HOUSE BILL NO. 2573,  
HOUSE BILL NO. 2575, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

EHB 1637 by Representatives Costa, Ballasiotes, Dickerson, Keiser, Wood, Ogden, Blalock, Cooke and Scott

Implementing teen court programs.

Referred to Committee on Law and Justice.

SHB 1992 by House Committee on Commerce and Labor (originally sponsored by Representatives McMorris, Honeyford, Clements and Thompson)

Implementing workplace safety rules.

Referred to Committee on Commerce and Labor.

SHB 2311 by House Committee on Law and Justice (originally sponsored by Representatives L. Thomas, Benson, Zellinsky and Dyer)

Adjusting the jurisdictional amount for small claims court.

Referred to Committee on Law and Justice.

ESHB 2317 by House Committee on Trade and Economic Development (originally sponsored by Representatives Schoesler, Sheahan, Crouse, Backlund, Lambert, McCune, Pennington, Bush, D. Sommers and Sullivan)

Limiting the promotion of gambling.

Referred to Committee on Commerce and Labor.

HB 2349 by Representatives Ogden, Gardner, Romero, Butler, Chopp, Costa, Anderson, Kenney, Cooper, Constantine, Conway and Lantz

Funding capital projects for local nonprofit art and cultural organizations.

Referred to Committee on Ways and Means.

ESHB 2360 by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas, Romero, Huff, Wolfe, Ogden, H. Sommers, D. Schmidt, Gardner and Anderson) (by request of State Treasurer Murphy)

Authorizing financing contracts.

Referred to Committee on Government Operations.

ESHB 2363 by House Committee on Health Care (originally sponsored by Representatives Backlund, Cody, Skinner, Dyer, Anderson and D. Sommers) (by request of Department of Health)

Enacting department of health recommendations removing barriers to nurse delegation.

Referred to Committee on Health and Long-Term Care.

EHB 2414 by Representatives Pennington, Mielke, Alexander, Carlson, Honeyford, Chandler, Buck, Hatfield and Doumit

Extending the time in which to comply with outdoor burning prohibitions.

Referred to Committee on Agriculture and Environment.

HB 2434 by Representatives Pennington, Delvin, Mielke and L. Thomas

Increasing maximum height for motorcycle handlebars.

Referred to Committee on Transportation.

SHB 2442 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Scott, Robertson, Mitchell, Hatfield, Radcliff, Fisher, Cooper, O'Brien, K. Schmidt, B. Thomas, L. Thomas, Cooke, Zellinsky, Backlund and Carlson)

Strengthening laws on disabled persons' parking permits.

Referred to Committee on Law and Justice.

SHB 2459 by House Committee on Trade and Economic Development (originally sponsored by Representatives Veloria, Van Luven, Butler, Cody, Mason, Conway, McDonald, Kenney, Kastama, Dickerson and Keiser)

Regulating public housing authorities in large jurisdictions.

Referred to Committee on Financial Institutions, Insurance and Housing.

EHB 2465 by Representatives Dyer, Cody, Backlund, L. Thomas and Cooke

Expanding the privileged communication from physician-patient to the health care provider and patient privilege.

Referred to Committee on Law and Justice.

SHB 2469 by House Committee on Health Care (originally sponsored by Representative Lambert)

Increasing the blood supply through directed donations.

Referred to Committee on Health and Long-Term Care.

HB 2476 by Representatives Schoesler, Sheahan, Honeyford, Sump, Mulliken, Buck, Chandler, McMorris and Zellinsky

Providing a sales tax exemption for parts used for and repairs to farm machinery and implements used outside the state.

Referred to Committee on Agriculture and Environment.

ESHB 2483 by House Committee on Government Administration (originally sponsored by Representatives Dunn, Wolfe and D. Schmidt) (by request of Department of Information Services)

Exempting specified computer software from public disclosure.

Referred to Committee on Energy and Utilities.

SHB 2532 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Costa, Lambert, Cody, Sterk, Veloria, Mason, Kenney, O'Brien, Cole, Conway, Dickerson, Chopp, Kessler, Constantine and Wood)

Recognizing foreign protection orders.

Referred to Committee on Law and Justice.

EHB 2549 by Representatives L. Thomas, Wolfe and Thompson (by request of Insurance Commissioner Senn)

Establishing risk-based capital standards for health carriers.

Referred to Committee on Financial Institutions, Insurance and Housing.

HB 2553 by Representatives Crouse, Morris, DeBolt, Kessler, Cooper, Benson, Mielke, Dunshee, Hankins, Delvin, Zellinsky, Constantine, Kastama, O'Brien, Conway, Dickerson and Mason

Extending the prohibition on filing for a tariff on mandatory measured telecommunications service.

Referred to Committee on Energy and Utilities.

SHB 2555 by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives Zellinsky, Constantine, Sullivan, Carrell and Dickerson)

Regulating the use of aftermarket crash parts for the repair of motor vehicles.

Referred to Committee on Financial Institutions, Insurance and Housing.

SHB 2573 by House Committee on Criminal Justice and Corrections (originally sponsored by Representatives Lambert, Carrell, Costa and Thompson)

Defining the crime of custodial sexual misconduct.

Referred to Committee on Law and Justice.

HB 2575 by Representatives Pennington, D. Schmidt, Lisk, Skinner, Honeyford, Carlson, Kessler and Mulliken

Clarifying restrictions on public disclosure commission members' activities.

Referred to Committee on Government Operations.

ESHB 2596 by House Committee on House Government Reform and Land Use (originally sponsored by Representatives Chandler, Reams, Gardner, Lantz and Mulliken)

Clarifying that master planned resorts may obtain facilities, utilities, and services from outside service providers.

Referred to Committee on Government Operations.

SHB 2671 by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Scott, Gardner, Doumit and D. Sommers)

Clarifying procedures for absentee voting and mail ballots.

Referred to Committee on Government Operations.

ESHB 2730 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Robertson, Hatfield, Mitchell, Fisher, Hankins, Romero, Cairnes, O'Brien, Zellinsky, Scott, Johnson, Wood, Sterk, Ogden, Radcliff, Hickel, Skinner, Ballasiotes, Delvin, Cooke, Anderson, Sullivan, Thompson, Gardner and Kenney)

Increasing security of drivers' licenses.

Referred to Committee on Transportation.

HB 2779 by Representatives Dunn and Morris

Extending the Washington economic development finance authority.

Referred to Committee on Commerce and Labor.

EHB 2791 by Representatives Schoesler, Doumit, Sheahan, Ballasiotes, Radcliff, Sump, Sullivan, Mielke, Buck, Alexander, Boldt, Sterk, Crouse, Smith, Van Luven, Hickel, Koster, Mulliken, Johnson, Wensman, D. Sommers, Backlund and DeBolt

Fighting methamphetamine.

Referred to Committee on Law and Justice.

SHB 2817 by House Committee on Government Administration (originally sponsored by Representatives Doumit and Hatfield)

Regarding district sales of real property.

Referred to Committee on Government Operations.

ESHB 2821 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Radcliff, Cooke, Van Luven and Robertson)

Authorizing branch classrooms for driver training schools.

Referred to Committee on Transportation.

ESHB 2823 by House Committee on Law and Justice (originally sponsored by Representatives Lambert and Constantine)

Changing statutes affecting deeds of trust.

Referred to Committee on Law and Justice.

HB 2837 by Representatives Clements, Skinner and Buck

Identifying property abandoned by the department of fish and wildlife.

Referred to Committee on Natural Resources and Parks.

SHB 2840 by House Committee on Commerce and Labor (originally sponsored by Representatives Clements, McMorris, Schoesler, Honeyford, Boldt, D. Schmidt and Mielke)

Issuing citations under the Washington industrial safety and health act.

Referred to Committee on Commerce and Labor.

HB 2889 by Representatives Mitchell, Fisher, K. Schmidt, Radcliff, Zellinsky, Backlund, Skinner, Cairnes, Chandler, DeBolt, Sterk, Gardner, McCune, Hankins, Robertson, Romero, Mielke, Wood, O'Brien, Ogden, Murray, Boldt and Lambert

Consolidating three transportation agencies.

Referred to Committee on Transportation.

SHB 2912 by House Committee on Education (originally sponsored by Representatives Quall, Talcott, B. Thomas and O'Brien)

Authorizing learning materials to be loaned to private school students.

Referred to Committee on Education.

HB 3098 by Representative Sehlin

Providing for the coordination of environmental restoration priorities and mitigation responsibilities.

Referred to Committee on Agriculture and Environment.

HJM 4032 by Representatives Buck, Butler, Chandler, DeBolt, Sehlin, Hatfield, McCune, Doumit, Kessler, Zellinsky and Thompson

Regarding salmon and steelhead under the federal Endangered Species Act.

Referred to Committee on Natural Resources and Parks.

MOTION

On motion of Senator Wojahn, the following resolution was adopted:

SENATE RESOLUTION 1998-8700

By Senators Wojahn, McDonald, Snyder, McCaslin, Sellar, Bauer and Newhouse

WHEREAS, Lyle Burt was a mainstay of the Capitol Press Corps for more than fifteen years as a state government reporter for the Seattle Times during the 1970's and 80's and was praised for the accuracy of his news writing; and

WHEREAS, Lyle Burt will be remembered by politicians, bureaucrats, judges and news reporters alike as a gentleman; and

WHEREAS, In addition to his solid and respected reporting style, Mr. Burt was widely known for his outside interests, including a devotion to bagpipes and other aspects of his Scottish heritage, and those around him understood that Lyle Burt came equipped with pipes and practice chanter, either of which could go off without warning in his office during the noon hour; and

WHEREAS, Lyle Burt was born in Everett and lived his entire life in Washington, serving in the U.S. Navy during World War II and was an accomplished still photographer, radio personality, and wire service reporter for the Associated Press before joining the Seattle Times as a political reporter in 1961; and

WHEREAS, Mr. Burt's other interests included gourmet Chinese cooking, which he learned while covering the International District in Seattle before coming to Olympia to establish a news bureau for the Times in 1971; and

WHEREAS, Mr. Burt passed away February 4, 1998, in Tacoma at the age of eighty, but not before admonishing family and friends that he thought funerals were for others and not for him;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate hereby recognizes Lyle Burt's life accomplishments and sends condolences to his wife Kathryn Burt, sons Terry Burt of Tennessee and Douglas Burt of Olympia, and daughter, Robin Burt of Ithaca, New York; and

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the family of Lyle Burt.

Senators Wojahn, Sellar and McCaslin spoke to Senate Resolution 1998-8700.

MOTION

On motion of Senator Johnson, the Senate reverted to the sixth order of business.

SECOND READING  
GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Spanel, Gubernatorial Appointment No. 9202, Phyllis S. Self, as a member of the Board of Trustees for Whatcom Community College District No. 21, was confirmed.

APPOINTMENT OF PHYLLIS S. SELF

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke,

Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senator Prince - 1. Excused: Senators Brown, Finkbeiner, McAuliffe and Patterson - 4.

#### MOTION

On motion of Senator Wood, gubernatorial appointment No. 9314, William H. Gates, as a member of the Board of Regents for the University of Washington, was confirmed.

Senators Wood and Betti Sheldon spoke to the appointment of William H. Gates as a member of the Board of Regents for the University of Washington.

#### APPOINTMENT OF WILLIAM H. GATES

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Brown, Finkbeiner, McAuliffe and Patterson - 4.

#### SECOND READING

SENATE BILL NO. 6425, by Senators McCaslin, Haugen and Fraser

Clarifying legal authority of an agency head.

#### MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 6425 was substituted for Senate Bill No. 6425 the substitute bill was placed on second reading and read the second time.

On motion of Senator McCaslin, the rules were suspended, Substitute Senate Bill No. 6425 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Franklin, Senators Goings and Snyder were excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6425.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6425 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Brown, Goings and Snyder - 3. SUBSTITUTE SENATE BILL NO. 6425, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Franklin, Senator Loveland was excused.

#### SECOND READING



SENATE BILL NO. 6441, by Senators Oke, Prince, Haugen and Winsley (by request of Department of Transportation)

Clarifying procedures for environmental protection change orders in public projects.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, Senate Bill No. 6441 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6441.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6441 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Brown and Loveland - 2. SENATE BILL NO. 6441, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6449, by Senators West, Anderson, Kohl, T. Sheldon, Jacobsen, Goings and Winsley (by request of Governor Locke)

Specifying a business and occupation tax rate for income in the nature of royalties for the use of intangible rights.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6449 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6449.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6449 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Brown - 1. SENATE BILL NO. 6449, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6483, by Senator West

Authorizing the transfer of enforcement of cigarette and tobacco taxes to the liquor control board.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6483 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6483.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6483 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Prentice - 1. Excused: Senator Brown - 1. SENATE BILL NO. 6483, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6502, by Senators Horn, Haugen, Benton, Goings and Wood

Deleting reference to obsolete transportation accounts.

#### MOTIONS

On motion of Senator Horn, Substitute Senate Bill No. 6502 was substituted for Senate Bill No. 6502 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Horn, the following amendment was adopted:

On page 6, beginning on line 9, strike all of section 4, renumber the remaining sections, and correct any internal references accordingly.

#### MOTIONS

On motion of Senator Horn, the following title amendment was adopted:

On line 2 of the title, after "43.84.092," strike "47.10.803,"

On motion of Senator Horn, the rules were suspended, Engrossed Substitute Senate Bill No. 6502 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Franklin, Senator Spanel was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6502.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6502 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin,

McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Spanel - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6502, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6503, by Senators Horn, Haugen, Benton, Goings, Wood and Winsley

Regulating unanticipated receipts in the transportation budget.

The bill was read the second time.

#### MOTION

On motion of Senator Horn, the rules were suspended, Senate Bill No. 6503 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6503.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6503 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Finkbeiner - 1. SENATE BILL NO. 6503, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 10:01 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:49 a.m. by President Owen.

#### SECOND READING

SENATE BILL NO. 6504, by Senators Horn, Haugen, Benton, Goings, Wood and Winsley

Broadening distribution of technology plans.

The bill was read the second time.

#### MOTION

On motion of Senator Horn, the rules were suspended, Senate Bill No. 6504 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6504.

#### MOTIONS

On motion of Senator Hale, Senators Prince and Roach were excused.

On motion of Senator Franklin, Senator Loveland was excused.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6504 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45.

Absent: Senator Schow - 1.

Excused: Senators Loveland, Prince and Roach - 3. SENATE BILL NO. 6504, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6507, by Senators Wood, Haugen, Oke, Heavey, Swecker, Prentice, Schow, Wojahn, Long, Loveland, Hale, Kline, West, Patterson, Snyder, Goings, Jacobsen, Spanel, Fairley, Fraser, McAuliffe, Brown and Kohl

Eliminating the expiration of the state cosmetology, barbering, esthetics, and manicuring advisory board.

## MOTIONS

On motion of Senator Wood, Substitute Senate Bill No. 6507 was substituted for Senate Bill No. 6507 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Wood, the rules were suspended, Substitute Senate Bill No. 6507 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

## MOTION

On motion of Senator Hale, Senator Schow was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6507.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6507 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Loveland, Prince, Roach and Schow - 4. SUBSTITUTE SENATE BILL NO. 6507, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

At 12:01 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 2:16 p.m. by President Owen.

## MOTION

On motion of Senator Johnson, the Senate advanced to the eighth order of business.

## MOTION

On motion of Senator Haugen, the following resolution was adopted:

SENATE RESOLUTION 1998-8698

By Senator Haugen

WHEREAS, The woodworking and the industrial technology classes at Stanwood High School have been recognized on a state and national level for excellence; and

WHEREAS, One of the reasons these programs enjoy such a valued reputation is because of the high quality of instruction the students receive from both Mike Chandler and Darryl Main, teachers with more than thirty years of experience between them; and

WHEREAS, Stanwood High School is one of the few schools that still places an emphasis on time-honored, traditional craftsmanship, while at the same time instructing students in the safe utilization of the most modern technological tools and techniques; and

WHEREAS, The students' projects in these classes range from impressive furniture pieces to metal and wooden toys, kitchen cabinetry, trailers, and rebuilt engines; and

WHEREAS, The Stanwood High School woodworking and metals programs help support the local economy by purchasing as much material as possible from community producers; and

WHEREAS, Students in these two programs at Stanwood High School learn not only a craft and vocational skill, but also learn to take pride in their workmanship and develop self-discipline in the course of their studies; and

WHEREAS, The academic qualifications and skills these students have acquired allow them to compete in high-demand careers and pursue additional educational training in whatever field they may choose to follow; and

WHEREAS, The Stanwood High School woodworking program and industrial technology program have both been invited by the Washington Vocational Association to exhibit their projects in the capitol as part of Vocational-Technical Education Week;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor the exceptional skills and craftsmanship demonstrated by students in the Stanwood High School woodworking and industrial technology programs; and

BE IT FURTHER RESOLVED, That the Senate applaud and commend the outstanding job of teaching and mentoring that Mike Chandler and Darryl Main have done at Stanwood High School for many years; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Mike Chandler and Darryl Main, certified instructors of vocational education programs at Stanwood High School.

Senators Haugen and Long spoke to Senate Resolution 1998-8698.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mike Chandler and Darryl Main, instructors, as well as the students from the Vocational Education Program at Stanwood High School, who were seated in the gallery.

MOTION

At 2:25 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 2:45 p.m. by President Owen.

There being no objection, the President returned the Senate to the sixth order of business.

SECOND READING

SENATE BILL NO. 6582, by Senators Finkbeiner, Horn and Fraser (by request of Secretary of State Munro)

Refining electronic signature law.

The bill was read the second time.

## MOTIONS

On motion of Senator Finkbeiner, the following Committee on Energy and Utilities amendment was adopted:

On page 3, after line 35, strike the following:

"(b) Information regarding the criminal background of an individual;"

Renumber the subsections consecutively and correct any internal references accordingly

On motion of Senator Finkbeiner, the rules were suspended, Engrossed Senate Bill No. 6582 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6582.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6582 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Newhouse - 1. Excused: Senator Loveland - 1. ENGROSSED SENATE BILL NO. 6582, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6534, by Senators Loveland and Prince

Defining distressed area for purposes of economic assistance.

## MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6534 was substituted for Senate Bill No. 6534 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the rules were suspended, Substitute Senate Bill No. 6534 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6534.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6534 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Loveland - 1. SUBSTITUTE SENATE BILL NO. 6534, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING GUBERNATORIAL APPOINTMENT

## MOTION

Senator Winsley moved that Gubernatorial Appointment No. 9225, Jolene Unsoeld, as a member of the Fish and Wildlife Commission, be confirmed.

Senator Oke spoke to not confirming the appointment of Jolene Unsoeld, as a member of the Fish and Wildlife Commission.

Senators Spanel, Kohl, Franklin, Rasmussen, Fraser, Heavey and Snyder spoke to the confirmation of Jolene Unsoeld, as a member of the Fish and Wildlife Commission.

#### ROLL CALL ON THE APPOINTMENT OF JOLENE UNSOELD

The Secretary called the roll. The appointment was not confirmed by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Haugen, Heavey, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Prince, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau, Winsley and Wojahn - 22. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Wood and Zarelli - 26. Excused: Senator Loveland - 1.

#### MOTION

On motion of Senator Johnson, the message from the Senate of not confirming the appointment of Jolene Unsoeld as a member of the Fish and Wildlife Commission, was immediately transmitted to the Office of Governor Locke.

#### STATEMENT FOR THE JOURNAL

On February 13, 1998, I missed voting on a bill late in the afternoon, due to participation in a conference going on outside the Senate Chamber.

The roll call shows that I was absent for the vote on Substitute Senate Bill No. 6535, providing for electronic transfer of criminal justice information. However, I would like it to reflect that I would have vote 'yea' had I not been unavoidably detained.

#### SENATOR LISA BROWN, Third Legislative District SECOND READING

SENATE BILL NO. 6535, by Senators Horn, Patterson, Haugen, Hale and Oke (by request of Washington State Patrol)

Providing for electronic transfer of criminal justice information.

#### MOTIONS

On motion of Senator Horn, Substitute Senate Bill No. 6535 was substituted for Senate Bill No. 6535 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Horn, the rules were suspended, Substitute Senate Bill No. 6535 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6535.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6535 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Brown -

1. Excused: Senator Loveland - 1. SUBSTITUTE SENATE BILL NO. 6535, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6537, by Senators Schow, Heavey, Winsley and T. Sheldon (by request of Liquor Control Board)

Allowing the liquor control board to receive grants and other funds or donations to implement programs about alcohol and tobacco.

The bill was read the second time.

#### MOTIONS

On motion of Senator Heavey, the following amendment was adopted:

On page 2, line 31, after "state." insert "However, manufacturers, retailers, or wholesalers of all alcohol, tobacco, or cigarette products are prohibited from providing funds or donations to the board."

On motion of Senator Schow, the rules were suspended, Engrossed Senate Bill No. 6537 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6537.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6537 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SENATE BILL NO. 6537, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6539, by Senators Schow and Heavey (by request of Liquor Control Board)

Making technical changes regarding designations for liquor licenses.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, Senate Bill No. 6539 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Franklin, Senator Thibaudeau was excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6539.

#### ROLL CALL



The Secretary called the roll on the final passage of Senate Bill No. 6539 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Thibaudeau - 1.. SENATE BILL NO. 6539, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6475, by Senators Roach, Fairley, Patterson, Kline, Haugen, McAuliffe, Goings, Kohl, Rasmussen and Oke (by request of Governor Locke)

Revising provisions relating to driving while under the influence.

## MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6475 was substituted for Senate Bill No. 6475 and the substitute bill was placed on second reading and read the second time.

Senator Roach moved that the following amendments by Senators Roach and Fairley be considered simultaneously and be adopted:

On page 2, line 7, after "concentration of" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 2, line 27, after "over, or" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 3, at the beginning of line 17, strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 4, line 10, after "concentration of" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 4, at the beginning of line 16, strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 5, line 16, after "concentration of" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 5, line 28, after "or was" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 5, line 37, after "concentration of" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 8, beginning on line 29, after "blood was" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 9, after line 33, insert the following:

**"Sec. 4.** RCW 46.61.503 and 1995 c 332 s 2 are each amended to read as follows:

(1) Notwithstanding any other provision of this title, a person is guilty of driving a motor vehicle after consuming alcohol if the person operates a motor vehicle within this state and the person:

(a) Is under the age of twenty-one;

(b) Has, within two hours after operating the motor vehicle, an alcohol concentration of ~~((0.02 or more))~~ at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506.

(2) It is an affirmative defense to a violation of subsection (1) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be ~~((0.02 or more))~~ in violation of subsection (1) of this section within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(3) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration ~~((of 0.02 or more))~~ in violation of subsection (1) of this section.

(4) A violation of this section is a misdemeanor."

Renumber the remaining sections consecutively and correct internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Roach and Fairley on page 2, lines 7 and 27; page 3, beginning on line 17; page 4, line 10, and beginning on line 16; page 5, lines 16, 28, and 37; page 8, beginning on line 29; and page 9, after line 33; to Substitute Senate Bill No. 6475.

The motion by Senator Roach carried and the amendments were adopted.

## MOTIONS

On motion of Senator Roach, the following amendment by Senators Roach and Fairley was adopted:

On page 19, line 12 after "RCW 46.61.5249" insert ", 46.61.500."

Senator Hale moved that the following amendments be considered simultaneously and be adopted:

On page 20, line 18, after "program" strike "more than once ((in any five-year period))" and insert "((more than once in any five-year period)) if he or she has committed a prior offense as defined in RCW 46.61.5055"

On page 21, line 15, after "facility" insert ":

(5) Defendant has committed a prior offense as defined by RCW 46.61.5055"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Hale on page 20, line 18, and page 21, line 15, to Substitute Senate Bill No. 6475.

The motion by Senator Hale carried and the amendments were adopted.

#### MOTION

Senator Roach moved that the following amendment be adopted:

On page 27, beginning on line 26, after "(b)" strike all material through "chapter." on line 38, and insert "Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. The municipal court has jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the district or municipal court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section. At the time of the filing of the hearing request, the petitioner shall pay to the court clerk a filing fee in the same amount required for the filing of a suit in the small claims department of a district court. If the hearing request is not received by the district or municipal court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter."

Debate ensued

#### MOTION

On motion of Senator Roach, and there being no objection, the amendment on page 27, beginning on line 26, to Substitute Senate Bill No. 6475 was withdrawn.

#### PERSONAL PRIVILEGE

Senator Roach: "Mr. President, a point of personal privilege. Senator Fairley, I want to apologize. I thought the people that brought me the amendment had, in fact, talked with you, and I apologize. We'll make sure that doesn't happen again."

#### MOTION

Senator Roach moved that the following amendment by Senators Roach, Kline and Fairley be adopted:

On page 33, beginning on line 12, after "bona fide" strike all material through "fees" on line 20, and insert "security interest to which the vehicle is subject ~~((under subsection (1)(a) or (c) of this section)), and provided further that where the ownership interest subject to forfeiture is bona fide community property, the value of the undivided community property interest of the spouse who was not operating the vehicle in violation of RCW 46.61.502 or 46.61.504 shall not be forfeited nor subject to reduction for towing, removal, or storage charges associated with the forfeiture action. The value of the undivided community property interest not subject to forfeiture or reduction is one-half of the value of the vehicle as defined in subsection (12) of this section after deducting the cost of satisfying any bona fide security interest"~~

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Roach, Kline and Fairley on page 33, beginning on line 12, to Substitute Senate Bill No. 6475.

The motion by Senator Roach carried and the amendment was adopted.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Brown be adopted:

On page 24, after line 33, strike all the material down to and including "prosecution." on page 34, line 35  
Renumber the remaining section consecutively and correct any internal references accordingly.  
Debate ensued.

#### POINT OF ORDER

Senator Roach: "A point of order, Mr. President. I believe this Senator is speaking to the bill and not to the amendment."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Heavey, just be sure that you are speaking to the amendment."  
Further debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Brown on page 24, after line 33, to Substitute Senate Bill No. 6475.

The motion by Senator Hargrove carried and the amendment was adopted on a rising vote.

#### MOTION

On motion of Senator Haugen, the following amendment by Senators Haugen, Loveland, West, Winsley and Goings was adopted:

On page 35, after line 21, insert the following:

"**NEW SECTION. Sec. 22.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

#### MOTION

Senator Loveland moved that the following amendment by Senators Loveland and Haugen be adopted:

On page 35, after line 21, insert the following:

"**Sec. 22.** RCW 66.08.190 and 1995 c 159 s 1 are each amended to read as follows:

When excess funds are distributed, all moneys subject to distribution shall be disbursed as follows:

- (1) Three-tenths of one percent to border areas under RCW 66.08.195; and
- (2) From the amount remaining after distribution under subsection (1) of this section, ~~((fifty))~~ **ten** percent to the general fund of the state, ~~((ten))~~ **fifty** percent to the counties of the state, and forty percent to the incorporated cities and towns of the state.

The governor may notify and direct the state treasurer to withhold the revenues to which the counties and cities are entitled under this section if the counties or cities are found to be in noncompliance pursuant to RCW 36.70A.340."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Loveland and Haugen on page 35, after line 21, to Substitute Senate Bill No. 6475.

The motion by Senator Loveland failed and the amendment was not adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On page 1, line 2 of the title, after "46.61.502," insert "46.61.503,"

On page 1, on line 6 of the title, after "RCW;" strike "creating a new section" and insert "creating new sections"

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 6475 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6475.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6475 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49.. ENGROSSED SUBSTITUTE SENATE BILL NO. 6475, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6751, by Senators Deccio, Wojahn, Wood, Franklin, Benton, Thibaudeau, Oke and Winsley

Ensuring a choice of service and residential options for citizens with developmental disabilities.

#### MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 6751 was substituted for Senate Bill No. 6751 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Substitute Senate Bill No. 6751 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6751.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6751 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49.. SUBSTITUTE SENATE BILL NO. 6751, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6518, by Senators Roach, Benton, Long, Oke, Zarelli, Rossi, Sellar, Snyder, Johnson, Horn, McDonald, Hale, Strannigan, McCaslin, Prentice, Schow, Fraser, Deccio, Swecker, Morton, Goings, Bauer, Rasmussen and Haugen

Increasing penalties for second degree rape.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6518 was substituted for Senate Bill No. 6518 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 6518 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Goings, Senator Hargrove was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6518.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6518 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Hargrove - 1.. SUBSTITUTE SENATE BILL NO. 6518, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION TO LIMIT DEBATE

Senator Johnson: "Mr. President, I move that the members of the Senate be allowed to speak only once and be limited to three minutes on each motion or amendment, except that the mover of the motion shall be allowed to open and close debate, and also that members be prohibited from yielding their time. This motion shall be in effect through February 17, 1998."

The President declared the question before the Senate to be the motion by Senator Johnson to limit debate.

The motion by Senator Johnson carried and debate is limited through February 17, 1998.

There being no objection, the Senate resumed consideration of Senate Bill No. 6257, deferred on second reading February 12, 1998. Senator Fairley had served notice to reconsider the vote by which the amendment by Senators Winsley, Deccio, Franklin, Horn, Wood, Haugen, Prentice, Wojahn, Kohl, Spanel, Fraser, Patterson, Goings, Snyder and Loveland on page 12, after line 23, was adopted, but no action was taken on that motion.

#### MOTION

Senator Heavey moved that the following amendments by Senators Heavey, Hargrove and Patterson be considered simultaneously and be adopted:

On page 2, line 3, after "concentration of" strike "0.02" and insert "~~((0.02))~~ 0.01"

On page 2, line 22, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 2, line 23, after "over, or" strike "0.02" and insert "~~((0.02))~~ 0.01"

On page 3, line 12, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 3, at the beginning of line 13, strike "0.02" and insert "~~((0.02))~~ 0.01"

On page 4, line 6, after "concentration of" strike "0.02" and insert "~~((0.02))~~ 0.01"

On page 4, line 11, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 4, at the beginning of line 12, strike "0.02" and insert "~~((0.02))~~ 0.01"

On page 5, line 12, after "concentration of" strike "0.02" and insert "~~((0.02))~~ 0.01"

On page 5, line 23, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 5, line 24, after "or was" strike "0.02" and insert "~~((0.02))~~ 0.01"

On page 5, line 33, after "concentration of" strike "0.02" and insert "~~((0.02))~~ 0.01"

On page 8, line 11, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 8, line 21, after "blood was" strike "0.02" and insert "~~((0.02))~~ 0.01"

On page 8, line 34, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 9, line 12, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 9, line 20, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 9, at the beginning of line 34, strike "0.08" and insert "0.01"

On page 10, line 15, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 10, line 23, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 10, line 36, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 12, line 3, after "~~((0.10))~~" strike "0.08" and insert "0.01"

On page 12, line 6, after "~~((0.10))~~" strike "0.08" and insert "0.01"

The President declared the question before the Senate to be the adoption of the amendments by Senators Heavey, Hargrove and Patterson on page 2, lines 3, 22 and 23; page 3, line 12, and beginning on line 13; page 4, lines 6, 11, and beginning on line 12; page 5, lines 12, 23, 24, and 33; page 8, lines 11, 21, and 34; page 9, lines 12, 20, and beginning on line 34; page 10, lines 15, 23, and 36; and page 12, lines 3, and 6; to Senate Bill No. 6257.

The motion by Senator Heavey failed and the amendments were not adopted.

#### MOTION

Senator Roach moved that the following amendments by Senators Roach and Fairley be considered simultaneously and be adopted:

On page 2, line 3, after "concentration of" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 2, line 23, after "over, or" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 3, at the beginning of line 13, strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 4, line 6, after "concentration of" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 4, at the beginning of line 12, strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 5, line 12, after "concentration of" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 5, line 24, after "or was" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 5, line 33, after "concentration of" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 8, beginning on line 21, after "blood was" strike "0.02 or more" and insert "~~((0.02 or more))~~ in violation of RCW 46.61.503"

On page 9, after line 25, insert the following:

"**Sec. 4.** RCW 46.61.503 and 1995 c 332 s 2 are each amended to read as follows:

(1) Notwithstanding any other provision of this title, a person is guilty of driving a motor vehicle after consuming alcohol if the person operates a motor vehicle within this state and the person:

(a) Is under the age of twenty-one;

(b) Has, within two hours after operating the motor vehicle, an alcohol concentration of ~~((0.02 or more))~~ at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506.

(2) It is an affirmative defense to a violation of subsection (1) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be ~~((0.02 or more))~~ in violation of subsection (1) of this section within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(3) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration ~~((of 0.02 or more))~~ in violation of subsection (1) of this section.

(4) A violation of this section is a misdemeanor."

Renumber the remaining sections consecutively and correct internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Roach and Fairley on page 2, lines 3, and 23; page 3, beginning on line 13; page 4, line 6, and beginning on line 12; page 5, lines 12, 24, and 33; page 8, beginning on line 21; and page 9, after line 25; to Senate Bill No. 6257.

The motion by Senator Roach carried and the amendments were adopted.

#### MOTION

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On page 1, line 2 of the title, after "46.61.502," insert "46.61.503,"

On page 1, line 3 of the title, after "025;" insert 'creating a new section;'

On motion of Senator Roach, the rules were suspended, Engrossed Senate Bill No. 6257 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6257.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6257 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Hargrove - 1.. ENGROSSED SENATE BILL NO. 6257, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6574, by Senators Johnson, Stevens, Wood, Winsley, Deccio, Schow, Oke, McCaslin, Rossi, Hochstatter, Swecker, Sellar, Morton, McDonald and Roach

Authorizing learning materials to be loaned to private school students.

#### MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 6574 was substituted for Senate Bill No. 6574 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Substitute Senate Bill No. 6574 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6574.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6574 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Haugen, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 32. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 16. Excused: Senator Hargrove - 1.. SUBSTITUTE SENATE BILL NO. 6574, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6565, by Senators Hale, Prentice, Winsley, Franklin, Long, Roach, Haugen, Stevens, Spanel, Wood, Rasmussen, T. Sheldon, Loveland, Benton, Johnson, Thibaudeau, McDonald, B. Sheldon, Snyder Anderson, Oke and Goings

Regulating insurance payments of insureds who are victims of domestic abuse.

#### MOTIONS

On motion of Senator Hale, Substitute Senate Bill No. 6565 was substituted for Senate Bill No. 6565 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Hale, the rules were suspended, Substitute Senate Bill No. 6565 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Winsley: "Senator Hale, what is the intent of this legislation in terms of unfair insurance discrimination against victims of domestic abuse, and the validity of insurance policy intentional act exclusions?"

Senator Hale: "The intent of this legislation, as I said, is to protect victims of domestic abuse from unfair insurance discrimination, and also to establish that insurance policy intentional act exclusions that apply to an insured, or any insured, are valid except in cases where an act of domestic abuse was the cause of the property loss."

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6565.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6565 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 47. Voting nay: Senator Wojahn - 1. Excused: Senator Hargrove - 1. SUBSTITUTE SENATE BILL NO. 6565, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 6:45 p.m., on motion of Senator Johnson, the Senate adjourned until 9:00 a.m., Saturday, February 14, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

THIRTY-THIRD DAY, FEBRUARY 13, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

#### THIRTY-FOURTH DAY

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MORNING SESSION  
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Senate Chamber, Olympia, Saturday, February 14, 1998

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Jacobsen, Patterson, Rasmussen, Strannigan and Winsley. On motion of Senator Goings, Senator Jacobsen was excused. On motion of Senator Hale, Senators Strannigan and Winsley were excused. On motion of Senator Franklin, Senators Patterson and Rasmussen were excused.

The Sergeant at Arms Color Guard, consisting of Pages Katy Morris and Beth Warner, presented the Colors. Senator Bob Morton, offered the prayer.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.



MESSAGES FROM THE HOUSE

February 12, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 1858,  
HOUSE BILL NO. 2277,  
SUBSTITUTE HOUSE BILL NO. 2324,  
SUBSTITUTE HOUSE BILL NO. 2659,  
HOUSE JOINT MEMORIAL NO. 4029, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 12, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 2039,  
SUBSTITUTE HOUSE BILL NO. 2306,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2313,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2527,  
SUBSTITUTE HOUSE BILL NO. 2955, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 12, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1055,  
ENGROSSED HOUSE BILL NO. 2432,  
ENGROSSED HOUSE BILL NO. 2920,  
ENGROSSED HOUSE BILL NO. 3003, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 12, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 1479,  
SECOND SUBSTITUTE HOUSE BILL NO. 1618,  
SUBSTITUTE HOUSE BILL NO. 1846,  
SUBSTITUTE HOUSE BILL NO. 2312,  
HOUSE BILL NO. 2554,  
HOUSE BILL NO. 2938,  
HOUSE BILL NO. 2969,  
HOUSE BILL NO. 2990,  
SUBSTITUTE HOUSE BILL NO. 3030,  
HOUSE BILL NO. 3052,  
SUBSTITUTE HOUSE BILL NO. 3076,  
HOUSE BILL NO. 3103,  
HOUSE JOINT MEMORIAL NO. 4036, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 12, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2339, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING

SJR 8217 by Senators McCaslin, Hargrove, Haugen, Deccio, Horn, Zarelli, Heavey, Roach and Swecker

Amending the Constitution to provide that matters relating to the definition of the practice of law are the exclusive province of the legislature.

Referred to Committee on Law and Justice.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

E3SHB 1055 by House Committee on Appropriations (originally sponsored by Representatives Radcliff, Dunn, Carlson, Dickerson, Hatfield, Conway, Quall, Mason, Costa, Ogden, Anderson and O'Brien) (by request of Higher Education Coordinating Board)

Creating undergraduate fellowships for needy and meritorious students.

Referred to Committee on Higher Education.

SHB 1479 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Zellinsky and Quall)

Clarifying vehicle impound and redemption procedures.

Referred to Committee on Transportation.

2SHB 1618 by House Committee on Health Care (originally sponsored by Representatives Skinner, Dyer, Conway, Zellinsky, Cody, Backlund, Parlette and Clements)

Modifying certain aspects of programs that treat impaired physicians.

Referred to Committee on Health and Long-Term Care.

SHB 1846 by House Committee on Government Administration (originally sponsored by Representatives Smith, Koster, Talcott, Sump, Lambert, Buck, Thompson, Mielke, Crouse, Bush, Hankins, McMorris, Chandler, Radcliff, Parlette, B. Thomas and Sheahan)

Maintaining voter registration lists.

Referred to Committee on Government Operations.

SHB 1858 by House Committee on Children and Family Services (originally sponsored by Representatives Boldt, Cooke, Dickerson and Mulliken)

Requiring parents who are the subject of an abuse or neglect allegation to be notified of their rights.

Referred to Committee on Human Services and Corrections.

SHB 2039 by House Committee on Criminal Justice and Corrections (originally sponsored by Representatives Johnson, Ballasiotes, Bush, Koster, Sump, Clements, Mielke, Dunn, Hickel, D. Schmidt, McMorris, Mulliken, Benson, D. Sommers, Smith, Mitchell, Boldt, Sheahan, Pennington, Delvin, Talcott, Sheldon, Wensman, Schoesler and Honeyford)

Making an inmate liable for the costs of the incarceration.

Referred to Committee on Human Services and Corrections.

HB 2277 by Representatives B. Thomas, Johnson, Dunshee and Wensman

Authorizing school districts to borrow money and issue bonds for repayment of certain real estate leases.

Referred to Committee on Education.

SHB 2306 by House Committee on Government Administration (originally sponsored by Representatives Smith, B. Thomas, Bush and Dunn)

Indicating the citizenship requirement for voter registration.

Referred to Committee on Government Operations.

SHB 2312 by House Committee on Commerce and Labor (originally sponsored by Representatives Doumit, Pennington, Hatfield, Kenney, Clements, Carlson, Kessler, Anderson, Dunn and Tokuda)

Prescribing workers' compensation obligations of employers not domiciled in Washington.

Referred to Committee on Commerce and Labor.

SHB 2313 by House Committee on Commerce and Labor (originally sponsored by Representatives Wood, Boldt and Conway) (by request of Department of Labor and Industries)

Revising the regulation of elevators, escalators, and other conveyances.

Referred to Committee on Commerce and Labor.

SHB 2324 by House Committee on Finance (originally sponsored by Representatives B. Thomas, Lambert and Dyer)

Establishing a legal presumption in favor of persons disputing tax obligations.

Referred to Committee on Ways and Means.

E2SHB 2339 by House Committee on Appropriations (originally sponsored by Representatives Thompson, Mulliken, Pennington, Gardner, Romero, Chopp, Anderson, Boldt and Lantz)

Authorizing wetlands mitigation banking.

Referred to Committee on Agriculture and Environment.

EHB 2432 by Representatives Hickel, Johnson, Cole, O'Brien and Talcott (by request of Superintendent of Public Instruction Bergeson)

Changing educator internship programs.

Referred to Committee on Education.

ESHB 2527 by House Committee on Law and Justice (originally sponsored by Representatives McDonald, Constantine and Hickel) (by request of Statute Law Committee)

Making technical corrections to the Revised Code of Washington.

Referred to Committee on Law and Justice.

HB 2554 by Representatives Zellinsky, L. Thomas, Sullivan and Carrell

Prohibiting offers of incentives to insurance claimants to reimburse claimants for costs of service.

Referred to Committee on Financial Institutions, Insurance and Housing.

SHB 2659 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Fisher, K. Schmidt, Radcliff, O'Brien and Murray) (by request of Governor Locke)

Regulating collection of special fuel taxes and motor vehicle fuel tax.

Referred to Committee on Transportation.

EHB 2920 by Representatives Skinner, Cody, Dyer and Wood

Clarifying continuing education requirements for counselors.

Referred to Committee on Health and Long-Term Care.

HB 2938 by Representatives DeBolt, Carrell, Ballasiotes, McDonald, Boldt, B. Thomas, Mulliken, Pennington, Van Luven, Thompson, Schoesler, Mitchell, Alexander, Backlund, O'Brien, Bush, Keiser, McCune, Cole, Scott, Conway, Gardner, Dunshee, Cooke and Johnson

Increasing thresholds for property tax exemptions for senior citizens and persons retired because of physical disability.

Referred to Committee on Ways and Means.

SHB 2955 by House Committee on Education (originally sponsored by Representatives Schoesler, Sterk, Johnson, Mulliken, Bush, Hickel and Quall)

Changing procedures for annexation of school district property.

Referred to Committee on Education.

HB 2969 by Representatives Carrell, Sheahan, B. Thomas, Robertson, Sterk, Sherstad, McMorris, Backlund, Ballasiotes, Talcott, DeBolt, Alexander, Boldt, Zellinsky, Pennington, Mitchell, Huff, K. Schmidt, Dyer, Bush, Dunn, Schoesler, Smith, D. Sommers, Dunshee and McCune

Providing a sales and use tax exemption for gun safes.

Referred to Committee on Law and Justice.

HB 2990 by Representatives Dyer, Backlund and Anderson

Creating a pilot project for third-party accreditation of boarding homes.

Referred to Committee on Health and Long-Term Care.

EHB 3003 by Representatives Honeyford, Crouse, Mielke, Wensman, Benson, Clements, Schoesler and Bush

Exempting computer wires and fiber optic cables from electrical wiring requirements.

Referred to Committee on Commerce and Labor.

SHB 3030 by House Committee on Education (originally sponsored by Representatives Talcott, Smith and Bush)

Changing provisions relating to school district boundaries.

Referred to Committee on Education.

HB 3052 by Representatives L. Thomas, Smith, Mielke, Grant, DeBolt, Dyer, Hickel, Sullivan and Robertson

Authorizing self-audits by insurers.

Referred to Committee on Financial Institutions, Insurance and Housing.

SHB 3076 by House Committee on Finance (originally sponsored by Representatives H. Sommers, Cooke, Dickerson, Anderson, Gardner and Ogden)

Authorizing sharing of tax information for purposes of investigating food stamp fraud.

Referred to Committee on Ways and Means.

HB 3103 by Representatives Dickerson, Cooke, Tokuda, Keiser, Ogden, Costa and Boldt

Requiring newborn screening for exposure to harmful drugs.

Referred to Committee on Health and Long-Term Care.

HJM 4029 by Representatives Buck, Schoesler, Pennington, Honeyford, Carrell, Radcliff, Benson, D. Schmidt, Koster and Sump

Regarding the Olympic National Park as a Biosphere Reserve within the Man and Biosphere Program.

Referred to Committee on Natural Resources and Parks.

HJM 4036 by Representatives Grant, Mastin, Hankins, Schoesler, Sheahan, Linville, Robertson, Buck, Delvin and Ogden

Urging Congress to not breach dams.

Referred to Committee on Agriculture and Environment.

#### MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9259, Charlie Earl, as a member of the Board of Trustees for Western Washington University, was confirmed.

Senators Wood and Fraser spoke to the confirmation of Charlie Earl as a member of the Board of Trustees for Western Washington University.

#### APPOINTMENT OF CHARLIE EARL

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Wojahn, Wood and Zarelli - 44. Excused: Senators Jacobsen, Patterson, Rasmussen, Strannigan and Winsley - 5.

#### MOTION

On motion of Senator Swecker, Senator Long was excused.

#### MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9260, Wayne H. Ehlers, as a member of the Board of Trustees for Western Washington University, was confirmed.

#### APPOINTMENT OF WAYNE H. EHLERS

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Jacobsen, Long, Patterson and Strannigan - 4.

#### PERSONAL PRIVILEGE

Senator Zarelli: "Mr. President, just a point of personal privilege. I wanted to thank you for your gift and thinking of us on this Valentine's Day. More importantly, I wanted to ask if we had your blessing to partake in this gift on the floor?"

#### REPLY BY THE PRESIDENT

President Owen: "I think that being a Saturday and the overtime work that everybody has put in with good spirits, I think it would be perfectly appropriate today only."

#### PERSONAL PRIVILEGE

Senator Franklin: "I rise to a point of personal privilege. Mr. President, I too, wish to thank you for your gift, but most of all I like the attached poem. May I have the privilege of reading it? I'm sure everybody can read, too. I would like to share my victory with you--a very moving valentine thought of the day overheard by staff counsel, Marty Lovinger--the quiet one. I'm never going to win the lottery. I used up all my luck when I got my wife.' So, to the wives, to the mothers, and to the grandmothers, we are great aren't we?"

#### PERSONAL PRIVILEGE

Senator McCaslin: "A point of personal privilege, Mr. President. I want to thank you for the lovely valentine and I know Marty quite well and I know his wife and she is absolutely lovely and he is so very fortunate, but so is she."

#### PERSONAL PRIVILEGE

Senator Kohl: "A point of personal privilege, Mr. President. I would also like to say that there are many of us who have wonderful husbands, too, for whom we are very fortunate."

#### REPLY BY THE PRESIDENT

President Owen: "We appreciate that. Marty, however, felt it inappropriate that he make that type of comment."

#### SECOND READING

SUBSTITUTE SENATE BILL NO. 5424, by Senate Committee on Ways and Means (originally sponsored by Senators West, Wojahn, Winsley, Hale, Franklin, Jacobsen and Rasmussen)

Providing tax exemptions for businesses in community empowerment zones that provide selected international services.

#### MOTIONS

On motion of Senator West, Second Substitute Senate Bill No. 5424 was substituted for Substitute Senate Bill No. 5424 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Hargrove, the following amendment by Senators Hargrove and West was adopted:

On page 2, line 9, after "tract" delete ", within a city having a population of fifty thousand or more,"

#### MOTION

On motion of Senator West, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5424 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 5424.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5424 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Jacobsen and Strannigan - 2. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5424, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6552, by Senators Strannigan and Bauer (by request of Department of Revenue)

Concerning the ad valorem taxation of vessels or ferries.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6552 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6552.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6552 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Jacobsen and Strannigan - 2. SENATE BILL NO. 6552, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6575, by Senators Hale, T. Sheldon, McCaslin, Snyder, Horn, McDonald, Sellar, Newhouse, Schow, Strannigan, Benton, Zarelli, Stevens, Roach, Heavey and Oke

Extending the power of the joint administrative rules review committee.

## MOTIONS

On motion of Senator Hale, Substitute Senate Bill No. 6575 was substituted for Senate Bill No. 6575 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Hale, the rules were suspended, Substitute Senate Bill No. 6575 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6575.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6575 and the bill passed the Senate by the following vote:

Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Jacobsen and Strannigan - 2. SUBSTITUTE SENATE BILL NO. 6575, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

On motion of Senator Johnson, the Senate reverted to the first order of business.

## REPORT OF STANDING COMMITTEE

February 14, 1998

SB 6758 Prime Sponsor, Senator Long: Repealing the expiration date for the work ethic camp program. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.



Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Johnson, the Senate returned to the sixth order of business.

MOTION

At 9:45 a.m. on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:03 a.m. by President Owen.

MOTION

On motion of Senator Loveland, Senator Fairley was excused.

SECOND READING

SENATE BILL NO. 6581, by Senators Roach and Fairley

Revising standards for determining child support obligations.

The bill was read the second time.

MOTION

On motion of Senator Johnson, the rules were suspended, Senate Bill No. 6581 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6581.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6581 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senators McCaslin and Prince - 2. Excused: Senators Fairley, Jacobsen and Strannigan - 3. SENATE BILL NO. 6581, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MOTION

On motion of Senator Hale, Senator McCaslin was excused.

SECOND READING

SENATE BILL NO. 6545, by Senators Wood, Wojahn, Rasmussen, Benton, Fairley, Strannigan and Hale

Providing full funding for the impaired physician program.

MOTIONS

On motion of Senator Wood, Substitute Senate Bill No. 6545 was substituted for Senate Bill No. 6545 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Wood, the rules were suspended, Substitute Senate Bill No. 6545 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6545.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6545 and the bill passed the Senate by the following vote:

Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Jacobsen, McCaslin and Strannigan - 3. SUBSTITUTE SENATE BILL NO. 6545, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6585, by Senators Oke and Rossi

Authorizing distribution of nonhighway vehicle funds to nonprofit off-road vehicle organizations.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, Senate Bill No. 6585 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6585.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6585 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 5; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Long, Loveland, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, West, Winsley, Wood and Zarelli - 41. Voting nay: Senators Kline, Kohl, McAuliffe, Thibaudeau and Wojahn - 5. Excused: Senators Jacobsen, McCaslin and Strannigan - 3.

SENATE BILL NO. 6585, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6216, by Senators Horn and Patterson (by request of Department of Social and Health Services)

Allowing the department of social and health services to recover revenue from vendors that have been overpaid.

#### MOTIONS

On motion of Senator Horn, Substitute Senate Bill No. 6216 was substituted for Senate Bill No. 6216 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Horn, the following amendment by Senators Horn and Long was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that more efficient and cost-effective means are available for the collection of vendor overpayments owed the state of Washington. The legislature further finds it desirable to provide vendors a uniform formal appeal process that will streamline the current process for both the department of social and health services and the vendor.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.20B RCW to read as follows:

(1) When the department determines that a vendor was overpaid by the department for either goods or services, or both, provided to department clients, except nursing homes under chapter 74.46 RCW, the department will give written notice to the vendor. The notice will include the amount of the overpayment, the basis for the claim, and the rights of the vendor under this section.

(2) The notice may be served upon the vendor in the manner prescribed for the service of a summons in civil action or be mailed to the vendor at the last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

(3) The vendor has the right to an adjudicative proceeding governed by the administrative procedure act, chapter 34.05 RCW, and the rules of the department. The vendor's application for an adjudicative proceeding must be in writing, state the basis for contesting the overpayment notice, and include a copy of the department's notice. The application must be served on and received by the department within twenty-eight days of the vendor's receipt of the notice of overpayment. The vendor must serve the department in a manner providing proof of receipt.

(4) Where an adjudicative proceeding has been requested, the presiding or reviewing office will determine the amount, if any, of the overpayment received by the vendor.

(5) If the vendor fails to attend or participate in the adjudicative proceeding, upon a showing of valid service, the presiding or reviewing officer may enter an administrative order declaring the amount claimed in the notice to be assessed against the vendor and subject to collection action by the department.

(6) Failure to make an application for an adjudicative proceeding within twenty-eight days of the date of notice will result in the establishment of a final debt against the vendor in the amount asserted by the department and that amount is subject to collection action. The department may also charge the vendor with any costs associated with the collection of any final overpayment or debt established against the vendor.

(7) The department may enforce a final overpayment or debt through lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, or other collection action available to the department to satisfy the debt due.

(8) Debts determined under this chapter are subject to collection action without further necessity of action by a presiding or reviewing officer. The department may collect the debt in accordance with RCW 43.20B.635, 43.20B.640, and 43.20B.680. In addition, a vendor lien may be subject to distraint and seizure and sale in the same manner as prescribed for support liens in RCW 74.20A.130.

(9) This section applies to all vendors that provide goods or services provided on or after July 1, 1998.

(10) The department may adopt rules consistent with this section."

## MOTIONS

On motion of Senator Horn, the following title amendment was adopted:

On page 1, line 1 of the title, after "overpayments;" strike the remainder of the title and insert "adding a new section to chapter 43.20B RCW; and creating a new section."

On motion of Senator Horn, the rules were suspended, Engrossed Substitute Senate Bill No. 6216 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6216.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6216 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Schow - 1. Excused: Senators Jacobsen,

McCaslin and Strannigan - 3. ENGROSSED SUBSTITUTE SENATE BILL NO. 6216, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5431, by Senators Finkbeiner, Brown, Rossi, Strannigan and Long

Extending the prohibition on filing for a tariff on mandatory measured telecommunications service.

#### MOTIONS

On motion of Senator Finkbeiner, Substitute Senate Bill No. 5431 was substituted for Senate Bill No. 5431 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Finkbeiner, the rules were suspended, Substitute Senate Bill No. 5431 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5431.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5431 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Schow - 1. Excused: Senators Jacobsen, McCaslin and Strannigan - 3. SUBSTITUTE SENATE BILL NO. 5431, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6602, by Senators Anderson, Loveland, Bauer, Long, Goings, B. Sheldon, Strannigan, Benton, Rossi, Swecker, West, Schow and Oke

Crediting carbonated beverage taxes against business and occupation taxes.

#### MOTIONS

On motion of Senator Anderson, Substitute Senate Bill No. 6602 was substituted for Senate Bill No. 6602 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Anderson, the rules were suspended, Substitute Senate Bill No. 6602 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6602.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6602 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Long, Loveland, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen,

Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Swecker, West, Winsley, Wood and Zarelli - 35. Voting nay: Senators Brown, Fairley, Fraser, Kline, Kohl, McAuliffe, Prentice, Snyder, Spanel, Thibaudeau and Wojahn - 11. Excused: Senators Jacobsen, McCaslin and Strannigan - 3. SUBSTITUTE SENATE BILL NO. 6602, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6169, by Senators Winsley and Prentice

Regulating third-party appraisals.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Senate Bill No. 6169 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6169.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6169 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senator Thibaudeau - 1. Excused: Senators Jacobsen, McCaslin and Strannigan - 3. SENATE BILL NO. 6169, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 11:58 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 1:35 p.m. by President Owen.

#### SECOND READING

SENATE BILL NO. 6604, by Senators Schow, Heavey and Horn

Allowing the department of labor and industries to exempt specified work on premanufactured electric power generation equipment from licensing requirements.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, Senate Bill No. 6604 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6604.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6604 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Bauer - 1. Excused: Senators Jacobsen and Strannigan - 2. SENATE BILL NO. 6604, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6605, by Senators Morton and Rasmussen

Creating lien rights for owners of sires providing semen for artificial insemination.

#### MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 6605 was substituted for Senate Bill No. 6605 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 6605 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6605.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6605 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Jacobsen and Strannigan - 2. SUBSTITUTE SENATE BILL NO. 6605, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6598, by Senators Horn, Haugen and T. Sheldon (by request of Office of Financial Management)

Regarding public inspection of personal service contracts.

#### MOTIONS

On motion of Senator Horn, Substitute Senate Bill No. 6598 was substituted for Senate Bill No. 6598 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Horn, the rules were suspended, Substitute Senate Bill No. 6598 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6598.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6598 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Jacobsen and Strannigan - 2. SUBSTITUTE SENATE BILL NO. 6598, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6603, by Senators Horn, Spanel, Oke and Wood

Excepting certain vessels from registration.

#### MOTIONS

On motion of Senator Horn, Substitute Senate Bill No. 6603 was substituted for Senate Bill No. 6603 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Horn, the rules were suspended, Substitute Senate Bill No. 6603 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6603.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6603 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Brown - 1. Excused: Senators Jacobsen and Strannigan - 2. SUBSTITUTE SENATE BILL NO. 6603, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 2:02 p.m., on motion of Senator Johnson, the Senate recessed until 2:15 p.m.

The Senate was called to order at 2:15 p.m. by President Owen.

#### SECOND READING

SENATE BILL NO. 6631, by Senators McCaslin and Haugen

Specifying declaration of candidacy requirements for school director candidates in joint districts.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6631 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6631.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6631 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Deccio - 1. Excused: Senators Jacobsen and Strannigan - 2. SENATE BILL NO. 6631, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6650, by Senators Hochstatter and McAuliffe

Changing the scope of employment contract exceptions to school district officers' conflicts of interest.

The bill was read the second time.

#### MOTION

On motion of Senator Hochstatter, the rules were suspended, Senate Bill No. 6650 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6650.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6650 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47.

Excused: Senators Jacobsen and Strannigan - 2. SENATE BILL NO. 6650, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6214, by Senators Long, Hargrove, McDonald, Deccio, Franklin, Stevens, Strannigan, Wood, Schow, Swecker, Hale, Sellar, Thibaudeau, Haugen, Winsley and Oke

Revising provisions relating to commitment of mentally ill persons.

#### MOTIONS

On motion of Senator Long, Second Substitute Senate Bill No. 6214 was substituted for Senate Bill No. 6214 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Long, the rules were suspended, Second Substitute Senate Bill No. 6214 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6214.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6214 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.



Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Strannigan - 1. SUBSTITUTE SENATE BILL NO. 6214, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Governor Gary Locke and his daughter, Emily, who were seated in the gallery.

#### SECOND READING

SENATE BILL NO. 6651, by Senators Wood, Franklin and Winsley

Regarding electronic transfer of prescription information.

#### MOTIONS

On motion of Senator Wood, Substitute Senate Bill No. 6651 was substituted for Senate Bill No. 6651 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Wood, the rules were suspended, Substitute Senate Bill No. 6651 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6651.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6651 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Goings - 1. Excused: Senator Strannigan - 1. SUBSTITUTE SENATE BILL NO. 6651, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6655, by Senators West and Brown

Changing the Spokane intercollegiate research and technology institute.

#### MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6655 was substituted for Senate Bill No. 6655 and the substitute bill was placed on second reading and read the second time.

On motion of Senator West, the rules were suspended, Substitute Senate Bill No. 6655 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Kline, Senator Goings was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6655.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6655 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Goings and Strannigan - 2. SUBSTITUTE SENATE BILL NO. 6655, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6667, by Senators B. Sheldon, Winsley, Snyder, T. Sheldon, Fairley, McAuliffe, Brown, Kohl, Rasmussen, Prentice, Patterson, Haugen, Loveland, Hargrove, Kline, Franklin, Wojahn, Jacobsen and Bauer

Establishing the Washington gift of life medal.

#### MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 6667 was substituted for Senate Bill No. 6667 and the substitute bill was placed on second reading and read the second time.

On motion of Senator McCaslin, the rules were suspended, Substitute Senate Bill No. 6667 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6667.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6667 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Hale, Morton and Sellar - 3. Absent: Senator McDonald - 1. Excused: Senator Strannigan - 1. SUBSTITUTE SENATE BILL NO. 6667, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6669, by Senators Rossi and T. Sheldon

Allowing a holder of perpetual timber rights to sign a statement of intent not to convert the land to other uses for a period of time.

#### MOTIONS

On motion of Senator Rossi, Substitute Senate Bill No. 6669 was substituted for Senate Bill No. 6669 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Rossi, the rules were suspended, Substitute Senate Bill No. 6669 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6669.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6669 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Voting nay: Senator Morton - 1. Excused: Senator Strannigan - 1. SUBSTITUTE SENATE BILL NO. 6669, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6685, by Senators Haugen, Horn, Goings, Rasmussen, Prince, Prentice and Oke

Defining powers of commercial vehicle officers.

The bill was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, Senate Bill No. 6685 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6685.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6685 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 43.

Voting nay: Senators Hale, Jacobsen, McDonald, Prentice and Sellar - 5. Excused: Senator Strannigan - 1. SENATE BILL NO. 6685, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6692, by Senators Jacobsen, Brown and Fraser

Requiring electric utilities to provide net metering systems to their customer-generators.

The bill was read the second time.

#### MOTION

On motion of Senator Finkbeiner, the rules were suspended, Senate Bill No. 6692 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6692.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6692 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48.

Excused: Senator Strannigan - 1. SENATE BILL NO. 6692, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6698, by Senator McCaslin

Revising timelines for the salary commission.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Senate Bill No. 6698 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6698.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6698 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48.

Excused: Senator Strannigan - 1.

SENATE BILL NO. 6698, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6701, by Senators Fairley, Long, Kline and Thibaudeau

Clarifying statute of limitations on actions for professional negligence.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6701 was substituted for Senate Bill No. 6701 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 6701 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6701.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6701 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Strannigan - 1. SUBSTITUTE SENATE BILL NO. 6701, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6729, by Senators Prentice, Winsley, Finkbeiner, Fairley, Rasmussen and Kline

Financing senior housing.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Senate Bill No. 6729 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6729.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6729 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48.

Excused: Senator Strannigan - 1.

SENATE BILL NO. 6729, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6739, by Senators Hargrove and Oke

Requiring assessment of the impact on families before adoption of administrative rules and adoption of local government ordinances or resolutions.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, Senate Bill No. 6739 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6739.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6739 and the bill passed the Senate by the following vote:

Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 47. Voting nay: Senator Thibaudeau - 1. Excused: Senator Strannigan - 1. SENATE BILL NO. 6739, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE JOINT MEMORIAL NO. 8017, by Senators Oke, Rasmussen and Winsley

Naming the Admiral James S. Russell Bridge.

The joint memorial was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, Senate Joint Memorial No. 8017 was advanced to third reading, the second reading considered the third and the joint memorial was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Joint Memorial No. 8017.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8017 and the joint memorial passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 45. Voting nay: Senators Fraser and Wojahn - 2. Absent: Senator Franklin - 1. Excused: Senator Strannigan - 1. SENATE JOINT MEMORIAL NO. 8017, having received the constitutional majority, was declared passed.

#### SECOND READING

SENATE JOINT MEMORIAL NO. 8019, by Senators Winsley and Prentice

Requesting federal funds for housing finance.

The joint memorial was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Senate Joint Memorial No. 8019 was advanced to third reading, the second reading considered the third and the joint memorial was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Joint Memorial No. 8019.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8019 and the joint memorial passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Strannigan - 1. SENATE JOINT MEMORIAL NO. 8019, having received the constitutional majority, was declared passed.

#### MOTION

At 3:43 p.m., on motion of Senator Johnson, the Senate adjourned until 8:30 a.m., Monday, February 16, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

THIRTY-FOURTH DAY, FEBRUARY 14, 1998

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**THIRTY-SIXTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Monday, February 16, 1998

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Benton, Finkbeiner, Patterson, Sellar and Stevens. On motion of Senator Hale, Senators Benton, Finkbeiner, Sellar and Stevens were excused. On motion of Senator Franklin, Senator Patterson was excused.

Boy Scouts Doug Sherrell, Steve Rybolt, J. T. Truitt and Devon Jamerson, from Steilacoom Boy Scout Troop 71, presented the Colors.

Reverend Mark Kelly, pastor of the Brush Prairie Baptist Church, and a guest of Senator Joseph Zarelli, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**MESSAGES FROM THE HOUSE**

February 13, 1998

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2774,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2836,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2845,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2880,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2881,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2882, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 13, 1998

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 2355,  
SUBSTITUTE HOUSE BILL NO. 2374,  
SECOND SUBSTITUTE HOUSE BILL NO. 2430,  
SUBSTITUTE HOUSE BILL NO. 2431,  
SUBSTITUTE HOUSE BILL NO. 2452,  
SUBSTITUTE HOUSE BILL NO. 2461,  
SUBSTITUTE HOUSE BILL NO. 2521,  
SUBSTITUTE HOUSE BILL NO. 2538,  
HOUSE BILL NO. 2542,  
SUBSTITUTE HOUSE BILL NO. 2545,  
SUBSTITUTE HOUSE BILL NO. 2556,  
SUBSTITUTE HOUSE BILL NO. 2562,  
SUBSTITUTE HOUSE BILL NO. 2589,  
HOUSE BILL NO. 2598,



SECOND SUBSTITUTE HOUSE BILL NO. 2604, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 2355 by Representatives Alexander, Ogden, Lantz, Anderson and Conway (by request of Parks and Recreation Commission)

Managing state park lands.

Referred to Committee on Natural Resources and Parks.

SHB 2374 by House Committee on Higher Education (originally sponsored by Representatives Carlson, Dunn, Constantine, Radcliff, Gardner, Sheahan, Kenney, O'Brien, L. Thomas, Scott, Linville, Hatfield, Benson, Romero, Butler, Kessler, Chopp, Costa, Anderson, Cooke, Cooper, Schoesler, Mason, Gombosky, Conway, Lantz and Tokuda)

Requiring one student member on each state institution of higher education's governing board.

Referred to Committee on Higher Education.

2SHB 2430 by House Committee on Appropriations (originally sponsored by Representatives Huff, Carlson, Kenney, Radcliff and McDonald) (by request of Committee on Advanced College Tuition Payment and Higher Education Coordinating Board)

Changing provisions relating to the advanced college tuition payment program.

Referred to Committee on Higher Education.

SHB 2431 by House Committee on Appropriations (originally sponsored by Representatives DeBolt, Alexander, Mielke, Johnson and Pennington)

Refining provisions concerning the Southwest Washington Fair.

Referred to Committee on Government Operations.

SHB 2452 by House Committee on Health Care (originally sponsored by Representatives Backlund, Cody, Parlette, Kastama, DeBolt, Dyer, Lambert, Koster, Sherstad, Benson, Anderson and Zellinsky)

Defining medication assistance in community-based settings.

Referred to Committee on Health and Long-Term Care.

SHB 2461 by House Committee on Natural Resources (originally sponsored by Representatives Buck, Sump, Kessler, Schoesler, Benson, Koster, DeBolt, McMorris, Alexander, Gardner, Linville, Thompson and Mulliken)

Requiring a timely distribution of certain state forest land funds back to the counties.

Referred to Committee on Natural Resources and Parks.

SHB 2521 by House Committee on Law and Justice (originally sponsored by Representatives Benson, Sheahan, O'Brien, Quall, Cairnes, Mielke, Lambert, Hickel, Zellinsky, Delvin, Sterk, Robertson, D. Sommers, Schoesler, Carrell, Thompson and Sullivan)

Providing for curfews.

Referred to Committee on Law and Justice.

SHB 2538 by House Committee on Law and Justice (originally sponsored by Representatives Alexander, DeBolt, Sheahan and Appelwick)

Creating a new superior court position for Lewis county.

Referred to Committee on Law and Justice.

HB 2542 by Representatives Mulliken, Thompson, Cairnes, DeBolt, McMorris, Sherstad, Koster, Mielke, Sump, Bush, Johnson, D. Sommers and Schoesler

Allowing rural counties to remove themselves and their cities from planning requirements under the growth management act.

Referred to Committee on Government Operations.

SHB 2545 by House Committee on Finance (originally sponsored by Representatives Radcliff, Dunshee, Scott, Thompson and D. Schmidt)

Exempting community radio stations from property taxation.

Referred to Committee on Ways and Means.

SHB 2556 by House Committee on Children and Family Services (originally sponsored by Representatives Cooke, Tokuda and O'Brien) (by request of Department of Social and Health Services)

Making changes concerning the federal child abuse prevention and treatment act.

Referred to Committee on Human Services and Corrections.

SHB 2562 by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Scott and Wensman)

Specifying the number of signatures required on a petition to place on the ballot the question of changing the name of a port district.

Referred to Committee on Government Operations.

SHB 2589 by House Committee on Children and Family Services (originally sponsored by Representatives Boldt, Cooke, McDonald, Bush, Clements and Schoesler)

Requiring disclosure of the names of both parents of children as a condition of eligibility for temporary assistance for needy families.

Referred to Committee on Health and Long-Term Care.

HB 2598 by Representatives Radcliff, McDonald, Pennington, Dickerson, Mastin, Dunshee, O'Brien, Mulliken, Cole, Conway, Mason, Wood and Ogden

Modifying property tax exemptions for nonprofit organizations.

Referred to Committee on Ways and Means.

2SHB 2604 by House Committee on Appropriations (originally sponsored by Representatives Mason, Radcliff, Johnson, Carlson, Kessler, Sheahan, Van Luven, Cole, Dickerson, Butler, Hatfield, Kenney, O'Brien, Chopp, Keiser, Anderson, Ogden, Costa, Quall and Gombosky)

Requiring a study of the impact of parental involvement on academic achievement.

Referred to Committee on Education.

ESHB 2774 by House Committee on Health Care (originally sponsored by Representatives Backlund, Kastama, Sterk, Wood, O'Brien, Lambert, Zellinsky, Cody, McCune, Smith, Van Luven and Costa)

Creating an advisory committee on matters relating to the regulation of adult family homes.

Referred to Committee on Health and Long-Term Care.

ESHB 2836 by House Committee on Natural Resources (originally sponsored by Representatives Pennington, Mielke, Hatfield, Doumit, Buck, Boldt, Dunn, Alexander, Carlson, Kessler, McCune, Thompson and Conway)

Creating a pilot program for the recovery of fish runs.

Referred to Committee on Natural Resources and Parks.

E2SHB 2880 by House Committee on Appropriations (originally sponsored by Representatives Clements, Dickerson, Backlund, Gombosky, Parlette, Gardner and Delvin)

Creating a task force on agency vendor contracting practices.

Referred to Committee on Government Operations.

E2SHB 2881 by House Committee on Appropriations (originally sponsored by Representatives Clements, Dickerson, Parlette, Gombosky, Backlund, Gardner, Delvin, O'Brien and Lambert)

Auditing state contractors.

Referred to Committee on Government Operations.

E2SHB 2882 by House Committee on Appropriations (originally sponsored by Representatives Clements, Dickerson, Backlund, Parlette, Gardner, Gombosky and Delvin)

Providing technical assistance to agency personnel and state contractors.

Referred to Committee on Human Services and Corrections.

SECOND READING  
GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9251, Felix H. Anderson, as a member of the Board of Trustees for Bellingham Technical College District No 25, was confirmed.

APPOINTMENT OF FELIX H. ANDERSON

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Excused: Senators Benton, Finkbeiner, Patterson, Sellar and Stevens - 5.

#### MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9252, Kristi Blake, as a member of the Higher Education Coordinating Board, was confirmed.

Senators Wood and Brown spoke to the confirmation of Kristi Blake as a member of the Higher Education Coordinating Board.

#### APPOINTMENT OF KRISTI BLAKE

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Deccio - 1. Excused: Senators Benton and Finkbeiner - 2.

#### SECOND READING

SENATE BILL NO. 5277, by Senators Winsley, Fraser, Prince, Long, Franklin, Loveland, Oke, Roach, Hochstatter, Swecker, Bauer and Patterson (by request of Joint Committee on Pension Policy)

Separating from public employees retirement system plan I.

#### MOTIONS

On motion of Senator Winsley, Substitute Senate Bill No. 5277 was substituted for Senate Bill No. 5277 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Winsley, the rules were suspended, Substitute Senate Bill No. 5277 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5277.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5277 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Benton - 1. SUBSTITUTE SENATE BILL NO. 5277, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6117, by Senators Morton, Snyder, Swecker, Stevens, Rossi and Oke

Creating a salmon license buyback program.

## MOTIONS

On motion of Senator Oke, Substitute Senate Bill No. 6117 was substituted for Senate Bill No. 6117 and the substitute bill was placed on second reading and read the second time.

Senator Oke moved that the following amendments by Senator Morton be considered simultaneously and be adopted:

On page 2, line 3, after "chapter" strike "75.30" and insert "75.44"

On page 3, line 7, after "under" strike "RCW 75.44.110" and insert "~~(RCW 75.44.110)~~ section 2 of this act"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Morton on page 2, line 3, and page 3, line 7, to Substitute Senate Bill No. 6117.

The motion by Senator Oke carried and the amendments were adopted.

## MOTIONS

On motion of Senator Morton, the following title amendment was adopted:

On page 1, at the beginning of line 3 of the title, before "RCW; creating" strike "75.30" and insert "75.44"

On motion of Senator Oke, the rules were suspended, Engrossed Substitute Senate Bill No. 6117 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6117.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6117 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Benton - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6117, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6139, by Senators Oke, Swecker, T. Sheldon, Goings, Rasmussen and Benton

Increasing penalties for manufacture and delivery of amphetamine.

The bill was read the second time.

## MOTION

Senator Oke moved that the following amendments be considered simultaneously and be adopted:

On page 3, line 10, after "deliver" strike "amphetamine or"

On page 3, after line 12 insert the following:

"Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Oke on page 3, line 10, and after line 12, to Senate Bill No. 6139.

The motion by Senator Oke carried and the amendments were adopted.

## MOTION

On motion of Senator Oke, the rules were suspended, Engrossed Senate Bill No. 6139 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6139.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6139 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SENATE BILL NO. 6139, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6156, by Senators Swecker, Fraser and Spanel (by request of Department of Natural Resources)

Studying methods for calculating water-dependent lease rates on state-owned aquatic lands.

#### MOTIONS

On motion of Senator Oke, Second Substitute Senate Bill No. 6156 was substituted for Senate Bill No. 6156 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Oke, the rules were suspended, Second Substitute Senate Bill No. 6156 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6156.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6156 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SECOND SUBSTITUTE SENATE BILL NO. 6156, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6188, by Senators Oke, Benton, Strannigan, Bauer and Winsley

Increasing penalties for failing to register as a sex offender or moving without notifying the county sheriff.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, Senate Bill No. 6188 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6188.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6188 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SENATE BILL NO. 6188, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6190, by Senators Oke, Goings, Bauer, Haugen, Wood and Fraser

Strengthening laws on disabled persons' parking permits.

#### MOTIONS

On motion of Senator Oke, Second Substitute Senate Bill No. 6190 was substituted for Senate Bill No. 6190 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Oke, the rules were suspended, Second Substitute Senate Bill No. 6190 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6190.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6190 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SECOND SUBSTITUTE SENATE BILL NO. 6190, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6201, by Senators Long, Hargrove and Winsley (by request of Department of Social and Health Services)

Making changes concerning the federal child abuse prevention and treatment act.

#### MOTIONS

On motion of Senator Long, Substitute Senate Bill No. 6201 was substituted for Senate Bill No. 6201 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Long, the rules were suspended, Substitute Senate Bill No. 6201 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6201.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6201 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 6201, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6240, by Senator Stevens

Allowing a superior court judge to appoint a stenographic reporter.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6240 was substituted for Senate Bill No. 6240 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 6240 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6240.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6240 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 6240, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6549, by Senators West, Hale, Anderson, Loveland, Swecker, Rossi and Deccio

Exempting coin-operated services of car washes from sales and use tax.

#### MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6549 was substituted for Senate Bill No. 6549 and the substitute bill was placed on second reading and read the second time.

On motion of Senator West, the rules were suspended, Substitute Senate Bill No. 6549 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.



The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6549.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6549 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Wood and Zarelli - 35. Voting nay: Senators Fairley, Franklin, Fraser, Hargrove, Jacobsen, Kline, Kohl, McAuliffe, Sheldon, B., Snyder, Spanel, Winsley and Wojahn - 13. Absent: Senator Thibaudeau - 1. SUBSTITUTE SENATE BILL NO. 6549, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6608, by Senators Heavey, Schow and Jacobsen

Providing for election of councilmembers by districts in first class cities with populations of over four hundred thousand.

The bill was read the second time.

#### PARLIAMENTARY INQUIRY

Senator McCaslin: "A parliamentary inquiry, Mr. President, if an amendment is before the body and no one moves it, can any member withdraw it or does it have to be the prime sponsor of that amendment?"

#### REPLY BY THE PRESIDENT

President Owen: "The President can make the decision based on the fact that nobody has moved the amendment, Senator."

Senator McCaslin: "Mr. President, I move that the amendment be withdrawn."

#### MOTION

Senator Fraser moved that the following amendment by Senators Kline and Thibaudeau be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.22.370 and 1965 c 7 s 35.22.370 are each amended to read as follows:

(1) Notwithstanding that the charter of a city of the first class may forbid the city council from redividing the city into wards except at stated periods, if the city has failed to redivide the city into wards during any such period, the city council by ordinance may do so at any time thereafter: PROVIDED, That there shall not be more than one redivision into wards during any one period specified in the charter.

(2) Any first class city with a population of more than four hundred thousand persons may have a city council with nine members, six of whom may be elected from districts with each of the six elected from one of six districts, and three of whom may be elected at large. For any city that chooses this option, the following requirements apply:

(a) The council shall by ordinance create a commission to divide the city into six districts and fix the boundaries of the districts. The council shall change the district boundaries from time to time and as provided in chapter 29.70 RCW. No change in the boundaries of any district may be made within one hundred twenty days next before the date of a general municipal election, nor within twenty months after the districts have been established or altered. However, if a boundary change results in one district being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to districts where there are vacancies, and the councilmembers so assigned shall be deemed to be residents of the districts to which they are assigned for purposes of determining whether those positions are vacant.

(b) Districts shall be used as follows: (i) Only a resident of the district may be a candidate for, or hold office as, a councilmember of the district; and (ii) only voters of the district may vote at a primary to nominate candidates for councilmember of the district, and only voters of

the district may vote at the general election to elect a councilmember of the district. The three at-large positions shall not be associated with a district and the persons elected may reside anywhere in the city. Voters throughout the city may vote at a primary to nominate candidates for the at-large positions, when a primary is necessary, and at a general election to elect persons to the at-large positions.

(c) Additional territory that is added to the city shall, by act of the council, be annexed to contiguous districts without affecting the right to redistrict at the expiration of twenty months after the last previous division. The removal of a councilmember from the district for which he or she was elected shall create a vacancy in such office."

#### PARLIAMENTARY INQUIRY

Senator McCaslin: "A parliamentary inquiry, Mr. President. I understand the positive motion, but do we vote on either one of those or do you ask if there is any objection--how does that proceed?"

#### REPLY BY THE PRESIDENT

President Owen: "The positive motion is before us to adopt the amendment. Debate or discussion would be in order at this point, Senator McCaslin."

Senator McCaslin: "Thank you, Mr. President."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and Thibaudeau to Senate Bill No. 6608.

The motion by Senator Fraser failed and the striking amendment was not adopted.

#### MOTION

On motion of Senator Johnson the rules were suspended, Senate Bill No. 6608 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6608.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6608 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wojahn and Zarelli - 37.

Voting nay: Senators Bauer, Brown, Fairley, Fraser, Kline, Kohl, Loveland, Prentice, Sellar, Spanel, Thibaudeau and Wood - 12.. SENATE BILL NO. 6608, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6253, by Senators Schow, Horn, Swecker, Rasmussen, Goings and T. Sheldon

Reimbursing agency liquor vendors for credit sales of liquor.

#### MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6253 was substituted for Senate Bill No. 6253 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the rules were suspended, Substitute Senate Bill No. 6253 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Franklin, Senator Thibaudeau was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6253.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6253 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Horn, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 41. Voting nay: Senators Anderson, Hargrove, Heavey, Hochstatter, Long, Oke and Stevens - 7. Excused: Senator Thibaudeau - 1. SUBSTITUTE SENATE BILL NO. 6253, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 10:23 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:31 a.m. by President Owen.

#### SECOND READING

SENATE BILL NO. 6737, by Senators Deccio, Wojahn, Wood, Patterson, West, Fraser, Thibaudeau, Morton, Schow, Winsley, Oke, Prentice, B. Sheldon and Rasmussen

Regulating property taxation of residential housing occupied by low-income developmentally disabled persons.

#### MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6737 was substituted for Senate Bill No. 6737 and the substitute bill was placed on second reading and read the second time.

On motion of Senator West, the rules were suspended, Substitute Senate Bill No. 6737 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6737.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6737 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Hochstatter - 1. SUBSTITUTE SENATE BILL NO. 6737, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

On motion of Senator McAuliffe, the following resolution was adopted:

### SENATE RESOLUTION 1998-8701

By Senators McAuliffe, Winsley, Kline, Patterson, Hochstatter, McDonald, Prentice, Spanel, Snyder, Wood, Fraser, Thibaudeau, Goings, T. Sheldon, Kohl, Rasmussen, Loveland, Bauer, Franklin, Haugen, Stevens, Johnson, Hargrove, Jacobsen, Rossi, West, Roach, Long, Sellar, B. Sheldon, Prince, Wojahn, Finkbeiner and Hale

WHEREAS, Washington has a long history of commitment to public education for all students that took root in 1854 when the Washington Territorial Legislature framed the first public school law; and

WHEREAS, Each morning across our great state, the schoolhouse doors open and nearly one-fifth of the state's population arrives for a day of learning in a public school; and

WHEREAS, The handful of common schools existing in 1854 blossomed into 2,312 public schools today, which host nearly one-million students, from the tiny Bengie School District with just ten students, to the Seattle School District educating more than 47,000 children; and

WHEREAS, We recognize that the foundation of a sound education begins with the basics of reading, writing, and mathematics; and

WHEREAS, A school is a special place where each child is given the opportunity to learn; and

WHEREAS, A student can only achieve academic success with the involvement and partnership of an entire community of parents, teachers, staff, and business leaders who join together to make education and children their top priorities; and

WHEREAS, Washington is such a place, where students are provided the gifts of support and encouragement and the challenges of high academic standards, strong curriculum, and rigorous training; and

WHEREAS, Washington's public school students are excited about learning and are using their public education to become life-long learners, contributors, and achievers;

NOW, THEREFORE BE IT RESOLVED, That today, President's Day, the Washington State Senate recognizes that Washington's public school students are "on the road to better learning"; and

BE IT FURTHER RESOLVED, That the Senate applaud and commend the Office of the Superintendent of Public Instruction in its efforts along with students, parents, teachers, volunteers, staff, and administrators to make Washington's public schools the exceptional institutions of learning they are today.

Senators McAuliffe and Hargrove spoke to Senate Resolution 1998-8701.

## MOTION

On motion of Senator Johnson, the Senate returned to the sixth order of business.

### SECOND READING

SENATE BILL NO. 6515, by Senators Strannigan, Finkbeiner, Morton and Swecker

Regulating franchises and the use of public rights of way.

## MOTIONS

On motion of Senator Strannigan, Substitute Senate Bill No. 6515 was substituted for Senate Bill No. 6515 and the substitute bill was placed on second reading and read the second time.

Senator Strannigan moved that the following amendment by Senators Strannigan, Hargrove and Finkbeiner be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that technological developments have made telecommunications evermore important to the health, safety, and welfare of the people of this state and to the efficient and cost-effective conduct of the state's economy. The pace of

technological change is expected to continue and increase in the future. Massive investment by private industry in telecommunications infrastructure will be required to make the benefits of technological development available to the people of the state. This is particularly true if the modern infrastructure is to reach all parts of the state, rural as well as urban.

The legislature also finds it necessary to clarify and integrate policies on use of public rights of way in order to recognize and foster the changes that are occurring in telecommunications.

The legislature declares that government policies for the use of public rights of way should encourage investment in and development of the infrastructure needed for leading-edge applications in telecommunications. These policies will also serve as an important means of economic development, allowing the state to remain competitive in national and international markets and to attract jobs to and develop robust economies in its rural and underdeveloped areas.

The legislature further declares that growth in economic activity resulting from modernized right of way policies will create new jobs and business opportunities as well as bring better service and lower prices to consumers. State and local government will benefit by the availability of improved services and the creation of a larger and more stable revenue base.

The legislature declares that rights of way are dedicated, purchased, or held by the government for the use of the public in transportation, the delivery of utility services, and commerce; that government has the steward responsibility to protect these rights of way for these public purposes; and that the use of these rights of way by telecommunications facilities is essential for the protection and advancement of the public's health, safety, and welfare and therefore is in the public's interest.

The legislature intends that governments rely on construction and development regulations that apply generally and uniformly to construction both inside and outside the public right of way to the extent possible in connection with use of the public right of way for telecommunication facilities. It is the intent of the legislature that franchises be used only to coordinate and integrate construction and development regulations, permits, and the requirements of such other laws as specifically apply to the management of the physical assets located in the rights of way and that franchises not be used to impose duplicative requirements on authorized users of the rights of way.

It is the intent of the legislature to promote policies that recognize the introduction of competition in telecommunications, and that will result in new entrants into this industry, without needlessly changing or supplanting existing codes, regulations, and standards. As additional companies seek to locate their facilities in public rights of way, it is incumbent on local government to establish uniform, clear, competitively neutral, and nondiscriminatory rules for use of the public right of way.

It is the policy of the legislature that fees and charges levied by local governments on the telecommunications industry for use of public rights of way and for franchises, permits, and licenses required for construction, repair, maintenance, use, and operation of facilities for telecommunications shall not be a means of raising general revenue. It is the intent of the legislature and the policy of this state that fees for necessary permits and licenses do not exceed the actual costs incurred in receiving, considering, and issuing the permits and licenses, inspecting work in the right of way, restoring damage to the right of way related to such work, and maintaining the necessary systems and records to effectively manage the use of the right of way.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, the definitions in this section apply throughout chapter . . . , Laws of 1998 (this act).

(1) "Authorized facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver telecommunications services, including but not limited to poles with crossarms, poles without crossarms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of telecommunications services.

(2) "Authorized user" means any person providing telecommunications or cable television service to the public.

(3) "Cable television service" means the one-way broadcast or cable transmission of television or radio signals.

(4) "Public right of way" means roads, streets, and highways, including limited access highways and does not include federally granted trust lands and the forest board trust lands.

(5) "Telecommunications service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for the public. For the purpose of this subsection, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

**NEW SECTION. Sec. 3.** (1) An authorized user may erect, construct, support, attach, connect, stretch authorized facilities between, maintain, repair, replace, and operate and use authorized facilities in, upon, over, under, along, across, and through public rights of way. These authorized facilities shall be maintained within public rights of way so as not to unreasonably interfere with the free passage of traffic and in accordance with the laws of the state and appropriate codes, regulations, and standards adopted by counties, cities, and towns pursuant to those laws.

(2) Nothing in this section waives the responsibility of the authorized users to obtain permits for the installation of authorized facilities as required by counties, cities, and towns.

(3) Nothing in this section creates, modifies, or diminishes the priority of use for authorized facilities over other users of the right of way for utility purposes or other purposes subject to local franchise or permit.

**NEW SECTION. Sec. 4.** (1) Neither the state nor any county, city, or town may adopt or enforce regulations that:

- (a) Discriminate or have the effect of discriminating among authorized users or authorized facilities;
- (b) In any way conflict with: (i) Federal and state public service laws; (ii) federal or state laws, rules, and regulations that specifically apply to the design, construction, and operation of authorized facilities; or (iii) federal or state worker safety and public safety laws, rules, and regulations;
- (c) Regulate services of authorized users based upon the content or type of signals that are carried or are capable of being carried over the telecommunications facilities, except where specifically authorized in state or federal law;
- (d) Impose regulatory requirements that regulate the services and business operations of the authorized user, and that are not directly related to the use of rights of way, except where specifically authorized in state or federal law. To the maximum extent feasible, franchises applicable to telecommunications companies shall be used to coordinate and integrate construction and development regulations and permits and requirements and permits required under other laws relating to streets, roads, and highways. Franchises shall not be used to require additional permits, conditions, or requirements that are duplicated under other laws; or
- (e) Provide for a period that exceeds one hundred twenty days between filing a complete application for a permit and issuance of the permit, or otherwise unreasonably delay work by authorized users on authorized facilities in the public right of way except where required by specific procedures to assure cooperation of work within the right of way which provide reasonable opportunities for scheduling of work and do not impose unreasonable barriers to entry or with the agreement of the applicant.

(2) Counties, cities, and towns are encouraged to develop procedures to provide interim authorizations for the installation of authorized facilities and process a complete permit, where the timeline to complete such an agreement is expected to exceed one hundred twenty days.

(3) Counties, cities, and towns are encouraged to work together and with industry, using the experience of the industry and those counties, cities, and towns that have adopted wireless regulations, to develop a model ordinance for the siting of wireless telecommunications facilities by January 1, 1999.

**NEW SECTION. Sec. 5.** (1) Except as provided in subsection (2) of this section, neither the state nor any county, city, or town shall place a moratorium on the acceptance and processing of applications, permitting, construction, maintenance, repair, replacement, extension, operation, or use of any wireless communication facility that is authorized under sections 2 through 6 of this act following the effective date of this section. An existing moratorium that expires following the effective date of this section shall not be extended in whole or in part.

(2)(a) A city or town incorporated after the effective date of this section shall be permitted to impose one moratorium that shall not exceed one hundred eighty days and shall not be extendable.

(b) Upon the expiration of a moratorium authorized by (a) of this subsection, the authorizing city or town is subject to subsection (1) of this section.

(3) This section applies to moratoriums one hundred twenty days after the adoption of a model ordinance under section 4(3) of this act or on April 1, 1999, whichever occurs first.

**NEW SECTION. Sec. 6.** (1) Neither the state nor any county, city, or town may impose, demand, or accept any compensation from an authorized user, whether by fee, charge, license, rent, use of authorized facilities at other than normal charges, provision of in-kind services by authorized users without compensation or at below-market rates, or by any other manner for:

- (a) The use or occupancy of public rights of way for authorized facilities; or
- (b) Any act authorized by sections 2 through 6 of this act unless the fee, charge, or other compensation is imposed generally and uniformly on projects outside public rights of way.

(2) No fee, charge, or other compensation permitted under subsection (1) of this section may recover more than the direct administrative expenses actually incurred by the state, county, city, or town in receiving and approving a construction or development permit, inspecting plans and construction, development and maintenance of record systems and excavation authorizations systems, costs of repair or restoration of the right of way, or preparing a detailed statement pursuant to chapter 43.21C RCW.

(3) This section does not preclude a county, city, or town from issuing franchises and imposing franchise fees for cable services as allowed by federal law.

(4) This section does not amend, repeal, or modify any law governing the taxing authority of cities or towns.

**NEW SECTION. Sec. 7.** A new section is added to chapter 35.21 RCW to read as follows:

Each city or town is subject to the requirements and restrictions regarding telecommunications services and public rights of way under sections 2 through 6 of this act. However, sections 2 through 6 of this act do not limit or modify the applicability of chapters 35.77, 35.78, and 36.70A RCW.

**NEW SECTION. Sec. 8.** A new section is added to chapter 35A.21 RCW to read as follows:

Each code city is subject to the requirements and restrictions regarding telecommunications services and public rights of way under sections 2 through 6 of this act. However, sections 2 through 6 of this act do not limit or modify the applicability of chapter 36.70A RCW.

**NEW SECTION. Sec. 9.** A new section is added to chapter 36.01 RCW to read as follows:

Each county is subject to the requirements and restrictions regarding telecommunications services and public rights of way under sections 2 through 6 of this act. However, sections 2 through 6 of this act do not limit or modify the applicability of chapters 36.70, 36.70A, 36.75, 36.78, 36.80, 36.81, and 36.86 RCW.

NEW SECTION. **Sec. 10.** Sections 2 through 6 of this act are each added to chapter 80.36 RCW."

#### POINT OF INQUIRY

Senator Prentice: "Senator Strannigan, I just want to be sure that I heard correctly. You used a word that I have never heard before.--'discent.' Is that one you just made up?"

Senator Strannigan: "I don't think I can take credit for that one. I have heard it used a number of times over the course of the years on this bill, actually. If I may, it is based on the word 'incentive.'"

Senator Prentice: "It is certainly tragic that we have seen the deterioration of the English language in these halls."

#### MOTION

Senator Franklin moved that the following amendments by Senators Franklin, Goings and Rasmussen to the striking amendment by Senators Strannigan, Hargrove and Finkbeiner be considered simultaneously and be adopted:

On page 2, line 22 of the amendment, after "way." strike all the material down to and including "right of way." on line 33

On page 5, after line 18 of the amendment, strike all the material down to and including "towns" on page 6, line 5

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Franklin, Goings and Rasmussen on page 2, line 22, and page 5, after line 18, to the striking amendment by Senators Strannigan, Hargrove and Finkbeiner to Substitute Senate Bill No. 6515.

The motion by Senator Franklin failed and the amendments to the striking amendment were not adopted on a rising vote.

#### MOTION

Senator Haugen moved that the following amendments by Senators Haugen and Wood to the striking amendment by Senators Strannigan, Hargrove and Finkbeiner be considered simultaneously and be adopted:

On page 3, beginning on line 11 of the amendment, strike ", streets, and highways, including limited access highways" and insert "and streets,"

On page 3, beginning on line 35 of the amendment, strike "Neither the state nor any" and insert "No"

On page 5, beginning on line 2 of the amendment, strike "neither the state nor any" and insert "no"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Haugen and Wood on page 3, beginning on lines 11 and 35, and page 5, beginning on line 2, to the striking amendment by Senators Strannigan, Hargrove and Finkbeiner to Substitute Senate Bill No. 6515.

The motion by Senator Haugen failed and the amendments to the striking amendment were not adopted on a rising vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Strannigan, Hargrove and Finkbeiner to Substitute Senate Bill No. 6515.

#### POINT OF INQUIRY

Senator Snyder: "Senator Finkbeiner, we have heard a lot about this being very important to development and rural communities and I certainly stand behind that, but I have been getting an awful lot of communications from the four counties that I represent and from most all the cities within those counties that are opposed to this bill. I know you have worked very hard to try and come up with an agreement that would satisfy everybody. Are the cities and counties bought off on this proposal and do they support it now?"

Senator Finkbeiner: "No, Senator Snyder, but I appreciate you asking that question, because from the beginning we have worked very hard to incorporate their issues and concerns and you have my commitment, and I think also the commitment of the prime sponsor, that we will continue to work that as this bill moves through the process and over the interim. This is definitely a very complex issue that is going to need continued study and while they have not bought off for support of this bill in its entirety, I think that I can say that we have worked very closely with them and we will continue to do that."

#### POINT OF INQUIRY

Senator Rasmussen: "Senator Finkbeiner, I need to follow up on this, because of the pass-through. You know there are a lot of companies that maybe come from California, Colorado, or someplace and want to pass-through our counties or pass-through the state. Can we still ask of the counties and cities to provide a hookup or something for WSU or some of the other facilities--for some of our businesses instead of just passing through? I mean, they are going to dig up our roads and we are going to be inconvenienced at some point and if we can't charge them, or anything, but can we at least ask them to provide some sort of hookup for that inconvenience they may cause to our rural areas or any areas in the state?"

Senator Finkbeiner: "First of all, we will be getting--the cities and counties or the state depending on whose right-of-way they would be in, under this bill, they would be recovering all their costs. So, whatever costs are associated with that digging up, regardless of who the company was, we would be able to recover those costs. If those companies came into this state, we sure could ask them to hook up our universities and higher ed, just like we are right now with the bill we passed last year and the funding package where we paid a significant amount of money in order to connect our higher education--K 20 network--throughout the state. I don't think that it would be in the best interest of our constituents to ask our constituents to pay for that without it being specifically levied as a tax or the same way we fund low income telephone assistance and that sort of thing. So that is the answer."

Senator Rasmussen: "Thank you. Then the answer is, 'no?.' What is the intent? I mean, is the intent--is the answer, 'no,' then? If we cannot--"

Senator Finkbeiner: "Is your question, can we make them supply public telecommunication services to public institutions, universities, or local government or whatever--can we make them--as requirement of the right-of ways? Under this bill, no, they would not be able to do that?"

Senator Rasmussen: "Can they currently?"

Senator Finkbeiner: "Can they currently?"

Senator Rasmussen: "Yes, can we currently?"

#### RULING BY THE PRESIDENT

President Owen: "Senators, it is not appropriate that we carry out a conversation between the two of you with questions and answers and debate."

Senator Finkbeiner: "Thank you, Mr. President."

Senator Rasmussen: "I'm sorry."

Further debate ensued.

#### POINT OF ORDER

Senator Johnson: "A point of order, Mr. President. I think the Senator has spoken twice on this amendment, contrary to the rules."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Johnson, this is the striking amendment and that was the first time she spoke on the striking amendment." Senator Franklin asked Senator Finkbeiner to yield to a question and Senator Finkbeiner would not yield.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the striking amendment by Senators Strannigan, Hargrove and Finkbeiner to Substitute Senate Bill No. 6515.

#### ROLL CALL



The Secretary called the roll and the striking amendment was adopted by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Finkbeiner, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley and Zarelli - 36. Voting nay: Senators Bauer, Fairley, Franklin, Fraser, Haugen, Loveland, McAuliffe, Sheldon, B., Snyder, Spanel, Thibaudeau, Wojahn and Wood - 13.

#### MOTIONS

On motion of Senator Strannigan, the following title amendment was adopted:

On page 1, line 1 of the title, after "way;" strike the remainder of the title and insert "adding new sections to chapter 80.36 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.01 RCW; and creating a new section."

On motion of Senator Strannigan, the rules were suspended, Engrossed Substitute Senate Bill No. 6515 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6515.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6515 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Heavey, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Roach, Rossi, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West and Zarelli - 27. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Haugen, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Rasmussen, Schow, Sheldon, B., Snyder, Spanel, Thibaudeau, Winsley, Wojahn and Wood - 22. ENGROSSED SUBSTITUTE SENATE BILL NO. 6515, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 12:24 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 1:15 p.m.

#### MOTIONS

On motion of Senator Goings, Senator Bauer was excused.

On motion of Senator Swecker, Senators McCaslin, Oke, Prince, Sellar and West were excused.

#### SECOND READING

SENATE BILL NO. 6464, by Senators Goings, Winsley, Roach, Anderson, Patterson, Fairley, Franklin, McAuliffe, Jacobsen, Horn, Haugen, Schow, Rasmussen and Oke (by request of Governor Locke)

Increasing the penalty for manufacture of methamphetamine.

The bill was read the second time.

#### MOTION

On motion of Senator Johnson the rules were suspended, Senate Bill No. 6464 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6464.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6464 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 43.

Excused: Senators Bauer, McCaslin, Oke, Prince, Sellar and West - 6.

SENATE BILL NO. 6464, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Swecker, Senator Schow was excused.

#### SECOND READING

SENATE BILL NO. 6544, by Senators Deccio, Franklin, Wood, Wojahn and Winsley

Providing for adult family home and boarding home training.

#### MOTIONS

On motion of Senator Johnson, Second Substitute Senate Bill No. 6544 was substituted for Senate Bill No. 6544 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Second Substitute Senate Bill No. 6544 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6544.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6544 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senator Finkbeiner - 1. Excused: Senators Bauer, McCaslin, Prince and Schow - 4. SECOND SUBSTITUTE SENATE BILL NO. 6544, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTIONS

On motion of Senator Goings, Senators Heavey, Loveland and Snyder were excused.

On motion of Senator Swecker, Senators McDonald, Strannigan and West were excused.

#### SECOND READING

SENATE BILL NO. 6406, by Senators Anderson, Brown, Long, Franklin, Strannigan, Winsley and Oke

Exempting income from the adoption support program from gross family income calculations for the basic health plan.

The bill was read the second time.

#### MOTION

On motion of Senator Anderson the rules were suspended, Senate Bill No. 6406 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6406.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6406 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 0; Absent, 1; Excused, 9.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 39. Absent: Senator Finkbeiner - 1. Excused: Senators Heavey, Loveland, McCaslin, McDonald, Prince, Schow, Snyder, Strannigan and West - 9. SENATE BILL NO. 6406, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6396, by Senators Wood, Kohl, Winsley, Haugen, Prince, Bauer and West

Creating the Washington center for real estate research.

#### MOTIONS

On motion of Senator Anderson, Substitute Senate Bill No. 6396 was substituted for Senate Bill No. 6396 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Wood, the rules were suspended, Substitute Senate Bill No. 6396 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6396.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6396 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 7; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, McAuliffe, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Winsley and Wood - 35. Voting nay: Senators Brown, Fairley, Kline, Patterson, Thibaudeau, Wojahn and Zarelli - 7. Excused: Senators Heavey, Loveland, McCaslin, McDonald, Schow, Snyder and West - 7. SUBSTITUTE SENATE BILL NO. 6396, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6392, by Senators Strannigan, Long, West and Oke

Providing financial support to licensed overnight youth shelters.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, Senate Bill No. 6392 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6392.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6392 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 43. Absent: Senator Bauer - 1. Excused: Senators Heavey, McCaslin, McDonald, Schow and West - 5. SENATE BILL NO. 6392, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6731, by Senators Newhouse and Deccio

Removing a property tax exemption for airport property belonging to out-of-state municipal corporations.

#### MOTIONS

On motion of Senator Strannigan, Substitute Senate Bill No. 6731 was substituted for Senate Bill No. 6731 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Strannigan, the rules were suspended, Substitute Senate Bill No. 6731 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Johnson was excused.

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6731.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6731 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Johnson, McCaslin, McDonald and Schow - 4. SUBSTITUTE SENATE BILL NO. 6731, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6728, by Senators Newhouse, Loveland, Morton, Rasmussen, Deccio and Schow

Providing tax exemptions for activities conducted for hop commodity commissions or boards.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6728 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6728.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6728 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Johnson and McDonald - 2. SENATE BILL NO. 6728, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6727, by Senators West, Wood, Hale, Kohl, Winsley, Prince, B. Sheldon, McDonald, Brown, Bauer, Rasmussen and Oke

Modifying the savings incentive and education savings accounts.

#### MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6727 was substituted for Senate Bill No. 6727 and the substitute bill was placed on second reading and read the second time.

On motion of Senator West, the rules were suspended, Substitute Senate Bill No. 6727 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Jacobsen: "Senator West, I am looking at Senate Bill No. 6242 and as you described this bill--I can't find it on my calendar right now--but it sounds as if they both achieve the same purpose--both of them create an endowment--and the difference would be?" Senator West: "Senator Jacobsen, there is a bill going through the Legislature that does have an endowment attached to it or that is a new endowment program. There is currently, in statute, a fund for distinguished professorships, a fund for graduate fellowships, and a fund for exceptional faculty. Those are in statute and they have been funded on a sporadic basis from time through the general fund. What this would do, would simply take those that are already in statute and give them a dedicated revenue stream in the future. This is not connected at all to the other bill and I would consider them to be unrelated."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6727.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6727 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel,

Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Johnson and McDonald - 2. SUBSTITUTE SENATE BILL NO. 6727, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6668, by Senators Heavey, Schow, Anderson, West, T. Sheldon, Rasmussen, Strannigan and Johnson

Extending tax deferrals for new thoroughbred race tracks.

The bill was read the second time.

#### MOTION

On motion of Senator Heavey, the rules were suspended, Senate Bill No. 6668 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6668.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6668 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 39. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Haugen, Oke, Prentice and Thibaudeau - 8. Excused: Senators Johnson and McDonald - 2. SENATE BILL NO. 6668, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6662, by Senators Strannigan, T. Sheldon and Schow

Eliminating the business and occupation tax on property managers' compensation.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Senate Bill No. 6662 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6662.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6662 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Johnson and McDonald - 2. SENATE BILL NO. 6662, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6634, by Senators Horn, Haugen, Wood and Oke (by request of Department of Licensing)

Allowing extension of a driver's license expiring while out of state.

The bill was read the second time.

### MOTION

On motion of Senator Horn, the rules were suspended, Senate Bill No. 6634 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6634.

### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6634 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Johnson and McDonald - 2. SENATE BILL NO. 6634, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6591, by Senators Horn, Haugen and Wood (by request of Department of Licensing)

Providing for waiver of administrative alcohol or drug-related hearing fees due to indigency.

The bill was read the second time.

### MOTION

On motion of Senator Horn, the rules were suspended, Senate Bill No. 6591 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6591.

### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6591 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Johnson and McDonald - 2. SENATE BILL NO. 6591, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6590, by Senators Horn, Haugen and Wood (by request of Department of Licensing)

Revising provision for driver's license examinations.

### MOTIONS

On motion of Senator Horn, Substitute Senate Bill No. 6590 was substituted for Senate Bill No. 6590 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Horn, the rules were suspended, Substitute Senate Bill No. 6590 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6590.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6590 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 6590, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6558, by Senators Zarelli, Hargrove, Long, Stevens, Roach and Oke

Creating citizen review panels to review child abuse and neglect cases.

#### MOTIONS

On motion of Senator Zarelli, Substitute Senate Bill No. 6558 was substituted for Senate Bill No. 6558 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Zarelli, the rules were suspended, Substitute Senate Bill No. 6558 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Loveland, Senator Franklin was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6558.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6558 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Franklin - 1. SUBSTITUTE SENATE BILL NO. 6558, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6645, by Senators Johnson, Haugen and McCaslin

Eliminating the requirement that the director of public defense have experience representing persons accused of crime.



The bill was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Bill No. 6645 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6645.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6645 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Fairley, Heavey, Kline and Thibaudeau - 4. Absent: Senator Roach - 1. SENATE BILL NO. 6645, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

Vice President Pro Tempore Morton assumed the Chair.

#### SECOND READING

SENATE BILL NO. 6699, by Senators Schow, Anderson, Newhouse, Zarelli, Horn, Winsley, Stevens, Benton, Rossi, Long, Sellar and Oke

Limiting the liability of a current or former employer who provides information about a current or former employee's work record to a prospective employer.

The bill was read the second time.

#### MOTION

Senator Heavey moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 49.12 RCW to read as follows:

An employer may disclose to a prospective employer job-related information about a former or current employee's job performance or job conduct. An employer shall be civilly liable for the disclosure of such information only upon a showing by clear and convincing evidence that the employer knew the information was false or had a reckless disregard for the truth of the information. Nothing in this section shall affect or limit any other state, federal, or constitutional right otherwise available."

Debate ensued.

Senator Goings demanded a roll call and the demand was sustained.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the adoption of the striking amendment by Senator Heavey to Senate Bill No. 6699.

#### ROLL CALL

The Secretary called the roll and the striking amendment was not adopted by the following vote: Yeas, 19; Nays, 30; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 19. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 30.

#### MOTION

Senator Hargrove moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 49.12 RCW to read as follows:

An employer may disclose to a prospective employer job-related information about a former or current employee's job performance or job conduct. An employer is civilly liable for the disclosure of that information only upon a showing by a preponderance of the evidence that the employer knew the information was false. Nothing in this section affects or limits any other state, federal, or constitutional right otherwise available."

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Hargrove to Senate Bill No. 6699.

The motion by Senator Hargrove failed and the striking amendment was not adopted on a rising vote.

#### MOTION

On motion of Senator Schow, the rules were suspended, Senate Bill No. 6699 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6699.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6699 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Goings, Hale, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 31. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Hargrove, Heavey, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 18. SENATE BILL NO. 6699, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

President Owen assumed the Chair.

#### MOTION

On motion of Senator Johnson, the Senate advanced to the eighth order of business.

#### MOTION

On motion of Senator Prince, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8702

By Senators Prince, Hale, West, Zarelli, Anderson, Snyder, Morton, Deccio, McCaslin, Patterson, Benton, Finkbeiner, Newhouse, Rasmussen, Bauer, Wood, Fraser, Sellar, Loveland, Hochstatter, Johnson, Brown, Spanel and B. Sheldon

WHEREAS, The residents of this state are still glowing with pride over the accomplishments of the 1997 Washington State University Cougars football team; and

WHEREAS, The Cougars, led by Coach of the Year Mike Price and All-American Quarterback Ryan Leaf, enjoyed their best season since 1931, defeating the UCLA Bruins, the USC Trojans, and the Arizona Wildcats while winning ten games this season; and

WHEREAS, The tenth win of that season came in Husky Stadium, where the Cougars won the Apple Cup and earned their first Rose Bowl appearance since 1931; and

WHEREAS, The Washington State Cougars, played with pride, poise, and spirit in taking the battle to the University of Michigan Wolverines; and

WHEREAS, Mike Price, the architect of this wonderful season, having survived the slings and arrows of the media, alumni, and University of Washington alums since 1989, has forever put to rest the expression, "Cougin' it," a term that Husky alums once tortured Cougar fans with; and

WHEREAS, Mike Price has been honored by The Sporting News, the Football Writers of America, the American Football Coaches Association, and the Bobby Dowd Foundation as the 1997 Coach of the Year; and

WHEREAS, Mike Price has sent to the National Football League talent including Drew Bledsoe, Steve Broussard, Mark Fields, and Ryan Leaf; and

WHEREAS, Unlike many other football coaches who rebuild programs only to leave for greener pastures, Mike Price has chosen to stay at Washington State University, the school where he earned his master's degree in physical education and got his first college football coaching position in 1969;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize the Washington State University Cougars football team and their head coach Mike Price for their glorious season and for the sense of pride the team brought to both sides of the Cascades; and

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded by the Secretary of the Senate to the Honorable Gary Locke, Governor of the state of Washington; the Honorable Brad Owen, Lieutenant Governor of the state of Washington and President of the Washington State Senate; the Honorable Clyde Ballard, Speaker of the House of Representatives; Samuel H. Smith, President of Washington State University; Richard R. Albrecht, President of the Board of Regents of Washington State University; Rick Dickson, Director of Athletics at Washington State University; and Mike Price, Head Coach.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced several of the players and coaches of the Washington State University Cougars football team, who were seated in the gallery.

#### PERSONAL PRIVILEGE

Senator Hale: "A point of personal privilege, Mr. President. I would like to point out that when the Cougs went to the Rose Bowl, Hell did not freeze over. Thank you."

#### MOTION

On motion of Senator Johnson, the Senate returned to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6408, by Senators McCaslin, Kline, Long, Fairley, Stevens, Hargrove, Zarelli, Johnson, Thibaudeau, Haugen, Schow, Roach and Oke

Increasing penalties for alcohol violators who commit the offense with a person under the age of seventeen in the motor vehicle.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6408 was substituted for Senate Bill No. 6408 and the substitute bill was placed on second reading and read the second time.

On motion of Senator McCaslin, the following amendment by Senators Kline and McCaslin was adopted:

On page 5, line 21, after "of" strike "seventeen" and insert "ten"

#### MOTION

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 6408 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6408.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6408 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Prince - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6408, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6208, by Senators Hargrove, Long, Franklin, Winsley and Oke

Revising procedures for at-risk youth.

#### MOTIONS

On motion of Senator Long, Substitute Senate Bill No. 6208 was substituted for Senate Bill No. 6208 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Long, the rules were suspended, Substitute Senate Bill No. 6208 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6208.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6208 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senators Fairley, Kohl and Thibaudeau - 3. Absent: Senator Newhouse - 1. SUBSTITUTE SENATE BILL NO. 6208, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Newhouse was excused.

#### SECOND READING

SENATE BILL NO. 6306, by Senators Long, Winsley, Rossi, Bauer, Roach and Anderson (by request of Joint Committee on Pension Policy)

Creating the Washington school employees' retirement system.

#### MOTIONS

On motion of Senator Long, Substitute Senate Bill No. 6306 was substituted for Senate Bill No. 6306 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Long, the rules were suspended, Substitute Senate Bill No. 6306 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6306.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6306 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Newhouse - 1. SUBSTITUTE SENATE BILL NO. 6306, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6119, by Senators Schow, Haugen, Patterson, McCaslin and Roach

Concerning the assumption of a water-sewer district by a municipality.

#### MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6119 was substituted for Senate Bill No. 6119 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the rules were suspended, Substitute Senate Bill No. 6119 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6119.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6119 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 41. Voting nay: Senators Haugen, Jacobsen, McDonald, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 8. SUBSTITUTE SENATE BILL NO. 6119, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6746, by Senator Winsley

Regulating purchasing of insurance services.

#### MOTIONS

On motion of Senator Winsley, Substitute Senate Bill No. 6746 was substituted for Senate Bill No. 6746 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Winsley, the rules were suspended, Substitute Senate Bill No. 6746 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6746.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6746 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 6746, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6243, by Senators Hale, Loveland, Roach, T. Sheldon, B. Sheldon, Stevens, West, McCaslin, Prentice, Goings, Oke, Schow, Swecker and Kohl

Repealing the sales tax on residential laundry facilities.

#### MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6243 was substituted for Senate Bill No. 6243 and the substitute bill was placed on second reading and read the second time.

On motion of Senator West, the rules were suspended, Substitute Senate Bill No. 6243 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6243.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6243 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senators Fraser, McAuliffe, Spanel and Thibaudeau - 4. SUBSTITUTE SENATE BILL NO. 6243, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6431, by Senators Roach, Goings, Rasmussen, T. Sheldon, Rossi, Stevens, Long, Hochstatter, Oke, Swecker, McCaslin, Morton, Johnson, Deccio, Sellar and Haugen

Providing for impoundment and forfeiture of vehicles operated by persons driving a vehicle or in actual physical control of a vehicle while under the influence of intoxicating liquor.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6431 was substituted for Senate Bill No. 6431 and the substitute bill was placed on second reading and read the second time.

Senator Kline moved that the following amendments by Senators Kline and Roach be considered simultaneously and be adopted:

On page 3, line 37, after "impounded" insert ", or pursuant to a provision of a state agency rule or local ordinance authorizing release on the basis of economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record" On page 8, line 26, after "forfeiture" insert "unless an applicable state agency rule or local ordinance prohibits forfeiture on the basis of economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Kline and Roach on page 3, line 37, and page 8, line 26, to Substitute Senate Bill No. 6431.

The motion by Senator Kline carried and the amendments were adopted.

#### MOTIONS

On motion of Senator Haugen, the following amendment by Senators Haugen, Loveland, Deccio, West and Winsley was adopted:

On page 17, after line 16, insert the following:

**"NEW SECTION. Sec. 9.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 6 of the title, after "RCW;" strike "creating a new section" and insert "creating new sections "

#### MOTION

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 6431 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Newhouse was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6431.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6431 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Fairley, Finkbeiner, Goings, Haugen, Johnson, Kline, Long, McCaslin, McDonald, Morton, Oke, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Wojahn and Zarelli - 28. Voting nay: Senators Brown, Deccio, Franklin, Fraser, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Kohl, Loveland, McAuliffe, Patterson, Prentice, Prince, Sheldon, B., Snyder, Winsley and Wood - 20. Excused: Senator Newhouse - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6431, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6242, by Senators Wood, West, Bauer, Winsley, Kohl, Prince, Hale, Haugen, B. Sheldon, Patterson, Goings, Wojahn, Anderson, McAuliffe and Schow

Creating the Washington state endowment for higher education.

#### MOTIONS

On motion of Senator Wood, Substitute Senate Bill No. 6242 was substituted for Senate Bill No. 6242 and the substitute bill was placed on second reading and read the second time.

Senator Jacobsen moved that the following amendments by Senators Jacobsen, Goings, Finkbeiner, Rossi and Heavey be considered simultaneously and be adopted:

On page 1, beginning on line 4, after "Sec. 1.", strike all material through "moneys." on line 14 and insert "The intent of this chapter is to provide permanent quality improvements and enrollment opportunities in Washington state's higher education system. The legislature recognizes that the state's higher education system can be strengthened by additional partnerships among individual donors, private corporations, public institutions of higher education, and private institutions of higher education. The legislature further recognizes that partnerships among donors, the business community, and higher education can form the basis for direct accountability, improve access, and strengthen Washington's higher education system. The legislature intends to create a matching fund program to assist needy and meritorious students attend the Washington higher education institution of their choice and to assist institutions of higher education in creating endowments financed jointly by public and private moneys."

On page 1, at the beginning of line 15, strike "The" and insert "Fifty percent of the"

On page 1, line 16, after "students;" insert "fifty percent of the endowments are intended to provide financial aid and scholarship moneys to Washington residents to attend a Washington higher education institution;"

On page 2, line 17, after "(3)" insert ""Private institution of higher education" means a private nonprofit education institution, the main campus of which is permanently situated in the state, that is open to residents of the state, that provides programs of education beyond high school leading at least to the baccalaureate degree, and that is accredited by the Northwest association of schools and colleges.

(4)"

On page 2, line 20, after "established." strike "Funds" and insert "Fifty percent of the funds"

On page 2, line 23, after "colleges." insert "Fifty percent of the funds appropriated by the legislature for the trust fund shall be deposited in an account in the state treasury for the higher education coordinating board."

On page 2, after line 32, insert the following:

"(3) State matching funds from the trust fund for the higher education coordinating board shall be used to award scholarships for Washington residents who have graduated from high school with a grade point average of 3.0, have financial need, and choose to attend college in Washington state."

Renumber the subsections consecutively and correct internal references accordingly.

On page 2, line 35, after "education" insert "or the higher education coordinating board"

On page 3, line 2, after "foundation" insert "or the higher education coordinating board"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Jacobsen, Goings, Finkbeiner, Rossi and Heavey on page 1, beginning on lines 4 and 15 and page 1, line 16; page 2, lines 17, 20, 23, 32, and 35; and page 3, line 2, to Substitute Senate Bill No. 6242.

The motion by Senator Jacobsen failed and the amendments were not adopted on a rising vote.

#### MOTION

On motion of Senator Wood, the rules were suspended, Substitute Senate Bill No. 6242 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6242.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6242 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 40. Voting nay: Senators Benton, Deccio, Finkbeiner, Hochstatter, Jacobsen, McCaslin, Stevens and Zarelli - 8. Excused: Senator Newhouse - 1. SUBSTITUTE SENATE BILL NO. 6242, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.



## SECOND READING

SENATE BILL NO. 6174, by Senator McCaslin

Changing compensation for special district commissioners.

### MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 6174 was substituted for Senate Bill No. 6174 and the substitute bill was placed on second reading and read the second time.

Senator McCaslin moved that the following amendments by Senators McCaslin and Patterson be considered simultaneously and be adopted:

On page 1, beginning on line 9, after "duties" strike "without compensation" and insert "~~((without compensation))~~"

On page 5, at the beginning of line 34, strike "shall receive no compensation for their services, but" and insert "~~((shall receive no compensation for their services, but))~~"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators McCaslin and Patterson on page 1, beginning on line 9, and page 5, beginning on line 34, to Substitute Senate Bill No. 6174.

The motion by Senator McCaslin carried and the amendments were adopted.

### MOTION

On motion of Senator McCaslin,, the rules were suspended, Engrossed Substitute Senate Bill No. 6174 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

### POINT OF INQUIRY

Senator Fairley: "Senator McCaslin, does this include fire district commissioners?"

Senator McCaslin: "Yes. Here is what it includes: metropolitan park districts; cemetery districts; diking and drainage districts; draining districts; diking, drainage, sewage improvement districts; inter-county drainage and diking districts; flood control districts; irrigation districts; public transit benefit authority districts; and public utility districts."

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6174.

### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6174 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senators Fairley, Heavey and Kline - 3. Excused: Senator Newhouse - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6174, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6560, by Senators Brown, Jacobsen, T. Sheldon, Kohl, Hargrove, Fairley, B. Sheldon, Prentice, Wojahn, Loveland, Thibaudeau, McAuliffe, Heavey, Spanel, Snyder, Rasmussen, Haugen, Patterson and Franklin

Protecting the rights of retail electric customers.

### MOTIONS

On motion of Senator Finkbeiner, Substitute Senate Bill No. 6560 was substituted for Senate Bill No. 6560 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Tim Sheldon, the following amendment by Senators Tim Sheldon, Finkbeiner and Brown was adopted:

On page 6, after line 22, strike the remainder of the sentence beginning with "a cooperative" through "RCW" on line 24, and insert the following:

"any consumer-owned utility with twenty-five thousand or fewer electric meters in service, or that has an average of seven or fewer customers per mile of distribution line"

Debate ensued.

#### MOTION

On motion of Senator Finkbeiner, the rules were suspended, Engrossed Substitute Senate Bill No. 6560 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Goings, Senator Prentice was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6560.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6560 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Newhouse and Prentice - 2. ENGROSSED SUBSTITUTE SENATE BILL NO. 6560, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the seventh order of business.

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5769, by Senate Committee on Law and Justice (originally sponsored by Senators Johnson and Goings)

Concerning the theft of beverage crates and merchandise pallets.

#### MOTIONS

On motion of Senator Johnson, the rules were suspended, Substitute Senate Bill No. 5769 was returned to second reading and read the second time.

On motion of Senator Johnson, the following amendment was adopted:

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 9A.56.010 and 1997 c 346 s 2 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(4) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed.

(5) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(6) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(7) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where such use is unauthorized by the partnership agreement;

(8) "Merchandise pallet" means a wood or plastic carrier designed and manufactured as an item on which products can be placed prior to or during transport to retail outlets, manufacturers, or contractors, and affixed with language stating "property of . . . ." "owned by . . . ." or other markings or words identifying ownership;

(9) "Beverage crate" means a plastic or metal box-like container used by a manufacturer or distributor in the transportation or distribution of individually packaged beverages to retail outlets, and affixed with language stating "property of . . . ." "owned by . . . ." or other markings or words identifying ownership;

(10) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

~~((9))~~ (11) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

~~((10))~~ (12) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

~~((11))~~ (13) "Stolen" means obtained by theft, robbery, or extortion;

~~((12))~~ (14) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;

~~((13))~~ (15) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;

~~((14))~~ (16) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;

~~((15))~~ (17) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

~~((16))~~ (18) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

~~((17))~~ (19) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle.

**Sec. 2.** RCW 9A.56.170 and 1975 1st ex.s. c 260 s 9A.56.170 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the third degree if he or she possesses stolen property which does not exceed two hundred fifty dollars in value including possession of ten or more stolen merchandise pallets, or ten or more stolen beverage crates, or a combination of ten or more stolen merchandise pallets and beverage crates, as defined under RCW 9A.56.010.

(2) Possessing stolen property in the third degree is a gross misdemeanor.

**Sec. 3.** RCW 9A.56.140 and 1987 c 140 s 3 are each amended to read as follows:

(1) "Possessing stolen property" means knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

(2) The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.

(3) When a person (~~(not an issuer or agent thereof)~~) has in his or her possession, or under his or her control, stolen access devices issued in the names of two or more persons, or ten or more stolen merchandise pallets, or ten or more stolen beverage crates, or a combination of ten or more stolen merchandise pallets and beverage crates, as defined under RCW 9A.56.010, he (~~shall be~~) or she is presumed to know that they are stolen.

~~((This))~~ (4) The presumption (~~(may be rebutted)~~) in subsection (3) of this section is rebuttable by evidence raising a reasonable inference that the possession of such stolen access devices, merchandise pallets, or beverage crates was without knowledge that they were stolen.

**Sec. 4.** RCW 9A.56.050 and 1975 1st ex.s. c 260 s 9A.56.050 are each amended to read as follows:

(1) A person is guilty of theft in the third degree if he or she commits theft of property or services which does not exceed two hundred and fifty dollars in value including ten or more merchandise pallets, or ten or more beverage crates, or a combination of ten or more merchandise pallets and beverage crates, as defined under RCW 9A.56.010.

(2) Theft in the third degree is a gross misdemeanor."

## MOTIONS

On motion of Senator Johnson, the following title amendment was adopted:

On page 1, line 1 of the title, after "property;" strike the remainder of the title and insert "amending RCW 9A.56.010, 9A.56.170, 9A.56.140, and 9A.56.050; and prescribing penalties."

On motion of Senator Johnson, the rules were suspended, Engrossed Substitute Senate Bill No. 5769 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

## POINT OF INQUIRY

Senator Heavey: "Senator Johnson, isn't stealing pallets, whether it is ten or more, a crime currently--even if it is a single pallet?"

Senator Johnson: "Yes."

Senator Heavey: "Thank you."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5769.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5769 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 16; Absent, 2; Excused, 1.

Voting yea: Senators Anderson, Benton, Deccio, Fraser, Goings, Hale, Hochstatter, Horn, Jacobsen, Johnson, Long, McAuliffe, McCaslin, McDonald, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 30. Voting nay: Senators Brown, Fairley, Finkbeiner, Franklin, Hargrove, Haugen, Heavey, Kohl, Loveland, Morton, Newhouse, Patterson, Snyder, Spanel, Thibaudeau and Wojahn - 16. Absent: Senators Bauer and Kline - 2. Excused: Senator Prentice - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 5769, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 5:21 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 5:38 p.m. by President Owen.

There being no objection, the President returned the Senate to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6290, by Senators Benton, Zarelli, Stevens, McDonald, Oke, Schow and Roach

Regarding parental notification for abortions.

#### MOTIONS

On motion of Senator Benton, Substitute Senate Bill No. 6290 was substituted for Senate Bill No. 6290 and the substitute bill was placed on second reading and read the second time.

Senator Patterson moved that the following amendments be considered simultaneously and be adopted:

On page 2, beginning on line 36, strike all of subsection (4), renumber the remaining subsections consecutively, and correct any internal references accordingly.

On page 3, line 37, following "abortion." insert the following:

"Where there is a reason to believe the male who participated in creating the pregnancy is an unemancipated minor or an incompetent person, no person may perform an abortion until forty-eight hours after actual notification and consent have been obtained from the custodial parent or guardian of the father."

On page 4, beginning on line 18, after "of" strike all material through "act" on line 20 and insert "a parent or guardian of a minor female or male is not required if the minor is emancipated as defined in section 3 of this act"

On page 4, beginning on line 29, after "That the" strike all material through "her" on line 30 and insert "minor female and male will be provided court-appointed counsel at her or his"

On page 4, line 32, after "(i)" strike "She is" and insert "One or both of the petitioning minors are"

On page 4, line 36, after "interest of the" strike all material through "child;" and insert "petitioning minors; and"

On page 4, line 38, after "guardian" strike "; and" and insert "."

On page 5, at the beginning of line 1, strike all of subsection (g)

Beginning on page 5, line 35, strike all of section 7

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 6, line 1, after "have" insert "or not have"

On page 6, line 2, after "performed" insert ", or to file or not file a petition under sections 1 through 11 of this act"

On page 6, line 24, after "her" insert "or his"

On page 6, line 26, after "pregnant" insert ", or is believed to be the male who participated in creating the pregnancy,"

On page 6, line 28, after "her" insert "or him"

On page 6, line 31, after "she" insert "or he"

On page 6, line 37, after "file her" insert "or his"

On page 6, line 37, after "solely her" insert "or his"

On page 7, line 8, after "(4)" insert "(a)"

On page 7, after line 23, insert the following:

"(b) In the case of a petition by an unemancipated or incompetent male, if the court finds by clear, cogent, and convincing evidence, that the petitioner is sufficiently mature or able to deal with the decision by the pregnant unemancipated or incompetent pregnant person to have an abortion, the court shall waive the requirement that a parent or guardian of the male be notified and provide consent. If the court does not make the finding specified in this subsection (4)(b) or in (a) of this subsection, the petition shall be dismissed."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

#### MOTION

On motion of Senator Johnson, further consideration of Substitute Senate Bill No. 6290 was deferred.

At 5:46 p.m., there being no objection, the President declared the Senate to be at ease.

The Senate was called to order at 6:09 p.m. by President Owen.

There being no objection, the Senate resumed consideration of Substitute Senate Bill No. 6290 and the pending amendments by Senator Patterson on pages 2, 3, 4, 5, 6, and 7.

#### MOTION

There being no objection, Senator Patterson withdrew the amendments on pages 2, 3, 4, 5, 6, and 7, to Substitute Senate Bill No. 6290.

#### MOTION

Senator Benton moved that the following amendment by Senators Benton, Long, Hargrove and Swecker be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Sections 1 through 10 of this act shall be known as and may be cited as the parental notification of abortion act.

**NEW SECTION. Sec. 2.** (1) The legislature finds that:

(a) Unemancipated minor children and incompetent persons often lack the maturity or ability to make fully informed choices that take into account both immediate and long-range consequences;

(b) The medical, emotional, and psychological consequences of abortion are sometimes serious and can be lasting, particularly when the patient is an immature or incompetent person;

(c) The capacity to become pregnant and the capacity to exercise mature judgment concerning abortion are not necessarily related;

(d) Parents or guardians ordinarily possess information essential to a physician's medical judgment concerning an unemancipated minor child or an incompetent person;

(e) Parents or guardians who are aware that an unemancipated minor child or incompetent person may have or has had an abortion may ensure that she receives adequate support, counseling, and medical attention before and after her abortion;

(f) Parental or guardian consultation and notification is usually desirable and in the best interest of the unemancipated minor child or incompetent person.

(2) The purpose of the legislature in enacting this parental notification law is to further the important and compelling state interests of:

(a) Protecting the rights of parents to rear children who are members of their household;

(b) Fostering family unity and preserving the family as a viable social unit; and

(c) Reducing teenage pregnancy and unnecessary abortion.

**NEW SECTION. Sec. 3.** Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 1 through 10 of this act.

(1) "Abortion" means the use or prescription of any instrument, medicine, drug, or other substance or device to terminate the pregnancy of a woman known by the physician to be pregnant. The use or prescription is not an abortion if done with the intent to (a) save the life or preserve the health of an unborn child, (b) remove a dead unborn child, or (c) deliver an unborn child prematurely in order to preserve the health of both the pregnant woman and her unborn child.

(2) "Actual notification" means the giving of notice directly by conversing with the parent or guardian, either in person or by telephone.

(3) "Constructive notification" means notice by certified mail to the last known address of the parent or guardian, with delivery deemed to have occurred forty-eight hours after the certified notice is mailed.

(4) "Coercion" means restraining, or dominating the choice of, an unemancipated minor or incompetent person by use of force, by threat of force, by deprivation of necessary food and shelter, or by use of fraud, misrepresentation, or deceit.

(5) "Emancipated minor" means a person under eighteen years of age who is or has been lawfully married or who has been emancipated.

(6) "Incompetent person" means a person who has been found to be legally incompetent under RCW 11.88.010(1)(e).

(7) "Medical emergency" means a condition exists that, on the basis of the physician's good-faith clinical judgment, necessitates immediate termination of pregnancy to avert her death, or failure to immediately terminate the pregnancy will create serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman.

(8) "Neglect" means the failure of a parent or guardian to supply an unemancipated minor or incompetent person with necessary food, clothing, shelter, or medical care when that parent or guardian is reasonably able to do so, or the failure of a parent or guardian to protect an unemancipated minor or incompetent person from a condition or action that imminently and seriously endangers the health of the unemancipated minor or incompetent person when that parent or guardian is reasonably able to protect the unemancipated minor or incompetent person from that condition or action.

(9) "Physical abuse" means any physical injury that is intentionally inflicted by a parent or guardian on an unemancipated minor child or incompetent person and that is medically significant as determined by a physician.

(10) "Physician" means any person licensed to practice medicine under chapter 18.57 or 18.71 RCW.

(11) "Sexual abuse" means a crime or offense involving sexual contact or sexual intercourse as defined in RCW 9A.44.010 and committed against an unemancipated minor or incompetent person by a family member or guardian.

**NEW SECTION. Sec. 4.** (1) A physician shall not perform an abortion upon an unemancipated minor or upon an incompetent person unless the physician has given forty-eight hours actual notification to a custodial parent or to the guardian of the pregnant unemancipated minor or pregnant incompetent person of the physician's intention to perform the abortion. The notification may be given by a referring physician. If the notification is given by a referring physician, the physician shall not perform the abortion without receiving the referring physician's written statement certifying that the referring physician has provided notification. If actual notification is not possible after a reasonable effort, the physician or the physician's agent shall give forty-eight hours constructive notification.

(2) Notification shall not be given under subsection (1) of this section unless the unemancipated minor or incompetent person has signed a form prescribed by the department of health indicating that the unemancipated minor or incompetent person has been fully informed of the options available under sections 1 through 10 of this act. The department of health shall make the form available to all physicians in the state. The department of health shall ensure that the form includes information:

(a) That notification of a parent or guardian is generally required before an unemancipated minor or incompetent person may obtain an abortion;

(b) That notification of a parent or guardian is not required if the mother of the unborn child is emancipated as defined in section 3 of this act;

(c) That an alternative to providing notification may be available under section 5 of this act if the mother of the unborn child has been the victim of neglect or sexual or physical abuse by a parent or guardian as defined in section 3 of this act;

(d) That notification of a parent or guardian of the mother of the unborn child may not be required under section 6 of this act if a medical emergency exists and there is insufficient time to obtain the required notification;

(e) That the mother of the unborn child will be provided court-appointed counsel at her request, and that notification may be waived by a court under section 8 of this act, if the court finds: (i) By clear and convincing evidence that she is sufficiently mature to decide whether to have an abortion; or (ii) by a preponderance of the evidence that (A) there is a pattern of sexual or physical abuse by her parent or guardian; or (B) notification to a parent or guardian would not be in the best interest of the mother of the unborn child; and

(f) That in any circumstance the mother of the unborn child may choose to discuss her situation with her parent or guardian.

**NEW SECTION. Sec. 5.** If the pregnant unemancipated minor or pregnant incompetent person makes a written, signed declaration that she is a victim of sexual abuse, neglect, or physical abuse by either of her parents or her guardian, the physician intending to perform the abortion shall provide the notification required by sections 1 through 10 of this act to a brother or sister of the unemancipated minor or incompetent person so long as that sibling is over twenty-one years of age, or to a stepparent or grandparent specified by the unemancipated

minor or incompetent person; and that physician shall place in the unemancipated minor's or incompetent person's medical record certification of having received the written declaration of abuse or neglect. The physician shall ensure that the written declaration remains confidential.

A physician relying in good faith upon a written declaration under this section shall not be civilly liable under sections 1 through 10 of this act for failure to provide notification to a parent or guardian.

Receipt of a written declaration under this section does not authorize the physician to perform an abortion. The physician shall not perform an abortion unless authorized to do so under sections 1 through 10 of this act.

**NEW SECTION. Sec. 6.** Notification is not required under section 4 or 5 of this act if:

(1) The attending physician certifies in the unemancipated minor's or incompetent person's medical record that a medical emergency exists, and there is insufficient time to provide the required notification;

(2) Notification is waived in writing by the person who is, under sections 1 through 10 of this act, entitled to notification; or

(3) Notification is waived under section 8 of this act.

**NEW SECTION. Sec. 7.** Physicians required to provide notification under sections 1 through 10 of this act shall file with the department of health, on forms prescribed by the department, monthly reports indicating the number of notifications provided to a parent, guardian, brother, sister, stepparent, or grandparent during the preceding month under sections 1 through 10 of this act, and the number of times in which exceptions were made to the notification requirement under sections 1 through 10 of this act, as well as the type of exception. Physicians shall not use names of the unemancipated minors or incompetent persons on the forms. The department shall on an annual basis compile and make available to the public the data required to be reported under this section.

**NEW SECTION. Sec. 8.** (1) The provisions of this section shall apply to unemancipated minors and incompetent persons whether or not they are residents of this state.

(2) The unemancipated minor or incompetent person may petition a superior court for a waiver of the notification requirement and may participate in proceedings on her own behalf. The petition for waiver of notification shall include a statement that the petitioner is pregnant and is an unemancipated minor or incompetent person. The court reviewing the petition shall appoint a guardian ad litem for her. A guardian ad litem appointed under this section shall act to maintain the confidentiality of the proceedings.

The court shall advise the unemancipated minor or incompetent person that she has a right to court-appointed counsel and shall provide the counsel upon request.

(3) Court proceedings under this section shall be closed and confidential and shall ensure the anonymity of the unemancipated minor or incompetent person. All court documents under this section shall be sealed. The unemancipated minor or incompetent person has the right to file her petition in the court using a pseudonym or using solely her initials. These proceedings shall be given precedence over other pending matters to the extent necessary to ensure that the court reaches a decision promptly. The court shall rule, and issue written findings of fact and conclusions of law, within four court days from the filing of the petition, except that the four-day rule may be extended at the request of the unemancipated minor or incompetent person.

(4) If the court finds, by clear, cogent, and convincing evidence, that the petitioner is sufficiently mature or able to decide whether to have an abortion, the court shall issue an order authorizing the petitioner to consent to the performance or inducement of an abortion without providing notification to a parent or guardian. If the court does not make the finding specified in this subsection or subsection (5) of this section, it shall dismiss the petition.

(5) If the court finds, by a preponderance of the evidence, that there is a pattern of physical or sexual abuse by a parent or guardian of the petitioner, or that notification to a parent or guardian is not in the best interest of the petitioner, the court shall issue an order authorizing the petitioner to consent to the performance or inducement of an abortion without notification to a parent or guardian. If the court does not make the finding specified in this subsection or subsection (4) of this section, it shall dismiss the petition.

(6) A court that conducts proceedings under this section shall issue written and specific factual findings and legal conclusions supporting its decision and shall maintain a confidential record of evidence and the judge's findings and conclusions.

(7) A procedure for expedited confidential appeal shall be available, as the supreme court provides by rule, to an unemancipated minor or incompetent person whose waiver of notification is denied. An order waiving the notification requirement shall not be subject to appeal.

(8) Filing fees shall not be required of an unemancipated minor or incompetent person who petitions a court for a waiver of parental notification under sections 1 through 10 of this act at either the trial or the appellate level.

**NEW SECTION. Sec. 9.** The supreme court is respectfully requested to establish rules to ensure that proceedings under sections 1 through 10 of this act are handled in an expeditious and confidential manner and to satisfy requirements of federal courts binding on this jurisdiction.

**NEW SECTION. Sec. 10.** (1) Any physician who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor or an incompetent person, without providing the required notification shall be guilty of a gross misdemeanor.

(2) Failure to provide the notification required under section 4 or 5 of this act is prima facie evidence of failure to provide notification and of interference with family relations in appropriate civil actions. The prima facie evidence shall not apply to an issue other than failure to provide notification to the parents or guardian and interference with family relations in appropriate civil actions. The civil action may be based



on a claim that the act was a result of simple negligence, gross negligence, wantonness, willfulness, intention, or other legal standard of care. The law of this state shall not be construed to preclude the award of exemplary damages in an appropriate civil action relevant to violations of sections 1 through 10 of this act. Nothing in sections 1 through 10 of this act shall be construed to limit the common law rights of parents.

(3) A person not authorized to receive notification under sections 1 through 10 of this act who signs a waiver of notification under section 6(2) of this act is guilty of a misdemeanor.

**Sec. 11.** RCW 9.02.100 and 1992 c 1 s 1 are each amended to read as follows:

The sovereign people hereby declare that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.

Accordingly, it is the public policy of the state of Washington that:

(1) Every individual has the fundamental right to choose or refuse birth control;

(2) Every woman has the fundamental right to choose or refuse to have an abortion, except as specifically limited by RCW 9.02.100 through 9.02.170 ~~((and))~~, 9.02.900 through 9.02.902, and sections 1 through 10 of this act;

(3) Except as specifically permitted by RCW 9.02.100 through 9.02.170 ~~((and))~~, 9.02.900 through 9.02.902, and sections 1 through 10 of this act, the state shall not deny or interfere with a woman's fundamental right to choose or refuse to have an abortion; and

(4) The state shall not discriminate against the exercise of ~~((these))~~ this right(s) in the regulation or provision of benefits, facilities, services, or information.

**NEW SECTION. Sec. 12.** The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act. In the event of conflict between this act and any other provision of law, the provisions of this act shall govern.

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

**NEW SECTION. Sec. 14.** Sections 1 through 10 of this act are each added to chapter 9.02 RCW.

**NEW SECTION. Sec. 15.** This act is necessary for the immediate preservation of the public peace, health, morals, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### MOTIONS

On motion of Senator Franklin, the following amendment to the striking amendment by Senators Benton, Long, Hargrove and Swecker was adopted:

On page 2, beginning on line 18 of the amendment, after "(4)" strike all material through "(5)" on line 22

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senator Patterson moved that the following amendments to the striking amendment by Senators Benton, Long, Hargrove and Swecker be considered simultaneously and be adopted:

On page 3, line 18 of the amendment, after "abortion." insert the following:

"Where there is a reason to believe the male who participated in creating the pregnancy is an unemancipated minor or an incompetent person, no person may perform an abortion until forty-eight hours after actual notification has been obtained from the custodial parent or guardian of the father."

On page 3, beginning on line 36 of the amendment, after "of" strike all material through "act" on line 38 and insert "a parent or guardian of a minor female or male is not required if the minor is emancipated as defined in section 3 of this act"

On page 4, beginning on line 9 of the amendment, after "That the" strike all material through "her" on line 10 and insert "minor female and male will be provided court-appointed counsel at her or his"

On page 4, line 12 of the amendment, after "evidence that" strike "she is" and insert "one or both of the petitioning minors are"

On page 4, line 16 of the amendment, after "interest of the" strike all material through "child" and insert "petitioning minors"

On page 5, line 26 of the amendment, after "her" insert "or his"

On page 5, line 28 of the amendment, after "pregnant" insert ", or is believed to be the male who participated in creating the pregnancy,"

On page 5, line 29 of the amendment, after "her" insert "or him"

On page 5, line 33 of the amendment, after "she" insert "or he"

On page 6, line 2 of the amendment, after "file her" insert "or his"

On page 6, line 2 of the amendment, after "solely her" insert "or his"

On page 6, line 10 of the amendment, after "(4)" insert "(a)"

On page 6, after line 16 of the amendment, insert the following:

"(b) In the case of a petition by an unemancipated or incompetent male, if the court finds by clear, cogent, and convincing evidence, that the petitioner is sufficiently mature or able to deal with the decision by the pregnant unemancipated or incompetent pregnant person to have an abortion, the court shall waive the requirement that a parent or guardian of the male be notified. If the court does not make the finding specified in this subsection (4)(b) or in (a) of this subsection, the petition shall be dismissed."

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Patterson on pages 3, lines 18 and 36; page 4, lines 9, 12, and 16; page 5, lines 26, 28, 29, and 33; and page 6, lines 2, 10 and 16, to the striking amendment by Senators Benton, Long, Hargrove and Swecker to Substitute Senate Bill No. 6290.

#### ROLL CALL

The Secretary called the roll and the amendments to the striking amendment were adopted by the following vote: Yeas, 27; Nays, 21; Absent, 1; Excused, 0.

Voting yea: Senators Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Horn, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Prince, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau, Winsley, Wojahn and Wood - 27. Voting nay: Senators Anderson, Benton, Deccio, Hargrove, Hochstatter, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West and Zarelli - 21. Absent: Senator Bauer - 1. The President declared the question before the Senate to be the adoption of the striking amendment by Senators Benton, Long, Hargrove and Swecker, as amended, to Substitute Senate Bill No. 6290.

Senator Thibaudeau asked Senator Benton to yield to a question, but Senator Benton would not yield.

The motion by Senator Benton carried and the striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Benton, the following title amendment was adopted:

On page 1, line 2 of the title, after "minors;" strike the remainder of the title and insert "amending RCW 9.02.100; adding new sections to chapter 9.02 RCW; creating a new section; prescribing penalties; and declaring an emergency."

On motion of Senator Benton, the rules were suspended, Engrossed Substitute Senate Bill No. 6290 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6290.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6290 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Hochstatter, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 27. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Goings, Haugen, Heavey, Horn, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Prince, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 21. Absent: Senator Bauer - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6290, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 6:49 p.m., on motion of Senator Johnson, the Senate adjourned until 8:00 a.m., Tuesday, February 17, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

THIRTY-SIXTH DAY, FEBRUARY 16, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**THIRTY-SEVENTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Tuesday, February 17, 1998

The Senate was called to order at 8:00 a.m. by President Pro Tempore Newhouse. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present except Senators Anderson, Benton, Brown, Finkbeiner, Goings, Hargrove, Schow, Sellar and Stevens. On motion of Hale, Senators Anderson, Benton, Finkbeiner, Schow, Sellar and Stevens were excused. On motion of Senator Franklin, Senators Brown, Goings, and Hargrove were excused.

The Sergeant at Arms Color Guard, consisting of Pages Alex Patterson and Heather Shuck, presented the Colors. David Lynch, from the Olympia Bahai' Assembly, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**MESSAGES FROM THE HOUSE**

February 13, 1998

**MR. PRESIDENT:**

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2373,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2551,  
SECOND SUBSTITUTE HOUSE BILL NO. 2618,  
HOUSE BILL NO. 2622,  
HOUSE BILL NO. 2628,  
SUBSTITUTE HOUSE BILL NO. 2685,  
SUBSTITUTE HOUSE BILL NO. 2702,  
SUBSTITUTE HOUSE BILL NO. 2712,  
SUBSTITUTE HOUSE BILL NO. 2724,  
HOUSE BILL NO. 2763,  
SECOND SUBSTITUTE HOUSE BILL NO. 2782,  
SUBSTITUTE HOUSE BILL NO. 2793,  
SECOND SUBSTITUTE HOUSE BILL NO. 2794,  
SUBSTITUTE HOUSE BILL NO. 2800,  
SECOND SUBSTITUTE HOUSE BILL NO. 2849,  
SECOND SUBSTITUTE HOUSE BILL NO. 2879,  
SECOND SUBSTITUTE HOUSE BILL NO. 2929,  
SUBSTITUTE HOUSE BILL NO. 2941,  
SUBSTITUTE HOUSE BILL NO. 2960,  
SECOND SUBSTITUTE HOUSE BILL NO. 2962,  
SUBSTITUTE HOUSE BILL NO. 2964, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 13, 1998

MR. PRESIDENT:

The House has passed:  
SECOND SUBSTITUTE HOUSE BILL NO. 1113,  
SUBSTITUTE HOUSE BILL NO. 1939,  
HOUSE BILL NO. 2331,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2345,  
HOUSE BILL NO. 2347,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2424,  
HOUSE BILL NO. 2429,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2435,  
HOUSE BILL NO. 2436,  
SUBSTITUTE HOUSE BILL NO. 2446,  
ENGROSSED HOUSE BILL NO. 2709,  
ENGROSSED HOUSE BILL NO. 2734,  
SUBSTITUTE HOUSE BILL NO. 2754,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2756,  
ENGROSSED HOUSE BILL NO. 2772,  
SUBSTITUTE HOUSE BILL NO. 2773,  
SUBSTITUTE HOUSE BILL NO. 2822,  
SUBSTITUTE HOUSE BILL NO. 2848,

SUBSTITUTE HOUSE BILL NO. 2885,  
SUBSTITUTE HOUSE BILL NO. 2898,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2901,  
SUBSTITUTE HOUSE BILL NO. 2902,  
HOUSE BILL NO. 2905,  
SUBSTITUTE HOUSE BILL NO. 2924,  
SUBSTITUTE HOUSE BILL NO. 2967,  
SUBSTITUTE HOUSE BILL NO. 2973,  
SUBSTITUTE HOUSE BILL NO. 2976,  
SUBSTITUTE HOUSE BILL NO. 2997,  
HOUSE BILL NO. 3022,  
SUBSTITUTE HOUSE BILL NO. 3046,  
SUBSTITUTE HOUSE BILL NO. 3057,  
HOUSE BILL NO. 3060, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 13, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2591,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2915,  
SUBSTITUTE HOUSE BILL NO. 2936,  
SUBSTITUTE HOUSE BILL NO. 2983, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 13, 1998

MR. PRESIDENT:

The House has passed:  
SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1746,  
ENGROSSED HOUSE BILL NO. 2570, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 13, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED HOUSE BILL NO. 2897,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2900,  
ENGROSSED HOUSE BILL NO. 3041,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3054, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 13, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 3062,  
HOUSE BILL NO. 3068,  
SECOND SUBSTITUTE HOUSE BILL NO. 3070,  
SUBSTITUTE HOUSE BILL NO. 3073,  
SECOND SUBSTITUTE HOUSE BILL NO. 3089,  
SUBSTITUTE HOUSE BILL NO. 3109,  
SUBSTITUTE HOUSE BILL NO. 3110,  
HOUSE BILL NO. 3117,  
ENGROSSED HOUSE JOINT MEMORIAL NO. 4033,  
HOUSE JOINT MEMORIAL NO. 4039, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING

SCR 8427 by Senators Anderson, T. Sheldon, Swecker, Rasmussen, Hochstatter and Morton

Appointing a joint select committee on rural land use and economic development.

Referred to Committee on Government Operations.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

2SHB 1113 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Mastin, McMorris, Koster, Delvin, Mulliken, Johnson, Schoesler and Honeyford)

Authorizing a change in the use of water made surplus by certain activities and modifying transfer provisions.

Referred to Committee on Agriculture and Environment.

2ESHB 1746 by House Committee on Commerce and Labor (originally sponsored by Representatives Sherstad, Morris, Radcliff, Hatfield, D. Schmidt, Grant, Pennington, Sullivan, Koster, Mulliken, Wood, L. Thomas, Scott, Carrell, Doumit, Sheahan, Huff, Kastama, Boldt, Hickel, McMorris, Thompson, Cooke and Dunshee)

Making minor possession of tobacco a class 3 civil infraction and clarifying penalties for violation of current laws regarding youth access to tobacco.

Referred to Committee on Commerce and Labor.

SHB 1939 by House Committee on Government Administration (originally sponsored by Representatives Ogden, Cooper, Lantz, Anderson, Scott, O'Brien, Hatfield, Blalock, Kessler, Conway, Cody and Gardner)

Covering reserve law enforcement officers under volunteer fire fighters relief benefits.

Referred to Committee on Government Operations.

HB 2331 by Representatives Hickel, Johnson and B. Thomas

Changing school district contracting provisions.

Referred to Committee on Education.

E2SHB 2345 by House Committee on Appropriations (originally sponsored by Representative Reams)

Revising administrative law.

Referred to Committee on Government Operations.

HB 2347 by Representative Sterk

Establishing an exclusionary rule for suppression of evidence.

Referred to Committee on Law and Justice.

ESHB 2373 by House Committee on Higher Education (originally sponsored by Representatives Carlson, Kenney, O'Brien, Anderson and Mason)

Creating the border county higher education opportunity pilot project.

Referred to Committee on Higher Education.

ESHB 2424 by House Committee on Education (originally sponsored by Representatives Mulliken, Johnson, Thompson, Smith, Cairnes, McDonald, Lambert, Koster and B. Thomas)

Regulating disclosure of students' federal social security numbers.

Referred to Committee on Education.

HB 2429 by Representatives Huff, H. Sommers, Carlson, Wolfe and L. Thomas (by request of State Investment Board)

Providing for the operation of the state investment board.

Referred to Committee on Financial Institutions, Insurance and Housing.

ESHB 2435 by House Committee on Government Administration (originally sponsored by Representatives Pennington, Appelwick, Constantine, Ogden, Cooper, Kessler, Gardner, Wolfe, Butler, Costa, Linville, D. Schmidt, Murray, Morris, Anderson and Gombosky) (by request of Public Disclosure Commission)

Enhancing reporting of independent campaign expenditures.

Referred to Committee on Government Operations.

HB 2436 by Representatives McMorris, Huff, Backlund, H. Sommers, Gardner, Wensman, Ogden, Regala and Alexander (by request of Joint Legislative Audit and Review Committee)

Eliminating review and termination of the center for international trade in forest products and delaying review and termination of the office of public defense under the Washington sunset act.

Referred to Committee on Commerce and Labor.

SHB 2446 by House Committee on Law and Justice (originally sponsored by Representatives Robertson, Appelwick, Kastama, Dickerson, Constantine, Ogden, Cooper, Keiser, Kenney, Costa, Cody, Wood, Conway, Anderson and Gombosky)

Changing provisions relating to temporary restricted drivers' licenses.

Referred to Committee on Law and Justice.

ESHB 2551 by House Committee on Energy and Utilities (originally sponsored by Representative Crouse)

Allowing utilities to take actions, such as requiring deposits, to ensure payment.

Referred to Committee on Energy and Utilities.

EHB 2570 by Representatives Ballasiotes, O'Brien, Radcliff, Lambert, Dunshee, Costa and Mitchell

Ordering a study of community residential facilities.

Referred to Committee on Human Services and Corrections.

ESHB 2591 by House Committee on Government Administration (originally sponsored by Representatives Dyer, D. Schmidt, Clements, L. Thomas, Lisk, Zellinsky, Huff, B. Thomas and Schoesler)

Forbidding state agencies from requesting vendors to lobby the legislature.

Referred to Committee on Government Operations.

2SHB 2618 by House Committee on Appropriations (originally sponsored by Representatives Chandler, Linville, O'Brien, Costa and Sump) (by request of Governor Locke)

Adopting the fertilizer regulation act.

Referred to Committee on Agriculture and Environment.

HB 2622 by Representatives Kessler, Doumit, Lantz and Hatfield

Confirming growth management hearings board members.

Referred to Committee on Government Operations.

HB 2628 by Representatives Schoesler, Quall, Costa, O'Brien, Dunshee, Ballasiotes, Dyer, Thompson, Wolfe and Lambert (by request of Governor Locke)

Increasing the penalty for manufacture of methamphetamine.

Referred to Committee on Law and Justice.

SHB 2685 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Costa, Lambert, O'Brien, Ballasiotes, Conway, B. Thomas and Romero)

Creating a privilege for communications between victims of domestic violence and victims' advocates.

Referred to Committee on Law and Justice.

SHB 2702 by House Committee on Law and Justice (originally sponsored by Representatives Honeyford, Lisk, Sheahan, Appelwick and Skinner) (by request of Board for Judicial Administration)

Creating two new superior court positions for Yakima county.

Referred to Committee on Law and Justice.

EHB 2709 by Representatives B. Thomas, Pennington, Butler, Cole, Kastama, Crouse, D. Sommers, Carrell, Cooke, O'Brien and Thompson

Eliminating double taxation of municipal utility taxes.

Referred to Committee on Ways and Means.

SHB 2712 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler and Sump)

Requiring the department of ecology to extend the time for work under a permit if water use has been prevented or restricted use due to federal or state laws.

Referred to Committee on Agriculture and Environment.

SHB 2724 by House Committee on Appropriations (originally sponsored by Representatives Boldt, Mielke, Pennington, Carrell, Mulliken, Thompson, Bush, Cairnes, Reams and Lambert)

Requiring legislative oversight of moneys received from enforcement actions.

Referred to Committee on Ways and Means.

EHB 2734 by Representatives Huff, Lantz, Zellinsky, K. Schmidt, Johnson, Gardner, Constantine, Eickmeyer, Chopp and Poulsen

Authorizing additional state ferry vessels.

Referred to Committee on Transportation.

SHB 2754 by House Committee on Government Administration (originally sponsored by Representatives Dyer and Wolfe)

Allowing state agencies to provide other government agencies or business entities with certain government lists and information to be used for government or law enforcement purposes.



Referred to Committee on Government Operations.

ESHB 2756 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Costa, Lambert, Constantine, Sherstad, Kessler, Ogden, Dickerson, Conway, Cooper, Mason, Anderson, Thompson, Gardner, Wood, Morris and Ballasiotes)

Changing domestic violence protection orders.

Referred to Committee on Law and Justice.

HB 2763 by Representatives McDonald, Sheahan, Lantz and Costa (by request of Attorney General Gregoire)

Revising laws on dependent persons.

Referred to Committee on Law and Justice.

EHB 2772 by Representatives McDonald and Kastama

Revising provisions relating to drug paraphernalia.

Referred to Committee on Law and Justice.

SHB 2773 by House Committee on Energy and Utilities (originally sponsored by Representatives Poulsen, Crouse, Morris, Cooper and Constantine)

Requiring electric utilities to provide net metering systems to their customer-generators.

Referred to Committee on Energy and Utilities.

2SHB 2782 by House Committee on Appropriations (originally sponsored by Representatives McMorris and Wood)

Authorizing special event endorsements to full service private club licenses.

Referred to Committee on Commerce and Labor.

SHB 2793 by House Committee on Appropriations (originally sponsored by Representatives Johnson, Sheahan, Talcott, DeBolt, Sump, Honeyford, Sterk, Eickmeyer, Pennington, Robertson, Carrell, Sherstad, Mielke, Clements, Cairnes, Hickel, Romero, Backlund and Mulliken)

Revising provisions relating to education of offenders prosecuted as adults.

Referred to Committee on Education.

2SHB 2794 by House Committee on Appropriations (originally sponsored by Representatives McCune, Sheahan, Sterk and D. Sommers)

Requiring offenders under the supervision of the department of corrections to obey all laws.

Referred to Committee on Law and Justice.

SHB 2800 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Cairnes, Cooke, Chandler, Pennington and Robertson)

Prescribing procedures for temporary water rights for small cities.

Referred to Committee on Agriculture and Environment.

SHB 2822 by House Committee on Commerce and Labor (originally sponsored by Representative McMorris) (by request of Department of Labor and Industries)

Exempting agency medical coverage decisions by labor and industries from rule-making provisions.

Referred to Committee on Commerce and Labor.

E2SHB 2845 by House Committee on Appropriations (originally sponsored by Representatives Constantine, Clements, Dickerson, Ogden and Anderson)

Enacting the Washington state false claims act.

Referred to Committee on Law and Justice.

SHB 2848 by House Committee on Education (originally sponsored by Representatives Talcott, B. Thomas, Johnson, L. Thomas, Robertson, Lambert, Carrell, Bush, Backlund, Pennington, Lisk, McDonald, Zellinsky, Mielke, Radcliff, D. Schmidt, Cairnes, Sterk, D. Sommers, Sheahan, Carlson, Chandler, Smith, Boldt and Thompson)

Defining the state's science and tenth grade assessment.

Referred to Committee on Education.

2SHB 2849 by House Committee on Appropriations (originally sponsored by Representatives Talcott, Johnson, B. Thomas, Kastama, L. Thomas, Benson, Lambert, Alexander, Robertson, Pennington, McDonald, Lisk, Cairnes, Radcliff, Ballasiotes, Zellinsky, Backlund, D. Schmidt, Delvin, Carlson, Sump, Chandler, Smith and Thompson)

Enhancing student achievement accountability.

Referred to Committee on Education.

2SHB 2879 by House Committee on Appropriations (originally sponsored by Representatives Buck, Butler, Chandler, DeBolt, Sehlin, Hatfield, McCune, Doumit, Kessler, Morris, Kenney, Constantine, Ogden, Regala, Tokuda, Anderson, Thompson and Conway)

Facilitating the review and approval of fish habitat enhancement projects.

Referred to Committee on Natural Resources and Parks.

SHB 2885 by House Committee on Law and Justice (originally sponsored by Representatives Mulliken, Sheahan, Costa, McDonald, Backlund, Mielke, Smith, Boldt and Thompson)

Providing additional penalty options for drunk driving.

Referred to Committee on Law and Justice.

EHB 2897 by Representatives Reams, Grant, Schoesler, Sheahan, Doumit, Pennington, Hatfield, Mulliken, Sherstad, Thompson, Cairnes, Sullivan, Benson, Koster, McMorris, Bush, Dunn, Mielke, Crouse, Chandler and Zellinsky

Exempting certain activities from the state environmental policy act.

Referred to Committee on Agriculture and Environment.

SHB 2898 by House Committee on Appropriations (originally sponsored by Representatives Sherstad, O'Brien, Schoesler, Sheahan, Hatfield, Pennington, Grant, McMorris, Mulliken, Reams, Cairnes, Thompson, Benson, Koster, Dunn, Bush, Alexander and Mielke)

Prescribing procedures for review and evaluation programs regarding buildable lands.

Referred to Committee on Government Operations.

ESHB 2900 by House Committee on Children and Family Services (originally sponsored by Representatives Cooke, Ballasiotes, McDonald, Boldt and Mitchell)

Providing for pro rata calculation of temporary assistance for needy families grants.

Referred to Committee on Health and Long-Term Care.

ESHB 2901 by House Committee on Children and Family Services (originally sponsored by Representatives Cooke, Tokuda, Ballasiotes, Carrell, O'Brien, McDonald, B. Thomas and Boldt)

Requiring a WorkFirst job search component.

Referred to Committee on Health and Long-Term Care.

SHB 2902 by House Committee on Children and Family Services (originally sponsored by Representatives Cooke, Ballasiotes, Carrell, McDonald, B. Thomas, Boldt, Mitchell and Lambert)

Authorizing the department of social and health services to contract with private or public vendors for the WorkFirst program.

Referred to Committee on Health and Long-Term Care.

HB 2905 by Representatives Carrell, Talcott, Cooke, Bush, Smith, Cairnes, Koster, Backlund, Sherstad, Lambert and Kastama

Prohibiting placement of sexually violent predators in state mental facilities.

Referred to Committee on Human Services and Corrections.

E2SHB 2915 by House Committee on Appropriations (originally sponsored by Representatives Koster, Chandler, Honeyford and Linville)

Regulating dairy nutrients management.

Referred to Committee on Agriculture and Environment.

SHB 2924 by House Committee on Appropriations (originally sponsored by Representatives Chandler and Robertson)

Granting water rights to certain persons who were water users before January 1, 1993.

Referred to Committee on Agriculture and Environment.

2SHB 2929 by House Committee on Appropriations (originally sponsored by Representatives Sterk, Sheahan, Costa, O'Brien, Conway and Gombosky)

Providing financial assistance to local governments for investigating extraordinary crimes.

Referred to Committee on Law and Justice.

SHB 2936 by House Committee on Law and Justice (originally sponsored by Representatives Dyer, Backlund, Skinner and Sherstad)

Clarifying statute of limitations on actions for professional negligence against health care providers.

Referred to Committee on Law and Justice.

SHB 2941 by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Kessler, Crouse, Lantz and Bush)

Limiting liability for utilities in protecting their facilities.

Referred to Committee on Energy and Utilities.

SHB 2960 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Mastin and Linville)

Authorizing permits-by-rule for certain solid waste recycling facilities.

Referred to Committee on Agriculture and Environment.

SHB 2962 by House Committee on Appropriations (originally sponsored by Representatives Robertson, Kessler, Lisk, Costa, Sheahan, McDonald, L. Thomas and Anderson)

Creating the crime of criminal mistreatment in the fourth degree.

Referred to Committee on Law and Justice.

SHB 2964 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Murray, K. Schmidt, Mitchell, Fisher, Hatfield, Cooper, Romero, Cairnes, Skinner, Scott, O'Brien, Wood, Radcliff, Cody, Keiser, Constantine, Regala and Ogden)

Enhancing regional transportation planning.

Referred to Committee on Transportation.

SHB 2967 by House Committee on Natural Resources (originally sponsored by Representatives Clements, Buck, Regala, Huff and Alexander)

Providing for feeding wildlife during emergency conditions.

Referred to Committee on Natural Resources and Parks.

SHB 2973 by House Committee on Commerce and Labor (originally sponsored by Representative McMorris)

Clarifying the role of the liquor control board to hear appeals related to the seizure and forfeiture of cigarettes.

Referred to Committee on Commerce and Labor.

SHB 2976 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Conway, Robertson, Scott, Radcliff, Cooper, Cairnes, Fisher, K. Schmidt, Veloria, Cody, Kastama, Wood, Keiser, Constantine, Lantz, Zellinsky, B. Thomas, McDonald and O'Brien)

Requiring regional transit authorities to encourage train sets to be made in Washington.

Referred to Committee on Transportation.

SHB 2983 by House Committee on Appropriations (originally sponsored by Representatives Robertson, L. Thomas, Pennington, Costa, Mitchell, Regala, Cooke and McCune)

Encouraging the development of residential living arrangements for persons with developmental disabilities.

Referred to Committee on Health and Long-Term Care.

SHB 2997 by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt and Scott)

Harmonizing procedures to fill ballot vacancies.

Referred to Committee on Government Operations.

HB 3022 by Representative Boldt

Authorizing interstate agreements for public assistance cross matches.

Referred to Committee on Health and Long-Term Care.

EHB 3041 by Representatives Cooke, Bush, Kastama and Tokuda

Exempting the office of the family and children's ombudsman from certain proceedings.

Referred to Committee on Law and Justice.

SHB 3046 by House Committee on Trade and Economic Development (originally sponsored by Representatives Van Luven, Veloria, Dunn, Mason, Zellinsky, Anderson and Wood)

Permitting individuals to bring food or food items into stadiums.

Referred to Committee on Commerce and Labor.

E2SHB 3054 by House Committee on Appropriations (originally sponsored by Representatives Clements, Huff and Delvin)

Augmenting provisions affecting truant, expelled and suspended students.

Referred to Committee on Education.

SHB 3057 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Chandler and Linville)

Allowing trademarks or business logos on adopt-a-highway signs.

Referred to Committee on Transportation.

HB 3060 by Representative Chandler

Changing provisions relating to sufficient cause for nonuse of water rights.

Referred to Committee on Agriculture and Environment.

SHB 3062 by House Committee on Law and Justice (originally sponsored by Representatives Appelwick and Kenney)

Regarding notice of relocation under parenting plans.

Referred to Committee on Law and Justice.

HB 3068 by Representatives McMorris and Chandler

Regarding a pilot project for limited private applicator licenses and rancher private applicator licenses.

Referred to Committee on Agriculture and Environment.

2SHB 3070 by House Committee on Appropriations (originally sponsored by Representatives McCune and Mulliken)

Increasing penalties for drunk driving.

Referred to Committee on Law and Justice.

SHB 3073 by House Committee on Commerce and Labor (originally sponsored by Representatives Koster, Boldt and Sherstad)

Requiring the use of stratified random sampling survey technology for determination of prevailing wages.

Referred to Committee on Commerce and Labor.

2SHB 3089 by House Committee on Appropriations (originally sponsored by Representatives McDonald, Sheahan, Kessler, Bush, Robertson and Boldt)

Limiting eligibility for the deferred prosecution program to once in a lifetime.

Referred to Committee on Law and Justice.

SHB 3109 by House Committee on Appropriations (originally sponsored by Representatives Huff, H. Sommers, Dyer and Carrell)

Verifying the income of subsidized enrollees of the state basic health plan.

Referred to Committee on Ways and Means.

SHB 3110 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Mastin, Buck and K. Schmidt)

Considering fish in advanced environmental mitigation.

Referred to Committee on Transportation.

HB 3117 by Representative K. Schmidt

Clarifying transportation plans.

Referred to Committee on Transportation.

EHJM 4033 by Representatives Grant, Mastin, Linville, Chandler, Hatfield, Schoesler, Kessler, Hankins, Regala, McMorris, Poulsen, Sheahan, Mulliken, Wood, Cooper, Morris, Delvin, Butler, Murray, Cooke, Costa, Constantine, Ogden, D. Schmidt, Gardner, Cody, Chopp, Mitchell, Fisher, Doumit, Tokuda, O'Brien, Dickerson, Conway and Cole

Urging Congress not to sell the Bonneville Power Administration.

Referred to Committee on Energy and Utilities.

HJM 4039 by Representatives Huff, Carlson, H. Sommers, Kenney and Wolfe

Petitioning for amendment to the Federal Communications Commission ruling barring direct reimbursement to state agencies that provide telecommunications services.

Referred to Committee on Ways and Means.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator McCaslin, Gubernatorial Appointment No. 9298, John M. King, as Director of the Department of Veterans Affairs, was confirmed.

APPOINTMENT OF JOHN M. KING

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Bauer, Deccio, Fairley, Franklin, Fraser, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 40. Excused: Senators Anderson, Benton, Brown, Finkbeiner, Goings, Hargrove, Schow, Sellar and Stevens - 9.

MOTION

On motion of Senator West, Gubernatorial Appointment No. 9227, Frederick C. Kiga, as Director of the Department of Revenue, was confirmed.

Senators West and Kohl spoke to the confirmation of Frederick C. Kiga, as Director of the Department of Revenue.

APPOINTMENT OF FREDERICK C. KIGA

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Excused: Senators Anderson, Finkbeiner, Goings, Schow and Stevens - 5.

SECOND READING

SENATE BILL NO. 6211, by Senators Prince, Haugen, Hochstatter and Morton

Retiring as a state chaplain.

The bill was read the second time.

#### MOTION

On motion of Senator Prince, the rules were suspended, Senate Bill No. 6211 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6211.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6211 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Goings and Stevens - 2. SENATE BILL NO. 6211, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6311, by Senators Snyder, Prince, Rasmussen and Goings

Exempting assembly halls or meeting places used for the promotion of specific educational purposes from property taxation.

The bill was read the second time.

#### MOTION

On motion of Senator Snyder, the rules were suspended, Senate Bill No. 6311 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6311.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6311 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Goings and Stevens - 2. SENATE BILL NO. 6311, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6589, by Senators Horn, Haugen and Wood (by request of Department of Licensing)

Providing exemptions from driver's license requirements for nonresidents.

#### MOTIONS



On motion of Senator Horn, Substitute Senate Bill No. 6589 was substituted for Senate Bill No. 6589 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Horn, the rules were suspended, Substitute Senate Bill No. 6589 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6589.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6589 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Snyder - 1. Excused: Senator Stevens - 1. SUBSTITUTE SENATE BILL NO. 6589, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

President Owen assumed the Chair.

#### SECOND READING

SENATE BILL NO. 6297, by Senators Benton, Bauer and Snyder

Revising the formula for local public health financing in a county where a city annexed territory with fifty thousand residents or more in 1996 or 1997.

#### MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6297 was substituted for Senate Bill No. 6297 and the substitute bill was placed on second reading and read the second time.

On motion of Senator West, the rules were suspended, Substitute Senate Bill No. 6297 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6297.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6297 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 6297, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6349, by Senators Anderson, Patterson and Swecker

Changing membership of the committee that establishes boundaries of critical water supply service areas.

The bill was read the second time.

#### MOTION

Senator Fraser moved that the following amendments by Senators Fraser and Spanel be considered simultaneously and be adopted:

On page 1, line 18, delete "~~((serving more than fifty customers))~~" and insert "serving more than fifty customers"

On page 1, line 19, after "agencies." insert "The committee shall also select at least two and no more than four representatives of purveyors serving less than fifty customers, to represent the collective interests of such purveyors within the proposed external boundaries of the critical water supply service area."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Fraser and Spanel on page 1, lines 18 and 19, to Senate Bill No. 6349.

The motion by Senator Fraser failed and the amendments were not adopted on a rising vote.

#### MOTIONS

On motion of Senator Anderson, the following amendment was adopted:

On page 1, line 18, after "purveyor" strike "~~((serving more than fifty customers))~~" and insert "serving more than ~~((fifty))~~ ten customers"

On motion of Senator Anderson, the rules were suspended, Engrossed Senate Bill No. 6349 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6349.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6349 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 10; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 39. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Kohl, McAuliffe, Prentice, Spanel, Thibaudeau and Wojahn - 10. ENGROSSED SENATE BILL NO. 6349, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6325, by Senators Oke, B. Sheldon and T. Sheldon

Authorizing additional state ferry vessels.

The bill was read the second time.

#### MOTIONS

On motion of Senator Haugen, the following amendment by Senators Haugen and Goings was adopted:

On page 2, beginning on line 25, strike all of section 4

Re-number the remaining section consecutively.

Senator Loveland moved that the following amendment by Senators Loveland and Spanel be adopted:

On page 2, line 24, after "authority" insert ": PROVIDED, That the appropriation does not reduce the current level of funding for the maintenance and repair of vessels and terminals in service as of the effective date of this act"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Loveland and Spanel on page 2, line 24, to Senate Bill No. 6325.

The motion by Senator Loveland carried and the amendment was adopted.

#### MOTIONS

On motion of Senator Oke, the following title amendment was adopted:

On page 1, beginning on line 2 of the title, after "RCW;" strike "creating a new section; and declaring an emergency" and insert "and creating a new section"

On motion of Senator Oke, the rules were suspended, Engrossed Senate Bill No. 6325 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Franklin: "Senator Oke, since I do not sit on the Transportation Committee, and we have not had a real lot of discussion in regards to this issue, I would need to have some clarification in regards to an audit that I had heard about most recently--and which we voted on last year--in order to get a better handle on really what our needs are. With the action of this bill, how will that affect that audit?"

Senator Oke: "Senator, I don't know what that audit is going to bring before us. We wanted to have it last week, but it just didn't arrive. I don't think the audit is going to affect what I am trying to do here. We know we need the docking facilities. There is just no question; there is nobody that can deny that. We also know that we can use passenger-only boats and nobody can deny that fact. What the audit is going to bring forth, I don't have an idea. I hope that we can get our arms around anything that is not correct in the ferry systems and correct it through the audit. That is my hope."

Senator Franklin: "Thank you. Do you think, by passing this bill, it would be the cart before the horse, proverbially, as we speak?"

Senator Oke: "Again, I don't believe so. What the bill is going to do, in my mind, is going to authorize the EIS process, which is something we need to get started, both for Seattle, Kingston and Southworth. This is going to start the EIS process for the docking facilities for the ferries. That needs to be done and I don't think anybody can deny that."

Senator Franklin: "Thank you."

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6325.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6325 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Deccio, Finkbeiner, Hale, Hargrove, Heavey, Horn, Jacobsen, Kline, Kohl, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Rossi, Sellar, Sheldon, B., Sheldon, T., Swecker, West, Winsley and Wood - 25. Voting nay: Senators Bauer, Benton, Brown, Fairley, Franklin, Fraser, Goings, Haugen, Hochstatter, Johnson, Long, Loveland, McAuliffe, Patterson, Prentice, Roach, Schow, Snyder, Spanel, Stevens, Strannigan, Thibaudeau, Wojahn and Zarelli - 24. ENGROSSED SENATE BILL NO. 6325, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5939, by Senators Strannigan, Rossi, Finkbeiner, Bauer, Hochstatter, Benton, Wood, Snyder, Hargrove, Heavey and McDonald

Directing a study of wing-in-ground effect vehicles.

#### MOTIONS

On motion of Senator Strannigan, Substitute Senate Bill No. 5939 was substituted for Senate Bill No. 5939 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Strannigan, the rules were suspended, Substitute Senate Bill No. 5939 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5939.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5939 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 16; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Goings, Hale, Hargrove, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 33. Voting nay: Senators Bauer, Finkbeiner, Franklin, Fraser, Haugen, Heavey, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Snyder, Spanel, Thibaudeau and Wojahn - 16. SUBSTITUTE SENATE BILL NO. 5939, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6497, by Senators McCaslin, T. Sheldon, Anderson and Oke

Taking private property.

#### MOTIONS

On motion of Senator McCaslin, Substitute Senate Bill No. 6497 was substituted for Senate Bill No. 6497 and the substitute bill was placed on second reading and read the second time.

Senator Haugen moved that the following amendment be adopted:

On page 2, beginning on line 5 delete everything from "For any through "private property." on line 12 and insert the following:

"When a local government, state agency or the Legislature considers the adoption of an ordinance, rule or statute that in its application may result in an unconstitutional taking of private property, the local government, state agency or Legislature shall follow the guidelines of the attorney general and shall document in the legislative or rule-making record the consideration of such guidelines."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 2, beginning on line 5, to Substitute Senate Bill No. 6497.

The motion by Senator Haugen failed and the amendment was not adopted on a rising vote.

#### MOTIONS

On motion of Senator Haugen, the following amendment by Senators Haugen and McCaslin was adopted:

On page 2, after line 24, insert the following:

"NEW SECTION. Sec. 2. If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

Renumber the sections consecutively and correct any internal references accordingly.

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, after "property;" strike "and" and on line 2, after "36.70A.370" insert "; and creating a new section"

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Engrossed Substitute Senate Bill No. 6497 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6497.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6497 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Wood and Zarelli - 32. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Haugen, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Sheldon, B., Snyder, Spanel, Thibaudeau, Winsley and Wojahn - 17. ENGROSSED SUBSTITUTE SENATE BILL NO. 6497, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

Vice President Pro Tempore Morton assumed the Chair.

#### SECOND READING

SENATE JOINT MEMORIAL NO. 8029, by Senators McDonald and Oke

Regarding a petition to authorize federal block grant funds directly to school districts.

The joint memorial was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Joint Memorial No. 8029 was advanced to third reading, the second reading considered the third and the joint memorial was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Senate Joint Memorial No. 8029.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8029 and the joint memorial passed the Senate by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. SENATE JOINT MEMORIAL NO. 8029, having received the constitutional majority, was declared passed.

#### SECOND READING

SENATE BILL NO. 6323, by Senators Roach, Long, Heavey, Swecker, Snyder, McCaslin, Goings and Rasmussen

Clarifying the law of adverse possession affecting forest land.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6323 was substituted for Senate Bill No. 6323 and the substitute bill was placed on second reading and read the second time.

Senator Roach moved that the following amendment by Senators Tim Sheldon, Anderson, Roach and Rasmussen be adopted:

On page 2, on line 27, strike "five hundred" and insert "twenty"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Tim Sheldon, Anderson, Roach and Rasmussen on page 2, line 27, to Substitute Senate Bill No. 6323.

The motion by Senator Roach carried and the amendment was adopted.

#### MOTIONS

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 6323 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Roach: "Senator Kline, you mentioned that this particular law has been around in English Common Law for quite a while and that we have had it here in Washington State since, I believe, 1854, and that the object was to keep land in use. Because I know the environment is very, very important to all of us, and we here in the Legislature have dealt, many times, with trying to keep private property out of use. Why then, do you think you would argue for using property that is farmland or forestland, rather than wanting to protect it?" Senator Kline: "Senator, I don't think this is a question of using it or non-using it. This is a question of ownership. If an adverse possession is signified by somebody who uses land--puts a fence on it, puts a gate around it, or plants something on it or whatever--but uses it in a way that is open, notorious, clear to the whole world, we are defining the adverse possessor--the claimant--as somebody who uses. Now, we are not making a social judgement, good, bad or indifferent, we are simply saying that in order to gain possession of land, you've got to use it. That has always been the law, but what we are doing is reducing that under certain circumstances. Thank you."

Further debate ensued.

#### MOTION

On motion of Senator Franklin, Senator Prentice was excused.

#### POINT OF INQUIRY

Senator Thibaudeau: "Senator Heavey, could you tell me whether some person could come along and not know that this was forestland owned by somebody else, build a house--small house--and then he would lose the house, because the forest company obviously owns the land, but he or she did not know that the forest company owned the land?"

Senator Heavey: "Yes, they could lose the house, if they did not get it surveyed to show them where the land was and they did not make fifty thousand dollars in improvements."

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6323.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6323 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 42. Voting nay: Senators Brown, Fairley, Jacobsen, Kline, Kohl and McAuliffe - 6. Excused: Senator Prentice - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6323, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

President Owen assumed the Chair.

## SECOND READING

SENATE BILL NO. 6238, by Senators Stevens and Swecker

Changing provisions relating to dependent children.

### MOTIONS

On motion of Senator Long, Substitute Senate Bill No. 6238 was substituted for Senate Bill No. 6238 and the substitute bill was placed on second reading and read the second time.

Senator Hargrove moved that the following amendments be considered simultaneously and be adopted:

On page 1, line 15, after "imminent" strike "physical"

On page 1, line 16, after "Imminent" strike "physical"

On page 2, line 3, beginning with "Any" strike all material through "child." on line 6

On page 2, line 8, after "imminent" strike "physical"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Hargrove on page 1, lines 15 and 16, and page 2, lines 3 and 8, to Substitute Senate Bill No. 6238.

The motion by Senator Hargrove carried and the amendments were adopted.

### MOTION

On motion of Senator Long, the rules were suspended, Engrossed Substitute Senate Bill No. 6238 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

### MOTION

On motion of Senator Hale, Senator Finkbeiner was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6238.

### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6238 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senators Fairley and Thibaudeau - 2. Excused: Senators Finkbeiner and Prentice - 2. ENGROSSED SUBSTITUTE SENATE BILL NO. 6238, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

### MOTION

At 10:53 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:42 a.m. by President Owen.

## SECOND READING

SENATE BILL NO. 6540, by Senators Schow and T. Sheldon

Providing criteria for establishing and siting vehicle licensing agencies.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, Senate Bill No. 6540 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6540.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6540 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Strannigan - 1. SENATE BILL NO. 6540, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6665, by Senators Roach and Goings

Establishing privity of contract for actions brought against accountants.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, Senate Bill No. 6665 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6665.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6665 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 10; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 39.

Voting nay: Senators Fairley, Fraser, Heavey, Jacobsen, Kline, Kohl, Loveland, Prentice, Spanel and Thibaudeau - 10.

SENATE BILL NO. 6665, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senators McDonald and Sellar were excused.

#### SECOND READING

SENATE BILL NO. 6161, by Senators Swecker, Newhouse, Rasmussen and Anderson

Creating a dairy nutrient management program.

#### MOTIONS



On motion of Senator Swecker, Substitute Senate Bill No. 6161 was substituted for Senate Bill No. 6161 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 6161 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6161.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6161 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McDonald and Sellar - 2. SUBSTITUTE SENATE BILL NO. 6161, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE SENATE BILL NO. 5727, by Senate Committee on Transportation (originally sponsored by Senators Wood, Haugen, Jacobsen, Hargrove, Finkbeiner, Deccio, Heavey, Goings, McAuliffe, Patterson, Prentice Winsley, Kohl and Rasmussen)

Requiring rearview mirrors on certain delivery trucks.

#### MOTIONS

On motion of Senator Wood, Second Substitute Senate Bill No. 5727 was substituted for Substitute Senate Bill No. 5727 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Wood, the rules were suspended, Second Substitute Senate Bill No. 5727 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 5727.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5727 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McDonald and Sellar - 2. SECOND SUBSTITUTE SENATE BILL NO. 5727, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

Vice President Pro Tempore Morton assumed the Chair.

#### SECOND READING

SENATE BILL NO. 6445, by Senators Long, Hargrove, Haugen, Zarelli, McAuliffe, Franklin and Winsley

Modifying provisions relating to children placed in community facilities.

## MOTIONS

On motion of Senator Long, Second Substitute Senate Bill No. 6445 was substituted for Senate Bill No. 6445 and the second substitute bill was placed on second reading and read the second time.

Senator Long moved that the following amendment by Senators Long, Zarelli and Hargrove be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to:

(1) Enhance public safety and maximize the rehabilitative potential of juvenile offenders through modifications to licensed community residential placements for juveniles;

(2) Ensure community support for community facilities by enabling community participation in decisions involving these facilities and assuring the safety of communities in which community facilities for juvenile offenders are located; and

(3) Improve public safety by strengthening the safeguards in placement, oversight, and monitoring of the juvenile offenders placed in the community, and by establishing minimum standards for operation of licensed residential community facilities. The legislature finds that community support and participation is vital to the success of community programming.

**Sec. 2.** RCW 72.05.020 and 1979 c 141 s 178 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185.

(2) "Department" means the department of social and health services.

(3) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(4) "Service provider" means the entity that operates a community facility.

**Sec. 3.** RCW 74.15.020 and 1997 c 245 s 7 are each amended to read as follows:

For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

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

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

(3) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

(a) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(d) "Child day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;

(e) "Family day-care provider" means a child day-care provider who regularly provides child day care for not more than twelve children in the provider's home in the family living quarters;

(f) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(g) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

(h) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185;

(i) "Service provider" means the entity that operates a community facility.

(4) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

- (i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;
  - (ii) Stepfather, stepmother, stepbrother, and stepsister;
  - (iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;
  - (iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (4)(a), even after the marriage is terminated; or
  - (v) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);
  - (b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;
  - (c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where: (i) The person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care; or (ii) the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;
  - (d) Parents on a mutually cooperative basis exchange care of one another's children;
  - (e) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;
  - (f) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;
  - (g) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;
  - (h) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;
  - (i) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;
  - (j) Licensed physicians or lawyers;
  - (k) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;
  - (l) Facilities approved and certified under chapter 71A.22 RCW;
  - (m) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;
  - (n) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;
  - (o) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;
  - (p) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.
- (5) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.
- (6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.
- (7) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

**Sec. 4.** RCW 13.50.010 and 1997 c 386 s 21 and 1997 c 338 s 39 are each reenacted and amended to read as follows:

- (1) For purposes of this chapter:
  - (a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of family and children's ombudsman, the department of social and health services and its contracting agencies, schools; ~~((and, in addition,))~~ persons or public or private agencies having children committed to their custody; and any placement oversight committee created under section 9 of this act;
  - (b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;
  - (c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;
  - (d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court (~~(-upon proof presented,))~~ to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.040 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the sentencing guidelines commission under RCW 9.94A.040 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(10) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombudsman.

**NEW SECTION. Sec. 5.** A new section is added to chapter 72.05 RCW to read as follows:

(1) Whenever the department operates, or the secretary enters a contract to operate, a community facility, the community facility may be operated only after the public notification and opportunities for review and comment as required by this section.

(2) The secretary shall establish a process for early and continuous public participation in establishing or relocating community facilities. The process shall include, at a minimum, public meetings in the local communities affected, as well as opportunities for written and oral comments, in the following manner:

(a) If there are more than three sites initially selected as potential locations and the selection process by the secretary or a service provider reduces the number of possible sites for a community facility to no fewer than three, the secretary or the chief operating officer of the service provider shall notify the public of the possible siting and hold at least two public hearings in each community where a community facility may be sited.

(b) When the secretary or service provider has determined the community facility's location, the secretary or the chief operating officer of the service provider shall hold at least one additional public hearing in the community where the community facility will be sited.

(c) When the secretary has entered negotiations with a service provider and only one site is under consideration, then at least two public hearings shall be held.

(d) To provide adequate notice of, and opportunity for interested persons to comment on, a proposed location, the secretary or the chief operating officer of the service provider shall provide at least fourteen days advance notice of the meeting to all newspapers of general circulation in the community, all radio and television stations generally available to persons in the community, any school district in which the community facility would be sited or whose boundary is within two miles of a proposed community facility, any library district in which the community facility would be sited, local business or fraternal organizations that request notification from the secretary or agency, and any person or property owner within a one-half mile radius of the proposed community facility. Before initiating this process, the department shall contact

local government planning agencies in the communities containing the proposed community facility. The department shall coordinate with local government agencies to ensure that opportunities are provided for effective citizen input and to reduce the duplication of notice and meetings.

(3) The secretary shall not issue a license to any service provider until the service provider submits proof that the requirements of this section have been met.

(4) This section shall apply only to community facilities sited after the effective date of this act.

**NEW SECTION. Sec. 6.** A new section is added to chapter 72.05 RCW to read as follows:

The department shall adopt an infraction policy for juveniles placed in community facilities. The policy shall require written documentation by the department and service providers of all infractions and violations by juveniles of conditions set by the department. Any juvenile who commits a serious infraction or a serious violation of conditions set by the department shall be returned to an institution. The secretary shall not return a juvenile to a community facility until a new risk assessment has been completed and the secretary reasonably believes that the juvenile can adhere to the conditions set by the department. The department shall define the terms "serious infraction" and "serious violation" in rule and shall include but not necessarily limited to the commission of any criminal offense, any unlawful use or possession of a controlled substance, and any use or possession of an alcoholic beverage.

**NEW SECTION. Sec. 7.** A new section is added to chapter 74.15 RCW to read as follows:

Whenever the secretary contracts with a service provider to operate a community facility, the contract shall include a requirement that each service provider must report to the department any known infraction or violation of conditions committed by any juvenile under its supervision. The report must be made immediately upon learning of serious infractions or violations and within twenty-four hours for other infractions or violations.

The secretary shall adopt rules to implement and enforce the provisions of this section. The rules shall contain a schedule of monetary penalties not to exceed the total compensation set forth in the contract, and include provisions that allow the secretary to terminate all contracts with a service provider that has violations of this section and the rules adopted under this section.

The secretary shall document in writing all violations of this section and the rules adopted under this section, penalties, actions by the department to remove juveniles from a community facility, and contract terminations. The department shall give great weight to a service provider's record of violations, penalties, actions by the department to remove juveniles from a community facility, and contract terminations in determining to execute, renew, or renegotiate a contract with a service provider.

**NEW SECTION. Sec. 8.** A new section is added to chapter 72.05 RCW to read as follows:

(1) The department shall publish and operate a staffed, toll-free twenty-four-hour hotline for the purpose of receiving reports of violation of conditions set for juveniles who are placed in community facilities.

(2) The department shall include the phone number on all documents distributed to the juvenile and the juvenile's employer, school, parents, and treatment providers.

(3) The department shall include the phone number in every contract it executes with any service provider after the effective date of this act.

**NEW SECTION. Sec. 9.** A new section is added to chapter 72.05 RCW to read as follows:

(1) Whenever the department operates, or the secretary enters a contract to operate, a community facility, the community facility must be operated in accordance with the requirements of this section.

(2) The secretary, or the chief operating officer of a service provider, shall hold a public hearing to inform each community of the opportunity to establish a community placement oversight committee. The secretary shall attend the hearing and shall assist any community that decides to establish such a committee.

(3) If created, the committee shall include, at a minimum, four persons residing within a one-mile radius of the community facility, representatives of local law enforcement, and representatives of the school district in which the offenders residing at the community facility are likely to be enrolled.

(4) The committee may review and make recommendations regarding the placement of any juvenile who the secretary proposes to place in the community facility. If the secretary places any juvenile against the recommendation of a community placement oversight committee, the secretary must annually report such placements and the reasons for not following the committee's recommendation to the appropriate legislative committees.

(5) The secretary shall provide the committee with the name and all relevant records of any juvenile offender who the secretary proposes for placement in the community facility. The records shall include previous placements in a community facility and all infractions and violations of the conditions set by the department. The information shall be in writing and provided at least ten days in advance of the date of the intended placement.

(6) Members of the committee shall sign and adhere to a confidentiality agreement that protects the juveniles from disclosure of information deemed confidential by law.

(7) The committee, if one exists, shall review and act on the proposed placement no later than five business days after receiving the information required by subsection (5) of this section. If the committee recommends against a proposed placement it shall notify the secretary

immediately, in the most expedient manner possible, and shall provide the secretary written notice of its decision within two business days of its decision.

(8) The committee shall consider whether a juvenile who is proposed for residence in a community facility is likely to adhere to conditions of placement, commit offenses while in placement, continue in appropriate treatment, or present a serious threat to other community facility residents or staff, and may consider other relevant conditions which bear on the likelihood the juvenile will succeed in making a transition to nonoffender status.

(9) The committee, its members, and any agency represented by a member, shall not be liable in any cause of action as a result of its decision in regard to a proposed placement of a juvenile unless the committee acts with gross negligence or bad faith in making a placement decision.

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

(11) Except as provided in RCW 13.40.215, at least seventy-two hours prior to placing a juvenile in a community facility the secretary shall provide to the chief law enforcement officer of the jurisdiction in which the community facility is sited: (a) The name of the juvenile; (b) the juvenile's criminal history; and (c) such other relevant and disclosable information the law enforcement officer may request.

**NEW SECTION. Sec. 10.** A new section is added to chapter 72.05 RCW to read as follows:

(1) The department shall not initially place an offender in a community facility unless:

(a) The department has conducted a risk assessment, including a determination of drug and alcohol abuse, and the results indicate the juvenile will pose not more than a minimum risk to public safety; and

(b) The offender has spent at least ten percent of his or her sentence, but in no event less than thirty days, in a secure institution operated by, or under contract with, the department.

The risk assessment must include consideration of all prior convictions and all available nonconviction data released upon request under RCW 10.97.050, and any serious infractions or serious violations while under the jurisdiction of the secretary or the courts.

(2) No juvenile offender may be placed in a community facility until the juvenile's student records and information have been received and the department has reviewed them in conjunction with all other information used for risk assessment, security classification, and placement of the juvenile.

(3) A juvenile offender shall not be placed in a community facility until the department's risk assessment and security classification is complete, local law enforcement has been properly notified, and the community placement oversight committee, if one exists, has reviewed and acted on the placement.

**Sec. 11.** RCW 28A.600.475 and 1992 c 205 s 120 are each amended to read as follows:

School districts may participate in the exchange of information with law enforcement and juvenile court officials to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g. When directed by court order or pursuant to any lawfully issued subpoena, a school district shall make student records and information available to law enforcement officials, probation officers, court personnel, and others legally entitled to the information. Except as provided in section 12 of this act, parents and students shall be notified by the school district of all such orders or subpoenas in advance of compliance with them.

**NEW SECTION. Sec. 12.** A new section is added to chapter 13.40 RCW to read as follows:

Pursuant to RCW 28A.600.475, and to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g(b), and in order to serve the juvenile while in detention and to prepare any postconviction services, schools shall make all student records and information necessary for risk assessment, security classification, and placement available to court personnel and the department within three working days of a request under this section.

When a juvenile has one or more prior convictions, a request for records shall be made by the county prosecuting attorney, or probation department if available, to the school not more than ten days following the juvenile's arrest or detention, whichever occurs later, and prior to trial. The request may be made by subpoena.

Where a juvenile has no prior conviction, a request to release records shall be made by subpoena upon the juvenile's conviction. When the request for a juvenile's student records and information is made by subpoena following conviction, the court or other issuing agency shall order the school on which the subpoena is served not to disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena. When the court or issuing agency so orders, the school shall not provide notice to the juvenile or his or her parents.

**NEW SECTION. Sec. 13.** A new section is added to chapter 72.05 RCW to read as follows:

(1) The department shall establish by rule, in consultation with the office of the superintendent of public instruction, those student records and information necessary to conduct a risk assessment, make a security classification, and ensure proper placement. Those records shall include at least:

(a) Any history of placement in special education programs;

(b) Any past, current, or pending disciplinary action;

(c) Any history of violent, aggressive, or disruptive behavior, or gang membership, or behavior listed in RCW 13.04.155;

(d) Any use of weapons that is illegal or in violation of school policy;

- (e) Any history of truancy;
- (f) Any drug or alcohol abuse;
- (g) Any health conditions affecting the juvenile's placement needs; and
- (h) Any other relevant information.

(2) For purposes of this section "gang" has the meaning defined in RCW 28A.225.225.

**NEW SECTION. Sec. 14.** A new section is added to chapter 72.05 RCW to read as follows:

(1) Whenever the department operates, or the secretary enters a contract to operate, a community facility, the placement and supervision of juveniles must be accomplished in accordance with this section.

(2) The secretary shall require that any juvenile placed in a community facility and who is employed or assigned as a volunteer be subject to monitoring for compliance with requirements for attendance at his or her job or assignment. The monitoring requirements shall be included in a written agreement between the employer or supervisor, the secretary or chief operating officer of the contracting agency, and the juvenile. The requirements shall include, at a minimum, the following:

- (a) Acknowledgment of the juvenile's offender status;
- (b) The name, address, and telephone number of the community facility at which the juvenile resides;
- (c) The twenty-four-hour telephone number required under section 8 of this act;
- (d) The name and work telephone number of all persons responsible for the supervision of the juvenile;
- (e) A prohibition on the juvenile's departure from the work or volunteer site without prior approval of the person in charge of the community facility;
- (f) A prohibition on personal telephone calls except to the community facility;
- (g) A prohibition on receiving compensation in any form other than a negotiable instrument;
- (h) A requirement that rest breaks during work hours be taken only in those areas at the location which are designated for such breaks;
- (i) A prohibition on visits from persons not approved in advance by the person in charge of the community facility;
- (j) A requirement that any unexcused absence, tardiness, or departure by the juvenile be reported immediately upon discovery to the person in charge of the community facility;
- (k) A requirement that any notice from the juvenile that he or she will not report to the work or volunteer site be verified as legitimate by contacting the person in charge of the community facility; and
- (l) An agreement that the community facility will conduct and document random visits to determine compliance by the juvenile with the terms of this section.

(3) The secretary shall require that any juvenile placed in a community facility and who is enrolled in a public or private school be subject to monitoring for compliance with requirements for attendance at his or her school. The monitoring requirements shall be included in a written agreement between the school district or appropriate administrative officer, the secretary or chief operating officer of the contracting agency, and the juvenile. The requirements shall include, at a minimum, the following:

- (a) Acknowledgment of the juvenile's offender status;
- (b) The name, address, and telephone number of the community facility at which the juvenile resides;
- (c) The twenty-four-hour telephone number required under section 8 of this act;
- (d) The name and work telephone number of at least two persons at the school to contact if issues arise concerning the juvenile's compliance with the terms of his or her attendance at school;
- (e) A prohibition on the juvenile's departure from the school without prior approval of the appropriate person at the school;
- (f) A prohibition on personal telephone calls except to the community facility;
- (g) A requirement that the juvenile remain on school grounds except for authorized and supervised school activities;
- (h) A prohibition on visits from persons not approved in advance by the person in charge of the community facility;
- (i) A requirement that any unexcused absence or departure by the juvenile be reported immediately upon discovery to the person in charge of the community facility;

(j) A requirement that any notice from the juvenile that he or she will not attend school be verified as legitimate by contacting the person in charge of the community facility; and

(k) An agreement that the community facility will conduct and document random visits to determine compliance by the juvenile with the terms of this section.

(4) The secretary shall require that when any juvenile placed in a community facility is employed, assigned as a volunteer, or enrolled in a public or private school:

(a) Program staff members shall make and document periodic and random accountability checks while the juvenile is at the school or work facility;

(b) A program counselor assigned to the juvenile shall contact the juvenile's employer, teacher, or school counselor regularly to discuss school or job performance-related issues.

(5) The department shall maintain a copy of all agreements executed under this section. The department shall also provide each affected juvenile with a copy of every agreement to which he or she is a party. The service provider shall maintain a copy of every agreement it executes under this section.

**NEW SECTION. Sec. 15.** A new section is added to chapter 72.05 RCW to read as follows:

(1) The department shall establish by rule a policy for the common use of residential group homes for juvenile offenders under the jurisdiction of the juvenile rehabilitation administration and the children's administration.

(2) A juvenile under the jurisdiction of the juvenile rehabilitation administration who is convicted of a class A felony is not eligible for placement in a community facility operated by children's administration that houses juveniles who are not under the jurisdiction of juvenile rehabilitation administration.

**NEW SECTION. Sec. 16.** A new section is added to chapter 72.05 RCW to read as follows:

(1) A person shall not be eligible for an employed or volunteer position within the juvenile rehabilitation administration or any agency with which it contracts in which the person may have regular access to juveniles under the jurisdiction of the department of social and health services or the department of corrections if the person has been convicted of one or more of the following:

(a) Any felony sex offense;

(b) Any violent offense, as defined in RCW 9.94A.030.

(2) Subsection (1) of this section applies only to persons hired by the department or any of its contracting agencies after the effective date of this act.

(3) Any person employed by the juvenile rehabilitation administration, or by any contracting agency, who may have regular access to juveniles under the jurisdiction of the department or the department of corrections and who is convicted of an offense set forth in this section after the effective date of this act, shall report the conviction to his or her supervisor. The report must be made within seven days of conviction. Failure to report within seven days of conviction constitutes misconduct under Title 50 RCW.

(4) For purposes of this section "may have regular access to juveniles" means access for more than a nominal amount of time.

(5) The department shall adopt rules to implement this section.

**NEW SECTION. Sec. 17.** (1) The Washington state institute for public policy shall conduct a special study of the contracts, operations, and monitoring of community residential facilities that house juvenile offenders who are under the jurisdiction of the department's juvenile rehabilitation administration.

(2) The institute must consult with nearby residents, local sheriffs and police chiefs, courts, probation departments, schools, and employers in the community in which the community residential facility is located.

(3) The institute shall investigate and report on at least the following issues:

(a) Community residential security, staffing, and operation:

(i) Are the facilities physically secured with door locks, alarms, video monitors, and other security features so that staff are immediately aware of any unauthorized exits or unauthorized visitors? Which homes are not?

(ii) What legal barriers exist, if any, that prevent equipping community residential facilities with locks, alarms, video monitors, and other equipment that would make the facilities more physically secure?

(iii) How much would it cost to equip community residential facilities with security equipment?

(iv) For each facility describe:

(A) The staffing level by shift;

(B) The times, if any, in which offenders are either locked inside secure rooms or locked inside the facility;

(C) What constitutes an escape;

(D) How much time must elapse before an unauthorized absence becomes an escape;

(E) The escape reporting procedure;

(F) Who may visit the offender and at what hours;

(G) What is the screening process used to authorize visitors;

(H) What controls exist to monitor and regulate persons who visit the facilities; and

(I) Whether offenders share bedrooms.

(v) Describe the monitoring level by the juvenile rehabilitation administration and specifically address the following:

(A) How often does the juvenile rehabilitation staff visit the community residential facilities?

(B) How many of these visits are random, unannounced, or conducted at night and on weekends and holidays?



- (C) What does the juvenile rehabilitation staff person investigate when conducting these visits?
- (D) How often does the juvenile rehabilitation staff contact neighbors, schools, employers, and law enforcement to determine whether juvenile offenders in the community residential facilities are disruptive or that staff is responsive to community concerns?
- (b) Offender intake and assessment procedures:
- (i) Identify procedural and financial barriers to sharing information about juvenile offenders in community residential facilities between the juvenile rehabilitation administration, schools, courts, law enforcement, other department of social and health services' programs including the division of children and family services and the division of alcohol and substance abuse, and the public.
- (ii) What authority does the state have to remove the barriers?
- (iii) Identify what entity is responsible for collecting risk assessment data. Describe the process and if it varies in different counties.
- (iv) What types and sources of data are being collected inconsistently?
- (v) What types and sources of data are being used inconsistently in performing risk assessments?
- (vi) What safeguards exist to ensure that assessments are being made with complete information?
- (c) Violations or infractions committed by juvenile offenders in community residential facilities:
- (i) How many violations, by type and seriousness level, have occurred or have been reported about juvenile offenders residing in community residential facilities during fiscal year 1997?
- (ii) What appeals process, if any, exists that governs an offender's appeal from a finding that the offender committed an infraction?
- (4) The institute shall recommend changes to existing laws, procedures, and practices governing community residential facilities to increase public safety, community residential facility security, protection of juvenile offenders housed in community residential facilities, and community comment and participation in siting facilities and placement of offenders. The institute shall also identify costs associated with implementing recommended changes.
- (5) An initial status report of the progress of the study shall be presented to the senate human services and corrections committee and the house criminal justice and corrections committee no later than September 1, 1998. The institute shall present a final report to those committees no later than December 1, 1998.

NEW SECTION. Sec. 18. The code reviser shall alphabetize the definitions in RCW 13.50.010 and 74.15.020 and correct any references.

NEW SECTION. Sec. 19. This act takes effect September 1, 1998."

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Long, Zarelli and Hargrove to Second Substitute Senate Bill No. 6445.

The motion by Senator Long carried and the striking amendment was adopted.

## MOTIONS

On motion of Senator Long, the following title amendment was adopted:

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "amending RCW 72.05.020, 74.15.020, and 28A.600.475; reenacting and amending RCW 13.50.010; adding new sections to chapter 72.05 RCW; adding a new section to chapter 74.15 RCW; adding a new section to chapter 13.40 RCW; creating new sections; and providing an effective date."

On motion of Senator Long, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6445 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6445.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6445 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6445, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6622, by Senator Finkbeiner (by request of Utilities and Transportation Commission)

Implementing the federal telecommunications act of 1996.

### MOTIONS

On motion of Senator Finkbeiner, Substitute Senate Bill No. 6622 was substituted for Senate Bill No. 6622 and the substitute bill was placed on second reading and read the second time.

Senator Finkbeiner moved that the following amendment by Senators Finkbeiner, Brown and Jacobsen be adopted:

On page 3, after line 30, insert the following:

"**Sec. 5.** RCW 80.36.310 and 1989 c 101 s 14 are each amended to read as follows:

(1) Telecommunications companies may petition to be classified as competitive telecommunications companies under RCW 80.36.320 or to have services classified as competitive telecommunications services under RCW 80.36.330. The commission may initiate classification proceedings on its own motion. The commission may require all regulated telecommunications companies potentially affected by a classification proceeding to appear as parties for a determination of their classification.

(2) Any company petition or commission motion for competitive classification shall state an effective date not sooner than thirty days from the filing date. The company must provide notice and publication of the proposed competitive classification in the same manner as provided in RCW 80.36.110 for tariff changes. The proposed classification shall take effect on the stated effective date unless suspended by the commission or set for hearing. The commission shall enter its final order with respect to any suspended classification within ~~((ten))~~ six months from the date of filing of a company's petition or the commission's motion.

**Sec. 6.** RCW 80.36.320 and 1989 c 101 s 15 are each amended to read as follows:

(1) The commission shall classify a telecommunications company ~~((providing service in a relevant market))~~ as a competitive telecommunications company if ~~((it finds, after notice and hearing, that the telecommunications company has demonstrated that))~~ the services it offers are subject to effective competition. Effective competition means that the company's customers have reasonably available alternatives and that the company does not have a significant captive customer base. In determining whether a company is competitive, factors the commission shall consider include but are not limited to:

- (a) The number and sizes of alternative providers of service;
- (b) The extent to which services are available from alternative providers in the relevant market;
- (c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (d) Other indicators of market power which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

The commission shall conduct the initial classification and any subsequent review of the classification in accordance with such procedures as the commission may establish by rule.

(2) Competitive telecommunications companies shall be subject to minimal regulation. Minimal regulation means that competitive telecommunications companies may file, instead of tariffs, price lists ~~((which))~~ that shall be effective after ten days' notice to the commission and customers. The commission shall prescribe the form of notice. The commission may also waive other regulatory requirements under this title for competitive telecommunications companies when it determines that competition will serve the same purposes as public interest regulation. The commission may waive different regulatory requirements for different companies if such different treatment is in the public interest. A competitive telecommunications company shall at a minimum:

- (a) Keep its accounts according to regulations as determined by the commission;
- (b) File financial reports with the commission as required by the commission and in a form and at times prescribed by the commission;
- (c) Keep on file at the commission such current price lists and service standards as the commission may require; and
- (d) Cooperate with commission investigations of customer complaints.

(3) When a telecommunications company has demonstrated that the equal access requirements ordered by the federal district court in the case of U.S. v. AT&T, 552 F. Supp. 131 (1982), or in supplemental orders, have been met, the commission shall review the classification of telecommunications companies providing inter-LATA interexchange services. At that time, the commission shall classify all such companies as competitive telecommunications companies unless it finds that effective competition, as defined in subsection (1) of this section, does not then exist.

(4) The commission may revoke any waivers it grants and may reclassify any competitive telecommunications company if ~~((such))~~ the revocation or reclassification would protect the public interest.

(5) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a competitive telecommunications company if it finds that competition will serve the same purpose and protect the public interest.

**Sec. 7.** RCW 80.36.330 and 1989 c 101 s 16 are each amended to read as follows:

(1) The commission may classify a telecommunications service provided by a telecommunications company as a competitive telecommunications service if ~~((it finds, after notice and hearing, that))~~ the service is subject to effective competition. Effective competition means that customers of the service have reasonably available alternatives and that the service is not provided to a significant captive customer base. In determining whether a service is competitive, factors the commission shall consider include but are not limited to:

- (a) The number and size of alternative providers of services;
- (b) The extent to which services are available from alternative providers in the relevant market;
- (c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (d) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

(2) When the commission finds that a telecommunications company has demonstrated that a telecommunications service is competitive, the commission may permit the service to be provided under a price list effective on ten days notice to the commission and customers. The commission shall prescribe the form of notice. The commission may adopt procedural rules necessary to implement this section.

(3) Prices or rates charged for competitive telecommunications services shall cover their cost. The commission shall determine proper cost standards to implement this section, provided that in making any assignment of costs or allocating any revenue requirement, the commission shall act to preserve affordable universal telecommunications service.

(4) The commission may investigate prices for competitive telecommunications services upon complaint. In any complaint proceeding initiated by the commission, the telecommunications company providing the service shall bear the burden of proving that the prices charged cover cost, and are fair, just, and reasonable.

(5) Telecommunications companies shall provide the commission with all data it deems necessary to implement this section.

(6) No losses incurred by a telecommunications company in the provision of competitive services may be recovered through rates for noncompetitive services. The commission may order refunds or credits to any class of subscribers to a noncompetitive telecommunications service which has paid excessive rates because of below cost pricing of competitive telecommunications services.

(7) The commission may reclassify any competitive telecommunications service if reclassification would protect the public interest.

(8) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a service classified as competitive if it finds that competition will serve the same purpose and protect the public interest."

Renumber the remaining sections consecutively and correct internal references accordingly.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Finkbeiner, Brown and Jacobsen on page 3, after line 30, to Substitute Senate Bill No. 6622.

The motion by Senator Finkbeiner carried and the amendment was adopted.

## MOTIONS

On motion of Senator Finkbeiner, the following title amendment was adopted:

On page 1, line 2 of the title, after ";" insert "amending RCW 80.36.310, 80.36.320, and 80.36.330"

On motion of Senator Finkbeiner, the rules were suspended, Engrossed Substitute Senate Bill No. 6622 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6622.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6622 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 6622, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

At 12:28 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 1:10 p.m. by President Owen.

## SECOND READING

SENATE BILL NO. 6168, by Senators Prentice, Rasmussen, Hale, Sellar, T. Sheldon, Wood, McAuliffe, Kohl, Anderson, Benton and Winsley (by request of Governor Locke)

Developing housing for temporary workers.

## MOTIONS

On motion of Senator Swecker, Second Substitute Senate Bill No. 6168 was substituted for Senate Bill No. 6168 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Prentice, the rules were suspended, Second Substitute Senate Bill No. 6168 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

## MOTION

On motion of Senator Hale, Senator Finkbeiner was excused.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6168.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6168 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Benton - 1. Excused: Senator Finkbeiner - 1. SECOND SUBSTITUTE SENATE BILL NO. 6168, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6204, by Senator Morton

Increasing the efficiency of registering and identifying livestock.

## MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 6204 was substituted for Senate Bill No. 6204 and the substitute bill was placed on second reading and read the second time.

Senator Morton moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 16.57.010 and 1996 c 105 s 1 are each amended to read as follows:

For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) (~~"Director" means the director of the department or a duly appointed representative.~~)

(3)) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

((4)) (3) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, poultry and rabbits.

~~((5))~~ (4) "Brand" means a permanent fire brand or any artificial mark, other than an individual identification symbol, approved by the ~~((director))~~ board to be used in conjunction with a brand or by itself.

~~((6))~~ (5) "Production record brand" means a number brand which shall be used for production identification purposes only.

~~((7))~~ (6) "~~((Brand))~~ Livestock inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides and/or the application of any artificial identification such as back tags or ear clips necessary to preserve the identity of the livestock or livestock hides examined.

~~((8))~~ (7) "Individual identification symbol" means a permanent mark placed on ~~((a-horse))~~ livestock for the purpose of individually identifying and registering the ~~((horse))~~ livestock and which has been approved for use as such by the ~~((director))~~ board.

~~((9))~~ (8) "Registering agency" means any person issuing an individual identification symbol for the purpose of individually identifying and registering ~~((a-horse))~~ livestock.

~~((10))~~ (9) "Poultry" means chickens, turkeys, ratites, and other domesticated fowl.

~~((11))~~ (10) "Ratite" means, but is not limited to, ostrich, emu, rhea, or other flightless bird used for human consumption, whether live or slaughtered.

~~((12))~~ (11) "Ratite farming" means breeding, raising, and rearing of an ostrich, emu, or rhea in captivity or an enclosure.

~~((13))~~ (12) "Microchipping" means the implantation of an identification microchip or similar electronic identification device to establish the identity of an individual animal:

(a) In the pipping muscle of a chick ratite or the implantation of a microchip in the tail muscle of an otherwise unidentified adult ratite;

(b) In the nuchal ligament of a horse unless otherwise specified by rule of the ~~((director))~~ board; and

(c) In locations of other livestock species as specified by rule of the ~~((director))~~ board when requested by an association of producers of that species of livestock.

(13) "Livestock identification board" or "board" means the body of five members appointed by the governor that includes one beef producer, one cattle feeder, one dairy producer, one livestock market owner, and one horse producer.

(14) "Certificate of permit" means a form prescribed by and obtained from the board that is completed by the owner or a person authorized to act on behalf of the owner to show the ownership of livestock. It does not evidence inspection of livestock.

(15) "Inspection certificate" means a certificate issued by the board documenting the ownership of livestock based on an inspection of livestock by the board. It includes an individual identification certificate issued by the board.

(16) "Self-inspection certificate" means a form prescribed by and obtained from the board that is used for self-inspection of cattle or horses and is signed by the buyer and seller of the cattle or horses.

**Sec. 2.** RCW 16.57.015 and 1993 c 354 s 10 are each amended to read as follows:

(1) ~~((The director shall establish a livestock identification advisory board. The board shall be composed of six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors. In making appointments, the director shall solicit nominations from organizations representing these groups state-wide.~~

~~((2) The purpose of the board is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding brand inspection fees and related licensing fees. The director shall consult the board before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter or a proposed rule setting a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090 and the rule has not received the approval of the advisory board, the director shall file with the board a written statement setting forth the director's reasons for proposing the rule without the board's approval.~~

~~((3) The members of the advisory board serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the board to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.)) There is established a Washington state livestock identification board. The board is composed of five members appointed by the governor and includes one beef producer, one cattle feeder, one dairy producer, one livestock market owner, and one horse producer. Organizations representing these groups may submit nominations for these appointments to the governor for the governor's consideration. Three members of the initial board shall be appointed for two years and two members shall be appointed for three years, thereafter members shall be appointed for a three-year term. Members may succeed themselves.~~

~~((2) The board shall be responsible for the administration of the livestock identification program which includes the review and registration of brands, approval of all expenditures from the livestock identification account, administration of the inspection and enforcement activities including the employment of personnel, fee setting, and holding hearings and adopting rules for the administration of the livestock identification program.~~

~~((3) The board may contract with the department for registration and for livestock inspection or investigation work and fix the compensation and terms of the contract. The board may also enter into agreements with Washington state licensed and accredited veterinarians,~~

or other persons, who have been certified by the board, to perform livestock inspection. The board may adopt rules necessary to implement livestock inspection performed on a contract basis and may adopt fees to cover the cost associated with such certification.

(4) The board may contract with county sheriffs to provide for additional livestock identification investigators.

(5) The board shall provide for a centralized location that is equally accessible from all parts of the state.

(6) The board may receive gifts, grants, endowments, or free or low-cost office space from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of chapter . . . , Laws of 1998 (this act), and spend gifts, grants, endowments, income, or free or low-cost office space from the public or private sources according to their terms, unless the receipt of the gifts, grants, endowments, or free or low-cost office space violates RCW 42.17.710.

(7) Members of the board shall receive compensation as provided by RCW 43.03.240 and travel expenses to meetings or in otherwise carrying out the duties of the board as provided under RCW 43.03.050 and 43.03.060. The board shall meet at least quarterly in each calendar year. The board shall hire staff as necessary to carry out its duties.

**NEW SECTION. Sec. 3.** A new section is added to chapter 16.57 RCW to read as follows:

It is the duty of the state patrol to check for a valid inspection certificate or other appropriate proof of ownership for all nonresident livestock at established ports of entry between this state and any other state or country.

The sheriff of each county of this state shall make the investigation and enforcement of livestock theft a high priority and investigate all complaints of these crimes as soon as practicable.

**NEW SECTION. Sec. 4.** A new section is added to chapter 16.57 RCW to read as follows:

There is established a Washington state livestock identification account in the custody of the state treasurer into which all moneys collected or received from registration, inspection, or enforcement under this chapter and chapter 16.58 RCW and moneys collected or received by the board under chapter 16.65 RCW shall be deposited. These moneys shall be used solely for the Washington state livestock identification program. Only the board may authorize expenditures from this account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 5.** RCW 16.57.020 and 1994 c 46 s 7 are each amended to read as follows:

The ~~((director))~~ board shall be the ~~((reeorder))~~ registrar of livestock brands and such brands shall not be ~~((reeorded))~~ registered elsewhere in this state. Any person desiring to register a livestock brand shall apply on a form prescribed by the ~~((director))~~ board. Such application shall be accompanied by a facsimile of the brand applied for and a ~~((thirty-five))~~ seventy-dollar ~~((reeording))~~ registration fee. The ~~((director))~~ board shall, upon ~~((his or her))~~ their satisfaction that the application and brand facsimile meet the requirements of this chapter and/or rules adopted hereunder, ~~((reeord))~~ register such brand. The brand registration is valid for five years.

The director of agriculture may be designated by the board as the registrar of livestock brands. The registration fee shall be deposited by the director in the Washington state livestock identification account and shall be used solely for livestock identification program purposes as provided in this chapter and only as authorized by the board.

**Sec. 6.** RCW 16.57.030 and 1959 c 54 s 3 are each amended to read as follows:

The ~~((director))~~ board shall not ~~((reeord))~~ register tattoo brands or marks for any purpose subsequent to the enactment of this chapter. However, all tattoo brands and marks of record on the date of the enactment of this chapter shall be recognized as legal ownership brands or marks.

**Sec. 7.** RCW 16.57.040 and 1974 ex.s. c 64 s 1 are each amended to read as follows:

The ~~((director))~~ board may provide for the use of production record brands. Numbers for such brands shall be issued at the discretion of the ~~((director))~~ board and shall be placed on livestock immediately below the registered ownership brand or any other location prescribed by the ~~((director))~~ board.

**Sec. 8.** RCW 16.57.070 and 1959 c 54 s 7 are each amended to read as follows:

The ~~((director))~~ board shall determine conflicting claims between applicants to a brand, and in so doing shall consider the priority of applicants.

**Sec. 9.** RCW 16.57.080 and 1994 c 46 s 16 are each amended to read as follows:

~~((The director shall establish by rule a schedule for the renewal of registered brands.))~~ The initial issuance of a registered brand shall be accompanied by a notice indicating the term of the brand registration. The board may register a brand for less than five years in order to stagger the number of renewals in any one year to provide for an orderly and manageable workload. The fee for a brand registration issued for a term of less than five years shall be prorated accordingly. The fee for renewal of ~~((the))~~ a registered brand ~~((s shall be no less than twenty-five dollars for each two year period of brand ownership, except that the director may, in adopting a renewal schedule, provide for the collection of renewal fees on a prorated basis and may by rule increase the registration and renewal fee for brands by no more than fifty percent subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015))~~ is seventy dollars. At least sixty days before the expiration of a registered brand, the ~~((director))~~ board shall notify by letter the owner of record of the brand that on the payment of the requisite application fee and application of renewal the ~~((director))~~ board shall issue the proof of payment allowing the brand owner exclusive ownership and use of the brand for the subsequent registration period. The failure of the registered owner to pay the renewal fee by the date required by rule shall cause such owner's brand to revert to the ~~((department))~~ board. The ~~((director))~~ board may for a period of one year following such reversion, reissue

such brand registration only to the prior registered owner upon payment of the registration fee and a late filing fee ~~((to be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015))~~ of fifteen dollars, for renewal subsequent to the regular renewal period. The ~~((director))~~ board may at the ~~((director's))~~ board's discretion, if such brand is not reissued within one year to the prior registered owner, issue such brand to any other applicant.

**NEW SECTION. Sec. 10.** A one-time brand registration fee of seventy dollars is due from all owners of registered brands not due for renewal in 1998.

**Sec. 11.** RCW 16.57.090 and 1994 c 46 s 17 are each amended to read as follows:

A brand is the personal property of the owner of record. Any instrument affecting the title of such brand shall be acknowledged in the presence of the recorded owner and a notary public. The ~~((director))~~ board shall record such instrument upon presentation and payment of a recording fee not to exceed fifteen dollars to be prescribed by the ~~((director))~~ board by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Such recording shall be constructive notice to all the world of the existence and conditions affecting the title to such brand. A copy of all records concerning the brand, certified by the ~~((director))~~ board, shall be received in evidence to all intent and purposes as the original instrument. The ~~((director))~~ board shall not be personally liable for failure of the ~~((director's))~~ board's agents to properly record such instrument.

**Sec. 12.** RCW 16.57.100 and 1971 ex.s. c 135 s 3 are each amended to read as follows:

The right to use a brand shall be evidenced by the original certificate issued by the ~~((director))~~ board showing that the brand is of present ~~((record))~~ registration or a certified copy of the ~~((record))~~ registration of such brand showing that it is of present ~~((record))~~ registration. A healed registered brand ~~((of record))~~ on livestock shall be prima facie evidence that the recorded owner of such brand has legal title to such livestock and is entitled to its possession: PROVIDED, That the ~~((director))~~ board may require additional proof of ownership of any animal showing more than one healed brand.

**Sec. 13.** RCW 16.57.105 and 1967 c 240 s 38 are each amended to read as follows:

Any person having a brand ~~((recorded))~~ registered with the ~~((department))~~ board shall have a preemptory right to use such brand and its design under any newly approved method of branding adopted by the ~~((director))~~ board.

**Sec. 14.** RCW 16.57.110 and 1959 c 54 s 11 are each amended to read as follows:

No brand shall be placed on livestock that is not permanent in nature and of a size that is not readily visible. The ~~((director))~~ board, in order to assure that brands are readily visible, may prescribe the size of branding irons to be used for ownership brands.

**Sec. 15.** RCW 16.57.120 and 1991 c 110 s 2 are each amended to read as follows:

No person shall remove or alter a registered brand ~~((of record))~~ on livestock without first having secured the written permission of the ~~((director))~~ board. Violation of this section shall be a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 16.** RCW 16.57.130 and 1959 c 54 s 13 are each amended to read as follows:

The ~~((director))~~ board shall not ~~((record))~~ register a brand that is identical to a registered brand ~~((of present record))~~; nor a brand so similar to a registered brand ~~((of present record))~~ that it will be difficult to distinguish between such brands when applied to livestock.

**Sec. 17.** RCW 16.57.140 and 1994 c 46 s 18 are each amended to read as follows:

The owner of a registered brand ~~((of record))~~ may procure from the ~~((director))~~ board a certified copy of the ~~((record))~~ registration of the owner's brand upon payment of a fee not to exceed seven dollars and fifty cents to be prescribed by the ~~((director))~~ board by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

**Sec. 18.** RCW 16.57.150 and 1974 ex.s. c 64 s 5 are each amended to read as follows:

The ~~((director))~~ board shall publish a book to be known as the "Washington State Brand Book", showing all the registered brands ~~((of record))~~. Such book shall contain the name and address of the owners of registered brands ~~((of record))~~ and a copy of the brand laws and regulations. Supplements to such brand book showing newly ~~((recorded))~~ registered brands, amendments or newly adopted regulations, shall be published biennially, or prior thereto at the discretion of the ~~((director))~~ board: PROVIDED, That whenever ~~((he deems it))~~ necessary, the ~~((director))~~ board may issue a new brand book. The board may collect moneys to recover reasonable costs of publishing and distributing copies of the brand book.

**Sec. 19.** RCW 16.57.160 and 1991 c 110 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the ~~((director))~~ board may by rule adopted subsequent to a public hearing designate any point for mandatory ~~((brand))~~ livestock inspection of cattle or the furnishing of proof that cattle passing or being transported through such points have been ~~((brand))~~ livestock inspected and are lawfully being moved. Further, the ~~((director))~~ board may stop vehicles carrying cattle to determine if such cattle are identified, branded, or accompanied by the form prescribed by the ~~((director))~~ board under ~~((RCW 16.57.240))~~ section 28 of this act or a brand certificate issued by the ~~((department))~~ board.

(2) Inspection shall not be required for any individual private sale of any unbranded dairy breed milk production cattle involving fifteen head or less.

**Sec. 20.** RCW 16.57.165 and 1971 ex.s. c 135 s 6 are each amended to read as follows:

The ~~((director))~~ board may, in order to reduce the cost of ~~((brand))~~ livestock inspection to livestock owners, enter into agreements with any qualified county, municipal, or other local law enforcement agency, or qualified individuals for the purpose of performing ~~((brand))~~ livestock inspection in areas where ~~((department brand))~~ livestock inspection by the department may not readily be available.

**Sec. 21.** RCW 16.57.170 and 1959 c 54 s 17 are each amended to read as follows:

The ~~((director))~~ board may enter at any reasonable time any slaughterhouse or public livestock market to make an examination of the brands on livestock or hides, and may enter at any reasonable time an establishment where hides are held to examine them for brands. The ~~((director))~~ board may enter any of these premises at any reasonable time to examine all books and records required by law in matters relating to ~~((brand))~~ livestock inspection or other methods of livestock identification.

**Sec. 22.** RCW 16.57.180 and 1959 c 54 s 18 are each amended to read as follows:

Should the ~~((director))~~ board be denied access to any premises or establishment where such access was sought for the purposes set forth in RCW 16.57.170, ~~((he))~~ the board may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises or establishment for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

**Sec. 23.** RCW 16.57.200 and 1959 c 54 s 20 are each amended to read as follows:

Any owner or ~~((his))~~ an agent shall make the brand or brands on livestock being ~~((brand))~~ inspected readily visible and shall cooperate with the ~~((director))~~ board to carry out such ~~((brand))~~ livestock inspection in a safe and expeditious manner.

**Sec. 24.** RCW 16.57.210 and 1959 c 54 s 21 are each amended to read as follows:

The ~~((director))~~ board shall have authority to arrest any person without warrant anywhere in the state found in the act of, or whom ~~((he))~~ the board has reason to believe is guilty of, driving, holding, selling or slaughtering stolen livestock. Any such person arrested by the ~~((director))~~ board shall be turned over to the sheriff of the county where the arrest was made, as quickly as possible.

**Sec. 25.** RCW 16.57.220 and 1997 c 356 s 2 are each amended to read as follows:

The ~~((director shall))~~ livestock identification board, upon unanimous vote, may cause a charge to be made for ~~((all brand))~~ livestock inspection of cattle and horses ~~((required))~~ under this chapter and rules adopted hereunder. Such charges shall be paid to the ~~((department))~~ board by the owner or person in possession unless requested by the purchaser and then such ~~((brand))~~ livestock inspection shall be paid by the purchaser requesting such ~~((brand))~~ livestock inspection. Except as provided by rule, such inspection charges shall be due and payable at the time ~~((brand))~~ livestock inspection is performed and shall be paid upon billing by the ~~((department))~~ board and if not shall constitute a prior lien on the cattle or cattle hides or horses or horse hides ~~((brand))~~ livestock inspected until such charge is paid. The ~~((director))~~ board in order to best utilize the services of the ~~((department))~~ livestock inspector in performing ~~((brand))~~ livestock inspection may establish schedules by days and hours when a ~~((brand))~~ livestock inspector will be on duty to perform ~~((brand))~~ livestock inspection at established inspection points. ~~((The fees for brand inspection performed at inspection points according to schedules established by the director shall be seventy five cents per head for cattle and not more than three dollars per head for horses as prescribed by the director subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.))~~ Fees for ~~((brand))~~ livestock inspection of cattle and horses ~~((at points other than those designated by the director or not in accord with the schedules established by the director))~~ shall be based on a fee schedule not to exceed actual net cost to the ~~((department))~~ board of performing the ~~((brand))~~ livestock inspection service. For the purpose of this section, actual costs shall mean fifteen dollars per hour and the current mileage rate set by the office of financial management.

**Sec. 26.** RCW 16.57.230 and 1995 c 374 s 50 are each amended to read as follows:

No person shall collect or make a charge for ~~((brand))~~ livestock inspection of livestock unless there has been an actual ~~((brand))~~ livestock inspection of such livestock by the board.

**Sec. 27.** RCW 16.57.240 and 1995 c 374 s 51 are each amended to read as follows:

~~((Any person purchasing, selling, holding for sale, trading, bartering, transferring title, slaughtering, handling, or transporting cattle shall keep a record on forms prescribed by the director. Such forms))~~ (1) Certificates of permit, inspection certificates, and self-inspection certificates shall show the owner number, ~~((specie))~~ breed, sex, brand, or other method of identification of ~~((such))~~ the cattle or horses and any other necessary information required by the ~~((director))~~ board. ~~((The original shall be kept for a period of three years or shall be furnished to the director upon demand or as prescribed by rule, one copy shall accompany the cattle to their destination and shall be subject to inspection at any time by the director or any peace officer or member of the state patrol: PROVIDED, That in the following instances only, cattle may be moved or transported within this state without being accompanied by an official certificate of permit, brand inspection certificate, bill of sale, or self-inspection slip:~~

~~((1) When such cattle are moved or transported upon lands under the exclusive control of the person moving or transporting such cattle:))~~

~~((2) ((When such cattle are being moved or transported for temporary grazing or feeding purposes and have the registered brand of the person having or transporting such cattle.)) The board may issue certificate of permit forms to any person on payment of a fee established by rule.~~

~~((3) Inspection certificates, self-inspection certificates, or other satisfactory proof of ownership shall be kept by either the owner, or the person in possession of any cattle or horses, or both, and shall be furnished to the board or any peace officer upon demand.~~

NEW SECTION. **Sec. 28.** A new section is added to chapter 16.57 RCW to read as follows:



Cattle may not be moved or transported within this state without being accompanied by a certificate of permit, inspection certificate, or self-inspection certificate except:

- (1) When the cattle are moved or transported upon lands under the exclusive control of the person moving or transporting the cattle; or
- (2) When the cattle are being moved or transported for temporary grazing or feeding purposes and have the recorded brand of the person having or transporting the cattle.

Certificates of permit, inspection certificates, or self-inspection certificates accompanying cattle being moved or transported within this state shall be subject to inspection at any time by the board or any peace officer.

**Sec. 29.** RCW 16.57.260 and 1981 c 296 s 19 are each amended to read as follows:

It shall be unlawful for any person to remove or cause to be removed or accept for removal from this state, any cattle ~~((or horses))~~ which are not accompanied at all times by an official ~~((brand))~~ livestock inspection certificate issued by the ~~((director))~~ board on such cattle ~~((or horses))~~, except as provided in RCW 16.57.160.

**Sec. 30.** RCW 16.57.270 and 1959 c 54 s 27 are each amended to read as follows:

It shall be unlawful for any person moving or transporting livestock in this state to refuse to assist the ~~((director))~~ board or any peace officer in establishing the identity of such livestock being moved or transported.

**Sec. 31.** RCW 16.57.275 and 1967 c 240 s 37 are each amended to read as follows:

Any cattle carcass, or primal part thereof, of any breed or age being transported in this state from other than a state or federal licensed and inspected slaughterhouse or common carrier hauling for such slaughterhouse, shall be accompanied by a certificate of permit signed by the owner of such carcass or primal part thereof and, if such carcass or primal part is delivered to a facility custom handling such carcasses or primal part thereof, such certificate of permit shall be deposited with the owner or manager of such custom handling facility and such certificate of permit shall be retained for a period of one year and be made available to the ~~((department))~~ livestock identification board for inspection during reasonable business hours. The owner of such carcass or primal part thereof shall mail a copy of the ~~((said))~~ certificate of permit to the ~~((department))~~ board within ten days of ~~((said))~~ transportation.

**Sec. 32.** RCW 16.57.280 and 1995 c 374 s 52 are each amended to read as follows:

No person shall knowingly have unlawful possession of any livestock marked with a ~~((recorded))~~ registered brand or tattoo of another person unless:

- (1) Such livestock lawfully bears the person's own healed ~~((recorded))~~ registered brand; or
- (2) Such livestock is accompanied by a certificate of permit from the owner of the ~~((recorded))~~ registered brand or tattoo; or
- (3) Such livestock is accompanied by a ~~((brand))~~ livestock inspection certificate; or
- (4) Such cattle is accompanied by a self-inspection slip; or
- (5) Such livestock is accompanied by a bill of sale from the previous owner or other satisfactory proof of ownership.

A violation of this section constitutes a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 33.** RCW 16.57.290 and 1995 c 374 s 53 are each amended to read as follows:

All ~~((unbranded))~~ cattle and horses ~~((and those bearing brands not recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit, and those bearing brands recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit signed by the owner of the brand))~~ that are not accompanied by a certificate of permit, inspection certificate, or self-inspection certificate, or other satisfactory proof of ownership when presented for inspection by the ~~((director))~~ board, shall be sold by the ~~((director or the director's representative, unless other satisfactory proof of ownership is presented showing the person presenting them to be lawfully in possession))~~ board. Upon the sale of ~~((such))~~ the cattle or horses, the ~~((director or the director's representative))~~ board shall give the purchasers ~~((a bill of sale therefor))~~ an official inspection certificate for the cattle or horses, or, if theft is suspected, the cattle or horses may be impounded by the ~~((director or the director's representative))~~ board.

**Sec. 34.** RCW 16.57.300 and 1989 c 286 s 24 are each amended to read as follows:

The proceeds from the sale of cattle and horses as provided for under RCW 16.57.290, after paying the cost thereof, shall be paid to the ~~((director))~~ board, who shall make a record showing the brand or marks or other method of identification of the animals and the amount realized from the sale thereof. However, the proceeds from a sale of such cattle or horses at a licensed public livestock market shall be held by the licensee for a reasonable period not to exceed thirty days to permit the consignor to establish ownership or the right to sell such cattle or horses. If such consignor fails to establish legal ownership or the right to sell such cattle or horses, such proceeds shall be paid to the ~~((director))~~ board to be disposed of as any other estray proceeds.

**Sec. 35.** RCW 16.57.310 and 1959 c 54 s 31 are each amended to read as follows:

When a person has been notified by registered mail that animals bearing his ~~((recorded))~~ or her registered brand have been sold by the ~~((director))~~ board, he or she shall present to the ~~((director))~~ board a claim on the proceeds within ten days from the receipt of the notice or the ~~((director))~~ board may decide that no claim exists.

**Sec. 36.** RCW 16.57.320 and 1991 c 110 s 6 are each amended to read as follows:

If, after the expiration of one year from the date of sale, the person presenting the animals for inspection has not provided the ~~((director))~~ board with satisfactory proof of ownership, the proceeds from the sale shall be paid on the claim of the owner of the ~~((recorded))~~ registered brand. However, it shall be a gross misdemeanor for the owner of the ~~((recorded))~~ registered brand to knowingly accept such funds after he or she has sold, bartered or traded such animals to the claimant or any other person. A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 37.** RCW 16.57.330 and 1959 c 54 s 33 are each amended to read as follows:

If, after the expiration of one year from the date of sale, no claim is made, the money shall be credited to the ~~((department of agriculture))~~ board to be expended in carrying out the provisions of this chapter.

**Sec. 38.** RCW 16.57.340 and 1959 c 54 s 34 are each amended to read as follows:

The ~~((director))~~ board shall have the authority to enter into reciprocal agreements with any or all states to prevent the theft, misappropriation or loss of identification of livestock. The ~~((director))~~ board may declare any livestock which is shipped or moved into this state from such states estrays if such livestock is not accompanied by the proper official brand certificate or other such certificates required by the law of the state of origin of such livestock. The ~~((director))~~ board may hold such livestock subject to all costs of holding or sell such livestock and send the funds, after the deduction of the cost of such sale, to the proper authority in the state of origin of such livestock.

**Sec. 39.** RCW 16.57.350 and 1994 c 46 s 8 are each amended to read as follows:

The ~~((director))~~ board may adopt such rules as are necessary to carry out the purposes of this chapter. It shall be the duty of the ~~((director))~~ board to enforce and carry out the provisions of this chapter and/or rules adopted hereunder. No person shall interfere with the ~~((director))~~ board when ~~((he or she))~~ the board is performing or carrying out duties imposed on ~~((him or her))~~ it by this chapter and/or rules adopted hereunder.

**Sec. 40.** RCW 16.57.360 and 1991 c 110 s 7 are each amended to read as follows:

The ~~((department))~~ board is authorized to issue notices of and enforce civil infractions in the manner prescribed under chapter 7.80 RCW.

The violation of any provision of this chapter and/or rules and regulations adopted hereunder shall constitute a class I civil infraction as provided under chapter 7.80 RCW unless otherwise specified herein.

**Sec. 41.** RCW 16.57.370 and 1959 c 54 s 37 are each amended to read as follows:

All fees collected under the provisions of this chapter shall be retained and deposited by the ~~((director))~~ board to be used only for the enforcement of this chapter.

**Sec. 42.** RCW 16.57.380 and 1991 c 110 s 8 are each amended to read as follows:

The ~~((director))~~ board may by rule adopted subsequent to a public hearing designate any point for mandatory ~~((brand))~~ livestock inspection of horses or the furnishing of proof that horses passing or being transported through such points have been ~~((brand))~~ livestock inspected and are lawfully being moved. Further, the ~~((director))~~ board may stop vehicles carrying horses to determine if such horses are identified or branded.

**Sec. 43.** RCW 16.57.400 and 1994 c 46 s 20 are each amended to read as follows:

The ~~((director))~~ board may provide by rules ~~((and regulations))~~ adopted pursuant to chapter 34.05 RCW for the issuance of individual ~~((horse and cattle))~~ livestock identification certificates or other means of ~~((horse and cattle))~~ livestock identification deemed appropriate. Such certificates or other means of identification shall be valid only for the use of the ~~((horse and cattle))~~ livestock owner in whose name it is issued.

~~((Horses and cattle))~~ Livestock identified pursuant to the provisions of this section and the rules ~~((and regulations))~~ adopted hereunder shall not be subject to ~~((brand))~~ livestock inspection except when sold at points provided for in RCW 16.57.380. The ~~((director))~~ board shall charge a fee for the certificates or other means of identification authorized pursuant to this section and no identification shall be issued until the ~~((director))~~ board has received the fee. The schedule of fees shall be established in accordance with the provisions of chapter 34.05 RCW.

**Sec. 44.** RCW 16.57.407 and 1996 c 105 s 3 are each amended to read as follows:

The ~~((department))~~ livestock identification board has the authority to conduct an investigation of an incident where scars or other marks indicate that a microchip has been removed from ~~((a horse))~~ livestock.

**Sec. 45.** RCW 16.57.410 and 1993 c 354 s 11 are each amended to read as follows:

(1) No person may act as a registering agency without a permit issued by the ~~((department))~~ board. The ~~((director))~~ board may issue a permit to any person or organization to act as a registering agency for the purpose of issuing permanent identification symbols for ~~((horses))~~ livestock in a manner prescribed by the ~~((director))~~ board. Application for such permit, or the renewal thereof by January 1 of each year, shall be on a form prescribed by the ~~((director))~~ board, and accompanied by the proof of registration to be issued, any other documents required by the ~~((director))~~ board, and a fee of one hundred dollars.

(2) Each registering agency shall maintain a permanent ~~((record))~~ registration for each individual identification symbol. The ~~((record))~~ registration shall include, but need not be limited to, the name, address, and phone number of the ~~((horse))~~ livestock owner and a general description of the ~~((horse))~~ livestock. A copy of each permanent ~~((record))~~ registration shall be forwarded to the ~~((director))~~ board, if requested by the ~~((director))~~ board.

(3) Individual identification symbols shall be inspected as required for brands under RCW 16.57.220 and 16.57.380. Any ~~((horse))~~ livestock presented for inspection and bearing such a symbol, but not accompanied by proof of registration and certificate of permit, shall be sold as provided under RCW 16.57.290 through 16.57.330.

(4) The ~~((director))~~ board shall adopt such rules as are necessary for the effective administration of this section pursuant to chapter 34.05 RCW.

**Sec. 46.** RCW 16.57.420 and 1993 c 105 s 3 are each amended to read as follows:

The ~~((department))~~ livestock identification board may, in consultation with representatives of the rattle industry, develop by rule a system that provides for the identification of individual rattles through the use of microchipping. The ~~((department))~~ board may establish fees for the issuance or reissuance of microchipping numbers sufficient to cover the expenses of the ~~((department))~~ board.

**Sec. 47.** RCW 16.58.020 and 1971 ex.s. c 181 s 2 are each amended to read as follows:

For the purpose of this chapter:

(1) "Livestock identification board" or "board" means the livestock identification board defined under RCW 16.57.010.

(2) "Certified feed lot" means any place, establishment, or facility commonly known as a commercial feed lot, cattle feed lot, or the like, which complies with all of the requirements of this chapter, and any ~~((regulations))~~ rules adopted pursuant to the provisions of this chapter and which holds a valid license from the ~~((director))~~ board as hereinafter provided.

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

~~((3))~~ "Director" means the director of the department or his duly authorized representative.

~~((4))~~ (3) "Licensee" means any persons licensed under the provisions of this chapter.

~~((5))~~ (4) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

**Sec. 48.** RCW 16.58.030 and 1971 ex.s. c 181 s 3 are each amended to read as follows:

The ~~((director))~~ board may adopt such rules ~~((and regulations))~~ as are necessary to carry out the purpose of this chapter. The adoption of such rules shall be subject to the provisions of this chapter and rules ~~((and regulations))~~ adopted hereunder. No person shall interfere with the ~~((director when he))~~ board when it is performing or carrying out any duties imposed ~~((upon him))~~ by this chapter or rules ~~((and regulations))~~ adopted hereunder.

**Sec. 49.** RCW 16.58.040 and 1971 ex.s. c 181 s 4 are each amended to read as follows:

On or after August 9, 1971, any person desiring to engage in the business of operating one or more certified feed lots shall obtain an annual license from the ~~((director))~~ board for such purpose. The application for a license shall be on a form prescribed by the ~~((director))~~ board and shall include the following:

(1) The number of certified feed lots the applicant intends to operate and their exact location and mailing address;

(2) The legal description of the land on which the certified feed lot will be situated;

(3) A complete description of the facilities used for feeding and handling of cattle at each certified feed lot;

(4) The estimated number of cattle which can be handled for feeding purposes at each such certified feed lot; and

(5) Any other information necessary to carry out the purpose and provisions of this chapter and rules ~~((or regulations))~~ adopted hereunder.

**Sec. 50.** RCW 16.58.050 and 1997 c 356 s 4 are each amended to read as follows:

The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of ~~((seven hundred fifty))~~ two hundred dollars. Upon approval of the application by the ~~((director))~~ livestock identification board and compliance with the provisions of this chapter and rules adopted hereunder, the applicant shall be issued a license or a renewal thereof. The board shall conduct an inspection of all cattle and their corresponding ownership documents before the board issues an original license.

**Sec. 51.** RCW 16.58.060 and 1991 c 109 s 10 are each amended to read as follows:

The ~~((director))~~ board shall establish by rule an expiration date or dates for all certified feed lot licenses. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. If an application for renewal of a certified feed lot license is not received by the ~~((department))~~ board per the date required by rule or should a person fail, refuse, or neglect to apply for renewal of a preexisting license on or before the date of expiration, that person shall be assessed an additional twenty-five dollars which shall be added to the regular license fee and shall be paid before the ~~((director))~~ board may issue a license to the applicant.

**Sec. 52.** RCW 16.58.070 and 1989 c 175 s 54 are each amended to read as follows:

The ~~((director))~~ livestock identification board is authorized to deny, suspend, or revoke a license in accord with the provisions of chapter 34.05 RCW if ~~((he))~~ it finds that there has been a failure to comply with any requirement of this chapter or rules ~~((and regulations))~~ adopted hereunder. Hearings for the revocation, suspension, or denial of a license shall be subject to the provisions of chapter 34.05 RCW concerning adjudicative proceedings.

**Sec. 53.** RCW 16.58.080 and 1971 ex.s. c 181 s 8 are each amended to read as follows:

Every certified feed lot shall be equipped with a facility or a livestock pen, approved by the ~~((director))~~ livestock identification board as to location and construction within the ~~((said))~~ feed lot so that necessary ~~((brand))~~ livestock inspection can be carried on in a proper,

expeditious and safe manner. Each licensee shall furnish the ~~((director))~~ board with sufficient help necessary to carry out ~~((brand))~~ livestock inspection in the manner set forth above.

**Sec. 54.** RCW 16.58.095 and 1991 c 109 s 11 are each amended to read as follows:

All cattle entering or reentering a certified feed lot must be inspected for brands upon entry, unless they are accompanied by a ~~((brand))~~ livestock inspection certificate issued by the ~~((director))~~ livestock identification board, or any other agency authorized in any state or Canadian province by law to issue such a certificate. Licensees shall report a discrepancy between cattle entering or reentering a certified feed lot and the ~~((brand))~~ livestock inspection certificate accompanying the cattle to the nearest ~~((brand))~~ livestock inspector immediately. A discrepancy may require an inspection of all the cattle entering or reentering the lot, except as may otherwise be provided by rule.

**Sec. 55.** RCW 16.58.100 and 1979 c 81 s 3 are each amended to read as follows:

The ~~((director shall each year))~~ livestock identification board may conduct audits of the cattle received, fed, handled, and shipped by the licensee at each certified feed lot. Such audits shall be for the purpose of determining if such cattle correlate with the ~~((brand))~~ livestock inspection certificates issued in their behalf and that the certificate of assurance furnished the ~~((director))~~ board by the licensee correlates with his or her assurance that ~~((brand))~~ livestock inspected cattle were not commingled with uninspected cattle.

**Sec. 56.** RCW 16.58.110 and 1991 c 109 s 12 are each amended to read as follows:

All certified feed lots shall ~~((furnish))~~ make available to the ~~((director with))~~ livestock identification board records as requested by ~~((him))~~ it from time to time on all cattle entering or on feed in ~~((said))~~ certified feed lots and dispersed therefrom. All such records shall be subject to examination by the ~~((director))~~ board for the purpose of maintaining the integrity of the identity of all such cattle. The ~~((director))~~ board may make the examinations only during regular business hours except in an emergency to protect the interest of the owners of such cattle.

**Sec. 57.** RCW 16.58.120 and 1991 c 109 s 13 are each amended to read as follows:

The licensee shall maintain sufficient records as required by the ~~((director))~~ livestock identification board at each certified feed lot, if ~~((said))~~ the licensee operates more than one certified feed lot.

**Sec. 58.** RCW 16.58.140 and 1979 c 81 s 5 are each amended to read as follows:

All fees provided for in this chapter shall be retained by the ~~((director))~~ board for the purpose of enforcing and carrying out the purpose and provisions of this chapter or chapter 16.57 RCW.

**Sec. 59.** RCW 16.58.150 and 1971 ex.s. c 181 s 15 are each amended to read as follows:

No ~~((brand))~~ livestock inspection shall be required when cattle are moved or transferred from one certified feed lot to another or the transfer of cattle from a certified feed lot to a point within this state, or out of state where this state maintains ~~((brand))~~ livestock inspection, for the purpose of immediate slaughter.

**Sec. 60.** RCW 16.58.160 and 1991 c 109 s 15 are each amended to read as follows:

The ~~((director))~~ board may, when a certified feed lot's conditions become such that the integrity of reports or records of the cattle therein becomes doubtful, suspend such certified feed lot's license until such time as the ~~((director))~~ board can conduct an investigation to carry out the purpose of this chapter.

**Sec. 61.** RCW 16.65.010 and 1983 c 298 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) The term "public livestock market" means any place, establishment or facility commonly known as a "public livestock market", "livestock auction market", "livestock sales ring", yards selling on commission, or the like, conducted or operated for compensation or profit as a public livestock market, consisting of pens or other enclosures, and their appurtenances in which livestock is received, held, sold, kept for sale or shipment. The term does not include the operation of a person licensed under this chapter to operate a special open consignment horse sale.

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

(3) "Director" means the director of the department or his duly authorized representative.

(4) "Licensee" means any person licensed under the provisions of this chapter.

(5) "Livestock" includes horses, mules, burros, cattle, sheep, swine, and goats.

(6) "Livestock identification board" or "board" means the board created in RCW 16.57.015.

(7) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

~~((7))~~ (8) "Stockyard" means any place, establishment, or facility commonly known as a stockyard consisting of pens or other enclosures and their appurtenances in which livestock services such as feeding, watering, weighing, sorting, receiving and shipping are offered to the public: PROVIDED, That stockyard shall not include any facilities where livestock is offered for sale at public auction, feed lots, or quarantined registered feed lots.

~~((8))~~ (9) "Packer" means any person engaged in the business of slaughtering, manufacturing, preparing meat or meat products for sale, marketing meat, meat food products or livestock products.

~~((9))~~ (10) "Deputy state veterinarian" means a graduate veterinarian authorized to practice in the state of Washington and appointed or deputized by the director of agriculture as his or her duly authorized representative.

~~((10))~~ (11) "Special open consignment horse sale" means a sale conducted by a person other than the operator of a public livestock market which is limited to the consignment of horses and donkeys only for sale on an occasional and seasonal basis.

**Sec. 62.** RCW 16.65.050 and 1959 c 107 s 5 are each amended to read as follows:

All fees provided for under this chapter shall be ~~((retained))~~ deposited by the director in an account in the agricultural local fund for the purpose of enforcing this chapter, except that fees collected under RCW 16.65.090 and 16.65.100 shall be deposited in the livestock identification account created under section 4 of this act.

**Sec. 63.** RCW 16.65.090 and 1997 c 356 s 10 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall provide for ~~((brand))~~ livestock inspection. When such ~~((brand))~~ livestock inspection is required the licensee shall collect from the consignor and pay to the ~~((department, as provided by law,))~~ board a fee for ~~((brand))~~ livestock inspection ~~((for each animal consigned to the public livestock market or special open consignment horse sale. However, if in any one sale day the total fees collected for brand inspection do not exceed ninety dollars, then such licensee shall pay ninety dollars for such brand inspection or as much thereof as the director may prescribe))~~ as provided in RCW 16.57.220.

**Sec. 64.** RCW 16.65.100 and 1983 c 298 s 9 are each amended to read as follows:

The licensee of each public livestock market or special open consignment horse sale shall collect from any purchaser of livestock requesting ~~((brand))~~ livestock inspection a fee as provided by law for each animal inspected. Such fee shall be in addition to the fee charged to the consignor for ~~((brand))~~ livestock inspection and shall not apply to the minimum fee chargeable to the licensee.

**Sec. 65.** RCW 16.65.110 and 1959 c 107 s 11 are each amended to read as follows:

The director of agriculture shall cause a charge to be made for any examining, testing, treating, or inoculation required by this chapter and rules ~~((and regulations))~~ adopted hereunder. Such charge shall be paid by the licensee to the department of agriculture and such charge shall include the cost of the required drugs and a fee no larger than two dollars nor less than fifty cents for administration of such drugs to each animal and such fee shall be set at the discretion of the director. However, if the total fees payable to the department for such examining, testing, treating, or inoculation do not exceed the actual cost to the department for such examining, testing, treating, or inoculation, or ten dollars (whichever is greater), the director shall require the licensee to pay the actual cost of such examining, testing, treating, or inoculation, or ten dollars (whichever is greater), to the department.

**Sec. 66.** RCW 16.04.025 and 1989 c 286 s 21 are each amended to read as follows:

If the owner or the person having in charge or possession such animals is unknown to the person sustaining the damage, the person retaining such animals shall, within twenty-four hours, notify the county sheriff or the nearest state brand inspector as to the number, description, and location of the animals. The county sheriff or brand inspector shall examine the animals by brand, tattoo, or other identifying characteristics and attempt to ascertain ownership. If the animal is marked with a brand or tattoo which is registered with the ~~((director of agriculture))~~ livestock identification board, the brand inspector or county sheriff shall furnish this information and other pertinent information to the person holding the animals who in turn shall send the notice required in RCW 16.04.020 to the animals' registered owner ~~((of record))~~ by certified mail.

If the county sheriff or the brand inspector determines that there is no apparent damage to the property of the person retaining the animals, or if the person sustaining the damage contacts the county sheriff or brand inspector to have the animals removed from his or her property, such animals shall be removed in accordance with chapter 16.24 RCW. Such removal shall not prejudice the property owner's ability to recover damages through civil suit.

**Sec. 67.** RCW 41.06.070 and 1996 c 319 s 3, 1996 c 288 s 33, and 1996 c 186 s 109 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

- (i) All members of such boards, commissions, or committees;
  - (ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;
  - (iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;
  - (iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;
  - (i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;
  - (j) Assistant attorneys general;
  - (k) Commissioned and enlisted personnel in the military service of the state;
  - (l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;
  - (m) The public printer or to any employees of or positions in the state printing plant;
  - (n) Officers and employees of the Washington state fruit commission;
  - (o) Officers and employees of the Washington state apple advertising commission;
  - (p) Officers and employees of the Washington state dairy products commission;
  - (q) Officers and employees of the Washington tree fruit research commission;
  - (r) Officers and employees of the Washington state beef commission;
  - (s) Officers and employees of any commission formed under chapter 15.66 RCW;
  - (t) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;
  - (u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;
  - (v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;
  - (w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;
  - (x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;
  - (y) All employees of the marine employees' commission;
  - (z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997;
  - (aa) Staff employed by the department of community, trade, and economic development to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045(2)(m);
  - (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);
  - (cc) Officers and employees of the livestock identification board created under RCW 16.57.015.
- (2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:
- (a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;
  - (b) Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;
  - (c) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;
  - (d) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the Washington personnel resources board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the Washington personnel resources board stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The Washington personnel resources board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (1)(w) and (x) and (2) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v), (y), (z), and (2) of this section, shall be determined by the Washington personnel resources board. However, beginning with changes proposed for the 1997-99 fiscal biennium, changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**NEW SECTION. Sec. 68.** (1) On the effective date of this section, all powers, duties, and functions of the department of agriculture under chapters 16.57, 16.58, and 16.65 RCW except those identified as remaining with the department in RCW 16.65.110, 16.65.350, and 16.65.360 are transferred to the livestock identification board. The authority to adopt rules regarding those powers, duties, and functions is transferred to the livestock identification board and the administration of those powers, duties, and functions is transferred to the board.

(2)(a) All funds, credits, or other assets, including but not limited to those in the agricultural local fund, held by the department of agriculture in connection with the powers, functions, and duties transferred shall be assigned to the board.

(b) Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules of the department of agriculture adopted under chapter 16.57 RCW in effect on the effective date of this section, all rules adopted by the department under chapter 16.58 RCW in effect on the effective date of this section, and all rules adopted by the department under chapter 16.65 RCW, except for those adopted under the authorities retained by the department under RCW 16.65.110, 16.65.350, and 16.65.360, in effect on the effective date of this section are, on the effective date of this section, rules of the livestock identification board. All proposed rules and all pending business before the department of agriculture pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the board. All existing contracts and obligations shall remain in full force and shall be performed by the board. All registrations made with the department under chapter 16.57 RCW, all licenses issued by the department under chapter 16.58 RCW, and all licenses issued by the department under chapter 16.65 RCW before the effective date of this section shall be considered to be registrations with and licenses issued by the board.

(4) The transfer of the powers, duties, and functions of the department of agriculture shall not affect the validity of any act performed before the effective date of this section. The board shall take action to enforce against violations of chapters 16.57, 16.58, and 16.65 RCW and rules adopted thereunder regarding authorities transferred to the board by this act which occurred before the effective date of this section and for which enforcement is not taken by the department before the effective date of this section with the same force and effect as it may take actions to enforce chapters 16.57 and 16.58 RCW and rules adopted thereunder after the effective date of this section. Any enforcement action taken by the department of agriculture under chapter 16.57, 16.58, or 16.65 RCW regarding authorities transferred to the board by this act, or the rules adopted thereunder and not concluded before the effective date of this section, shall be continued in the name of the board.

(5) As used in this section "livestock identification board" and "board" means the board created under RCW 16.57.015.

**NEW SECTION. Sec. 69.** A new section is added to chapter 16.49 RCW to read as follows:

There shall be a fee of one dollar per head imposed on all cattle or horses slaughtered by a custom slaughtering establishment, custom farm slaughterer, or custom meat facility licensed under this chapter. The fee shall be collected by the slaughterer and provided to the livestock identification board for deposit into the livestock identification account created under section 4 of this act.

**NEW SECTION. Sec. 70.** A new section is added to chapter 16.65 RCW to read as follows:

There shall be a fee of one dollar per head collected by the licensee from the seller of any cattle or horses sold to a nonresident buyer or a buyer taking such livestock out of state for slaughter within thirty days. The fee shall be provided to the livestock identification board for deposit into the livestock identification account created under section 4 of this act.

**NEW SECTION. Sec. 71.** A new section is added to chapter 16.49 RCW to read as follows:

There shall be a fee of one dollar per head imposed on all cattle or horses slaughtered at a slaughter plant where the United States department of agriculture maintains meat inspection. The fee shall be remitted by the slaughterer to the livestock identification board for deposit into the livestock identification account created under section 4 of this act.

**NEW SECTION. Sec. 72.** The following acts or parts of acts are each repealed:

- (1) 1997 c 356 s 3;
- (2) 1997 c 356 s 5;
- (3) 1997 c 356 s 9;
- (4) 1997 c 356 s 11; and
- (5) RCW 16.58.130 and 1997 c 356 s 7, 1997 c 356 s 6, 1994 c 46 s 24, 1994 c 46 s 15, 1993 c 354 s 4, 1991 c 109 s 14, 1979 c 81 s 4, & 1971 ex.s. c 181 s 13.

**NEW SECTION. Sec. 73.** This act takes effect July 1, 1998, except that appointments may be made by the governor and proposed contracts may be developed under RCW 16.57.015 prior to July 1, 1998, to provide for an orderly transition of authority under this act."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Morton to Substitute Senate Bill No. 6204.

The motion by Senator Morton carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Morton, the following title amendment was adopted:

On page 1, line 1 of the title, after "identification;" strike the remainder of the title and insert "amending RCW 16.57.010, 16.57.015, 16.57.020, 16.57.030, 16.57.040, 16.57.070, 16.57.080, 16.57.090, 16.57.100, 16.57.105, 16.57.110, 16.57.120, 16.57.130, 16.57.140, 16.57.150, 16.57.160, 16.57.165, 16.57.170, 16.57.180, 16.57.200, 16.57.210, 16.57.220, 16.57.230, 16.57.240, 16.57.260, 16.57.270, 16.57.275, 16.57.280, 16.57.290, 16.57.300, 16.57.310, 16.57.320, 16.57.330, 16.57.340, 16.57.350, 16.57.360, 16.57.370, 16.57.380, 16.57.400, 16.57.407, 16.57.410, 16.57.420, 16.58.020, 16.58.030, 16.58.040, 16.58.050, 16.58.060, 16.58.070, 16.58.080, 16.58.095, 16.58.100, 16.58.110, 16.58.120, 16.58.140, 16.58.150, 16.58.160, 16.65.010, 16.65.050, 16.65.090, 16.65.100, 16.65.110, and 16.04.025; reenacting and amending RCW 41.06.070; adding new sections to chapter 16.57 RCW; adding new sections to chapter 16.49 RCW; adding a new section to chapter 16.65 RCW; creating new sections; repealing RCW 16.58.130; repealing 1997 c 356 s 3; repealing 1997 c 356 s 5; repealing 1997 c 356 s 9; repealing 1997 c 356 s 11; prescribing penalties; and providing an effective date."

On motion of Senator Morton, the rules were suspended, Engrossed Substitute Senate Bill No. 6204 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6204.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6204 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 42. Voting nay: Senators Fairley, Fraser, Kohl, Spanel, Thibaudeau and Wojahn - 6. Excused: Senator Finkbeiner - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6204, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING



SENATE BILL NO. 6354, by Senators Deccio, Wojahn, Benton, Thibaudeau, Wood, Franklin, Sellar, West, Hale, Anderson, Kohl, Winsley, Haugen, Patterson and Goings

Requiring that moneys received through settlements with the tobacco industry be deposited into the health services account.

#### MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6354 was substituted for Senate Bill No. 6354 and the substitute bill was placed on second reading and read the second time.

Senator West moved that the following amendment by Senators West, Deccio and McDonald be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.79 RCW to read as follows:

(1) The legislature recognizes that the sale of tobacco products in the state has resulted in significant damage to the public health of the state. In any legal action, or settlement thereof, by the state of Washington against tobacco companies for damages for injuries to the public health for violation of state and federal consumer protection and antitrust laws and to recover moneys for tobacco-related health care costs, and to the maximum extent permitted by court order, negotiated settlement, or federal law, the proceeds received by the state, exclusive of costs and fees, shall be subject to legislative appropriation and shall be deposited in:

(a) The education enhancement account, which is created in the state treasury. Moneys in the account may be spent only after appropriation and may be used exclusively for enhancing and improving the common school system of the state. Moneys in the account shall not be used to (i) replace or supplant existing state funding, (ii) meet the state's constitutional obligation to provide for basic education programs under chapter 28A.150 RCW, or (iii) increase the compensation and benefits of personnel in the common schools; and

(b) The health services account established by RCW 43.72.900. Moneys deposited in the health services account under this section may be used exclusively for funding the enrollment of eligible persons in the basic health plan under chapter 70.47 RCW, including funding a smoking cessation benefit in the basic health plan.

(2) The proceeds identified in subsection (1) of this section shall be divided equally between the two accounts specified in subsection (1) of this section except (a) as otherwise required by federal law, or (b) as the court determines essential to provide appropriate damages and other relief to the parties to the litigation.

(3) In any legal action, or settlement thereof, by the state of Washington to recover damages for health care costs and for other tobacco-related injuries to the public health, including antitrust and consumer protection violations, the attorney general shall seek a legal resolution of the action that is consistent with and maximizes the effect of this section.

NEW SECTION. Sec. 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

#### MOTION

Senator Tim Sheldon moved that the following amendment by Senators Tim Sheldon, West and Deccio to the striking amendment by Senators West, Deccio and McDonald be adopted:

On page 1, line 22 of the amendment, after "state" insert ", including alcohol, tobacco, and drug abuse awareness and prevention programs targeted at youths"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Tim Sheldon, West and Deccio on page 1, line 22, to the striking amendment by Senators West, Deccio and McDonald to Substitute Senate Bill No. 6354.

The motion by Senator Tim Sheldon carried and the amendment to the striking amendment was adopted.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators West, Deccio and McDonald, as amended, to Substitute Senate Bill No. 6354.

Debate ensued.

The motion by Senator West carried and the striking amendment, as amended, was adopted.

#### MOTION

On motion of Senator West, the rules were suspended, Engrossed Substitute Senate Bill No. 6354 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6354.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6354 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 25. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Prince, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 24. ENGROSSED SUBSTITUTE SENATE BILL NO. 6354, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6717, by Senators West, Prince and Hale

Providing for the transfer of the Spokane Riverpoint campus to Washington State University and eliminating the joint center for higher education.

#### MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6717 was substituted for Senate Bill No. 6717 and the substitute bill was placed on second reading and read the second time.

Senator West moved that the following amendment by Senators West and Prince be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The higher education coordinating board shall manage an assessment that determines the current higher education resources of the greater Spokane area and the current and future capital and programmatic higher education needs of the Spokane area, including the balance among anticipated, unmet, and fully met higher education needs. This assessment shall be coordinated with an economic analysis of the greater Spokane area.

(2) The higher education coordinating board, in coordination with the office of financial management, the employment security department, and the department of community, trade, and economic development, shall oversee the administration of an economic assessment of the greater Spokane area. This assessment shall reference previous economic studies of the greater Spokane area and include:

(a) Input from Spokane area civic leaders as well as the higher education and business communities;

(b) An evaluation of the current economic situation in the greater Spokane area and potential sectors and subsectors for significant job expansion;

(c) An analysis of the possible transformation of the economic base toward high technology and opportunities for industries producing higher wages; and

(d) An evaluation of the basic and applied research resources and needs of the present and future economy of the area.

(3) The assessments in subsections (1) and (2) of this section shall be completed by July 1, 1998, and a final report submitted to the higher education and fiscal committees of the legislature by October 1, 1998.

(4) By December 1, 1998, based on the findings of the assessments in subsections (1) and (2) of this section, the higher education coordinating board shall evaluate and develop a plan for the disposition of the Eastern Washington University Spokane Center Building.

(5)(a) By December 1, 1998, based on the findings of the assessments in subsections (1) and (2) of this section, Washington State University shall develop and deliver to the higher education coordinating board for approval a plan for the management of the Riverpoint Higher Education Park, excluding the land and the Spokane Intercollegiate Research and Technology Institute, that includes:

(i) Capital facilities maintenance and development;

(ii) Coordination of upper-division course offerings; and

(iii) The coordination of graduate programs in Spokane.

(b) In developing the plan in this subsection (5), Washington State University should:

(i) Assume that Eastern Washington University students enrolled in Eastern Washington University courses will pay Eastern Washington University tuition rates; and

(ii) Emphasize and implement a maximum level of collaboration and partnerships by Eastern Washington University and Washington State University at the Riverpoint Higher Education Park.

(c) Washington State University shall submit a preliminary plan to the higher education coordinating board by September 1, 1998, and a final plan to the higher education coordinating board and the office of financial management by December 31, 1998. The plan shall incorporate, but not be limited to:

(i) Relocation of all Spokane-based upper-division and graduate course offerings and academic programs offered by public universities in the city of Spokane to the Riverpoint Higher Education Park, using existing and planned structures at the Riverpoint Higher Education Park; and

(ii) A plan to establish an intercollegiate center for applied health sciences and a health sciences consortium that would replace and be modeled on the intercollegiate center for nursing education. The intercollegiate center for applied health sciences and the health sciences consortium shall include, but not be limited to, programs offered through the intercollegiate center for nursing education and public and private institutions. Programs offered at Eastern Washington University in physical therapy, communication disorders, nursing, and dental hygiene shall continue to be offered by Eastern Washington University.

(6) Eastern Washington University, in consultation with the higher education coordinating board, shall write a new mission statement and operations plan for Eastern Washington University as a comprehensive, Cheney-based public baccalaureate institution. The draft mission statement and plan shall be submitted to the higher education coordinating board by September 1, 1998, and a final mission statement and plan shall be submitted to the higher education coordinating board for approval by December 31, 1998. The academic mission and plan shall include, but not be limited to the following elements:

(a) Identify those academic centers of excellence on which Eastern Washington University should focus, build, and expand in order to enhance its enrollment and reaffirm its reputation for academic excellence;

(b) Reflect that programs in physical therapy, communications disorders, nursing, and dental hygiene continue to be offered through Eastern Washington University in Spokane;

(c) Include a requirement that Eastern Washington University identify and report to the higher education coordinating board program offerings in Spokane that should be returned to the Cheney campus, discontinued, or continued to be offered in Spokane because of documented demand, unique partnerships, demonstrated efficiency, and other considerations. The draft of the report shall be submitted to the higher education coordinating board by September 1, 1998, and the final report shall be submitted to the higher education coordinating board by December 31, 1998;

(d) Ensure that every effort is made to protect the academic interests of and minimize adverse impacts on Eastern Washington University students;

(e) Describe and target Eastern Washington University's primary student audience;

(f) Ensure that Eastern Washington University's admission standards complement the primary student audience;

(g) Describe circumstances under which it is appropriate for Eastern Washington University programs to serve nonprimary students;

(h) Establish projected enrollment levels for Eastern Washington University that reflect the needs of a comprehensive university and that account for the demographic qualities and growth patterns associated with the areas from which Eastern Washington University draws its students;

(i) Describe how Eastern Washington University's enrollment levels will be consistent with state enrollment levels;

(j) Develop financial projections for serving these reconfigured enrollment levels; and

(k) Analyze and review all capital and capacity information regarding the Eastern Washington University Cheney campus, with particular attention to the current state of the existing physical plant and to the realistic enrollment capacity of the campus.

**NEW SECTION. Sec. 2.** On July 1, 1998, title to or all interest in real estate and other assets, including but not limited to assignable contracts, cash equipment, buildings, facilities, and appurtenances related to Riverpoint park, except for the area of real property defined as the approximate two and one-half acres bounded by the Spokane river, Trent Avenue, and Riverpoint Boulevard that is reserved for the Spokane intercollegiate research and technology institute and its expansion shall be transferred from the joint center for higher education to Washington State University.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.35 RCW to read as follows:

Housing or a housing allowance may only be provided for the president of a public four-year institution of higher education who resides in the location where the institution is designated under RCW 28B.20.010, 28B.30.010, 28B.35.010, and 28B.40.010.

**Sec. 4.** RCW 28B.10.029 and 1996 c 110 s 5 are each amended to read as follows:

(1) An institution of higher education may exercise independently those powers otherwise granted to the director of general administration in chapter 43.19 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education. Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of general administration. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937, 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.550 through 43.19.637. The community and technical colleges shall comply with RCW 43.19.450. Except for the University of Washington, institutions of higher education shall comply with RCW 43.19.1935, 43.19.19363, and 43.19.19368. If an institution of higher education can satisfactorily demonstrate to the

director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685; 43.19.534; and 43.19.637. Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of general administration. Thereafter the director of general administration shall not be required to provide those services for that institution for the duration of the general administration contract term for that commodity or group of commodities.

(2) An institution of higher education may exercise independently those powers otherwise granted to the public printer in chapter 43.78 RCW in connection with the production or purchase of any printing and binding needed by the respective institution of higher education. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapter 39.19 RCW. Any institution of higher education that chooses to exercise independent printing production or purchasing authority shall notify the public printer. Thereafter the public printer shall not be required to provide those services for that institution.

~~((3) For the purposes of this section, an "institution of higher education" shall include the joint center for higher education created in chapter 28B.25 RCW when the joint center for higher education is contracting with another institution of higher education that is acting as the sole agent for purchasing and disposing of material, supplies, services, and equipment, and for procuring printing or binding services.))~~

**Sec. 5.** RCW 28B.45.050 and 1991 c 205 s 11 are each amended to read as follows:

Washington State University ~~((and Eastern Washington University are))~~ is responsible for providing upper-division and graduate level higher education programs to the citizens of ~~((the))~~ Spokane ~~((area)), under rules or guidelines adopted by the ((joint center for higher education. However, before any degree is authorized under this section it shall be subject to the review and approval of the))~~ higher education coordinating board. Washington State University shall meet ~~((its))~~ that responsibility through the operation of a branch campus in ~~((the))~~ Spokane ~~((area. Eastern Washington University shall meet its responsibility through the operation of programs and facilities in Spokane)).~~

**Sec. 6.** RCW 28B.130.020 and 1997 c 273 s 2 are each amended to read as follows:

(1) The governing board of an institution of higher education as defined in RCW 28B.10.016 may impose either a voluntary or a mandatory transportation fee on employees and on students at the institution. The board of ~~((the joint center for higher education under chapter 28B.25 RCW))~~ regents of Washington State University may impose either a voluntary or a mandatory transportation fee on faculty and staff working at the Riverpoint higher education park and on students attending classes there. The transportation fee shall be used solely to fund transportation demand management programs that reduce the demand for campus and neighborhood parking, and promote alternatives to single-occupant vehicle driving. If the board charges a mandatory transportation fee to students, it shall charge a mandatory transportation fee to employees. The transportation fee for employees may exceed, but shall not be lower than the transportation fee charged to students. The transportation fee for employees may be deducted from the employees' paychecks. The transportation fee for students may be imposed annually, or each academic term. For students attending community colleges and technical colleges, the mandatory transportation fee shall not exceed sixty percent of the maximum rate permitted for services and activities fees at community colleges, unless, through a vote, a majority of students consent to increase the transportation fee. For students attending four-year institutions of higher education or classes at the Riverpoint higher education park, the mandatory transportation fee shall not exceed thirty-five percent of the maximum rate permitted for services and activities fees at the institution where the student is enrolled unless, through a vote, a majority of students consents to increase the transportation fee. The board may make a limited number of exceptions to the fee based on a policy adopted by the board.

(2) The board of ~~((the joint center for higher education under chapter 28B.25 RCW))~~ regents of Washington State University shall not impose a transportation fee on any student who is already paying a transportation fee to the institution of higher education in which the student is enrolled.

**Sec. 7.** RCW 43.01.236 and 1997 c 273 s 3 are each amended to read as follows:

All institutions of higher education as defined under RCW 28B.10.016 ~~((and the joint center for higher education under chapter 28B.25 RCW))~~ are exempt from the requirements under RCW 43.01.240.

**NEW SECTION. Sec. 8.** The following acts or parts of acts are each repealed:

- (1) RCW 28B.25.010 and 1991 c 205 s 2 & 1985 c 370 s 97;
- (2) RCW 28B.25.020 and 1996 c 110 s 1, 1991 c 205 s 3, 1989 1st ex.s. c 7 s 11, & 1985 c 370 s 98;
- (3) RCW 28B.25.030 and 1996 c 110 s 2, 1991 c 205 s 4, & 1985 c 370 s 99;
- (4) RCW 28B.25.033 and 1996 c 110 s 6 & 1991 c 205 s 5;
- (5) RCW 28B.15.037 and 1991 c 205 s 6;
- (6) RCW 28B.25.040 and 1991 c 205 s 7 & 1985 c 370 s 100;
- (7) RCW 28B.25.050 and 1991 c 205 s 8 & 1985 c 370 s 101;
- (8) RCW 28B.25.070 and 1991 c 205 s 9;
- (9) RCW 28B.25.075 and 1997 c 273 s 1;
- (10) RCW 28B.25.090 and 1996 c 110 s 3;

(11) RCW 28B.25.100 and 1996 c 110 s 4; and

(12) RCW 28B.25.900 and 1991 c 205 s 13.

NEW SECTION. Sec. 9. Section 5 of this act takes effect January 1, 1999.

NEW SECTION. Sec. 10. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### MOTION

Senator Brown moved that the following amendments to the striking amendment by Senators West and Prince be considered simultaneously and be adopted:

On page 2 of the amendment, line 25, strike "(i)"

On page 2 of the amendment, line 29, after "Park" strike all the material down to and including "University." on page 2, line 39

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Brown on page 2, lines 25 and 29, to the striking amendment by Senators West and Prince to Substitute Senate Bill No. 6717.

The motion by Senator Brown failed and the amendments to the striking amendment were not adopted.

#### MOTION

Senator Jacobsen moved that the following amendment to the striking amendment by Senators West and Prince be adopted:

On page 4 of the amendment, after line 17, strike all the material down to and including "28B.40.010." on line 23

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

#### POINT OF INQUIRY

Senator Spanel: "Senator West, this particular section pertains to all universities. Is that correct?"

Senator West: "Yes, Senator Spanel, it does."

Further debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Jacobsen on page 4, after line 17, to the striking amendment by Senators West and Prince to Substitute Senate Bill No. 6717.

The motion by Senator Jacobsen failed and the amendment to the striking amendment was not adopted.

#### MOTION

Senator Brown moved that the following amendment to the striking amendment by Senators West and Prince be adopted:

On page 4, after line 23 of the amendment, strike all the material down to and including "1999." on page 7, line 30

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Brown on page 4, after line 23, to the striking amendment by Senators West and Prince to Substitute Senate Bill No. 6717.

The motion by Senator Brown failed and the amendment to the striking amendment was not adopted.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators West and Prince to Substitute Senate Bill No. 6717.

The motion by Senator West carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, line 1 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28B.10.029, 28B.45.050, 28B.130.020, and 43.01.236; adding a new section to chapter 28B.35 RCW; creating new sections; repealing RCW 28B.25.010, 28B.25.020,

28B.25.030, 28B.25.033, 28B.15.037, 28B.25.040, 28B.25.050, 28B.25.070, 28B.25.075, 28B.25.090, 28B.25.100, and 28B.25.900; providing an effective date; and declaring an emergency."

On motion of Senator West, the rules were suspended, Engrossed Substitute Senate Bill No. 6717 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6717.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6717 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 28. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 21. ENGROSSED SUBSTITUTE SENATE BILL NO. 6717, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6474, by Senators Jacobsen, Rasmussen, Kline, T. Sheldon, Patterson and Fairley (by request of Governor Locke)

Adopting the fertilizer regulation act.

#### MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 6474 was substituted for Senate Bill No. 6474 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 6474 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6474.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6474 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 11; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 38. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Kline, Kohl, McAuliffe, Patterson, Spanel, Thibaudeau and Wojahn - 11. SUBSTITUTE SENATE BILL NO. 6474, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6316, by Senators Zarelli and Kline

Revising procedures for discovery in actions or proceedings for damages against the state.

#### MOTIONS

On motion of Senator Zarelli, Substitute Senate Bill No. 6316 was substituted for Senate Bill No. 6316 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Zarelli, the rules were suspended, Substitute Senate Bill No. 6316 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6316.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6316 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 36. Voting nay: Senators Fairley, Franklin, Fraser, Goings, Haugen, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Spanel and Thibaudeau - 13. SUBSTITUTE SENATE BILL NO. 6316, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Franklin, Senator Prentice was excused.

#### SECOND READING

SENATE BILL NO. 6358, by Senators Rossi, Finkbeiner, Brown and Jacobsen (by request of Utilities and Transportation Commission)

Providing the utilities and transportation commission authority to regulate certain pipeline facilities.

#### MOTIONS

On motion of Senator Rossi, Substitute Senate Bill No. 6358 was substituted for Senate Bill No. 6358 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Rossi, the rules were suspended, Substitute Senate Bill No. 6358 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6358.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6358 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Prentice - 1. SUBSTITUTE SENATE BILL NO. 6358, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6588, by Senators Winsley, Snyder, Kohl, B. Sheldon and Oke

Exempting movie theater snack counters from the stadium tax imposed on restaurants.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Senate Bill No. 6588 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6588.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6588 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 47. Voting nay: Senator Thibaudeau - 1. Excused: Senator Prentice - 1. SENATE BILL NO. 6588, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6648, by Senators Schow, Newhouse, Horn and Heavey

Permitting licensing retail alcoholic beverages in which no manufacturers, importers, or wholesaler have an interest.

#### MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6648 was substituted for Senate Bill No. 6648 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the following amendment by Senators Schow and Heavey was adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 66.28.010 and 1997 c 321 s 46 are each amended to read as follows:

(1)(a) No manufacturer, importer, or distributor, or person financially interested, directly or indirectly, in such business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, unless the retail business is owned by a corporation in which a manufacturer or importer has no direct stock ownership and there are no interlocking officers and directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation or the retail licensee; nor shall any manufacturer, importer, or distributor own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, or distributor has any interest unless title to that property is owned by a corporation in which a manufacturer has no direct stock ownership and there are no interlocking officers or directors, the retail license is held by ~~((an independent concessionaire which))~~ a corporation that is not owned directly or indirectly by the manufacturer ~~((or property owner))~~, the sales of liquor are incidental to the primary activity of operating the property either as a hotel or as an amphitheater offering live musical and similar live entertainment activities to the public, alcoholic beverages produced by the manufacturer or any of its subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation of the retail licensee. Except as provided in subsection (3) of this section, no manufacturer, importer, or distributor shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth. "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, or distributor as long as the bank, savings and loan association, or institutional investor does not influence or attempt to



influence the purchasing practices of the retailer with respect to alcoholic beverages. No manufacturer, importer, or distributor shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, or distributor sell at retail any liquor as herein defined. A corporation granted an exemption under this subsection may use debt instruments issued in connection with financing construction or operations of its facilities.

(b) Nothing in this section shall prohibit a licensed domestic brewery or microbrewery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine distributor.

(c) Nothing in this section shall prohibit a licensed domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, from being licensed as a full service restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a full service restaurant premises on the property on which the primary manufacturing facility of the licensed domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned by the licensed domestic brewer, microbrewery, or domestic winery as prescribed by rules adopted by the board pursuant to chapter 34.05 RCW.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, distributors, and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or distributor from providing services to a special occasion licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a special occasion licensee from receiving any such services as may be provided by a manufacturer, importer, or distributor. Nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor distributor's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the distributor, (ii) is not employed by the distributor, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the distributor.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under RCW 66.24.580 does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

NEW SECTION. Sec. 2. This act takes effect July 1, 1998."

## MOTIONS

On motion of Senator Schow, the following title amendment was adopted:

On page 1, line 3 of the title, after "interest;" strike the remainder of the title and insert "amending RCW 66.28.010; and providing an effective date."

On motion of Senator Schow, the rules were suspended, Engrossed Substitute Senate Bill No. 6648 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6648.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6648 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton,

Newhouse, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senators Brown, Hargrove and Oke - 3. Excused: Senator Prentice - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6648, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5309, by Senators Morton and Anderson

Providing excise tax exemptions related to horses.

#### MOTIONS

On motion of Senator Rasmussen, Substitute Senate Bill No. 5309 was substituted for Senate Bill No. 5309 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Rasmussen, the rules were suspended, Substitute Senate Bill No. 5309 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5309.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5309 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Voting nay: Senator Fraser - 1. Excused: Senator Prentice - 1. SUBSTITUTE SENATE BILL NO. 5309, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6305, by Senators Roach, Long, Rossi, Fraser, Oke and Rasmussen (by request of Joint Committee on Pension Policy)

Providing a death benefit for certain general authority police officers.

The bill was read the second time.

#### MOTION

Senator Strannigan moved that the following amendment by Senators Strannigan, Roach and Fairley be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 41.40 RCW under the subchapter heading "Plan I" to read as follows:

(1) A one hundred fifty thousand dollar death benefit for general authority police officers shall be paid to the member's estate, or such person or persons, trust, or organization as the member has nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) Subject to subsection (3) of this section, the benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment as a general authority police officer. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(3) The benefit under this section shall not be paid in the event the member was in the act of committing a felony when the fatal injuries were suffered.

**NEW SECTION. Sec. 2.** The purpose of sections 2 through 5 of this act is to clarify that the intent of the legislature in enacting RCW 41.20.060, insofar as that section provides benefits to members for disabilities incurred in the line of duty, was to provide a statute in the nature of a workers' compensation act that provides compensation to employees for personal injuries incurred in the course of employment. Accordingly this act amends and divides RCW 41.20.060 into two separate sections. Section 3 of this act clarifies and emphasizes the legislature's intent that the disability benefits granted by RCW 41.20.060, as amended, are granted only to those members who become disabled by any injury or incapacity that is incurred in the line of duty. Section 4 of this act continues to provide disability retirement benefits to members who become disabled by an injury or incapacity not incurred in the line of duty.

**Sec. 3.** RCW 41.20.060 and 1973 1st ex.s. c 181 s 4 are each amended to read as follows:

Whenever any person, while serving as a policeman in any such city becomes physically disabled by reason of any bodily injury received in the immediate or direct performance or discharge of his duties as a policeman, or becomes incapacitated for service on account of any duty connected disability, such incapacity not having been caused or brought on by dissipation or abuse, of which the board shall be judge, the board may, upon his written request filed with the secretary, or without such written request, if it deems it to be for the benefit of the public, retire such person from the department, and order and direct that he be paid from the fund during his lifetime, a pension equal to fifty percent of the amount of salary at any time hereafter attached to the position which he held in the department at the date of his retirement, but not to exceed an amount equivalent to fifty percent of the salary of captain except as to a position higher than that of captain held for at least three calendar years prior to the date of retirement in which case as to such position the provisions of RCW 41.20.050 shall apply, and all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973: PROVIDED, That where, at the time of retirement hereafter for duty connected disability under this section, such person has served honorably for a period of more than twenty-five years as a member, in any capacity, of the regularly constituted police department of a city subject to the provisions of this chapter, the foregoing percentage factors to be applied in computing the pension payable under this section shall be increased by two percent of his salary per year for each full year of such additional service to a maximum of five additional years.

Whenever such disability ceases, the pension shall cease, and such person shall be restored to active service at the same rank he held at the time of his retirement, and at the current salary attached to said rank at the time of his return to active service.

Disability benefits provided for by this chapter shall not be paid when the policeman is disabled while he is engaged for compensation in outside work not of a police or special police nature.

**NEW SECTION. Sec. 4.** A new section is added to chapter 41.20 RCW to read as follows:

Whenever any person, while serving as a policeman in any such city becomes physically disabled by reason of any bodily injury not incurred in the line of duty, or becomes incapacitated for service, such incapacity not having been caused or brought on by dissipation or abuse, of which the board shall be judge, the board may, upon his written request filed with the secretary, or without such written request, if it deems it to be for the benefit of the public, retire such person from the department, and order and direct that he be paid from the fund during his lifetime, a pension equal to fifty percent of the amount of salary at any time hereafter attached to the position which he held in the department at the date of his retirement, but not to exceed an amount equivalent to fifty percent of the salary of captain, except as to a position higher than that of captain held for at least three calendar years prior to the date of retirement, in which case as to such position the provisions of RCW 41.20.050 shall apply, and all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973: PROVIDED, That where, at the time of retirement hereafter for disability under this section, such person has served honorably for a period of more than twenty-five years as a member, in any capacity, of the regularly constituted police department of a city subject to the provisions of this chapter, the foregoing percentage factors to be applied in computing the pension payable under this section shall be increased by two percent of his salary per year for each full year of such additional service, to a maximum of five additional years.

Whenever such disability ceases, the pension shall cease, and such person shall be restored to active service at the same rank he held at the time of his retirement, and at the current salary attached to said rank at the time of his return to active service.

Disability benefits provided for by this chapter shall not be paid when the policeman is disabled while he is engaged for compensation in outside work not of a police or special police nature.

**NEW SECTION. Sec. 5.** The provisions of section 3 of this act apply retrospectively to all line of duty disability retirement allowances heretofore granted under chapter 41.20 RCW.

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

## MOTION

On motion of Senator Spanel, the following amendment by Senators Spanel and Long to the striking amendment by Senators Strannigan, Roach and Fairley was adopted:

On page 1, line 9, after "for" insert "members who had the opportunity to transfer to the law enforcement officers' and firefighters' retirement system pursuant to chapter 502, laws of 1993, but elected to remain in the public employees' retirement system."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Strannigan, Roach and Fairley, as amended, to Senate Bill No. 6305.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Newhouse was excused.

#### POINT OF INQUIRY

Senator Loveland: "Senator Strannigan, I am familiar with the original part of it, but the amendment that is on here, could you explain what the amendment does?"

Senator Strannigan: "Well, I tried to in my remarks."

Senator Loveland: "Well, I listened, but I didn't get it."

Senator Strannigan: "If that was not satisfactory, why don't I yield to my colleague, Senator Winsley?"

#### REMARKS BY SENATOR WINSLEY

Senator Winsley: "The amendment--the purpose of this--is to help a retired police officer who was severely injured in 1957, before the LEOFF system. For the last forty years, when he has filed his income tax, he has filed a 1099R which is disability for tax purposes. This last year, he got audited, and something that the city of Tacoma was doing, they ruled that RCW 41.20 did not allow, in his instance, duty disability, because it was prior to the LEOFF system. Although, for forty years, the city of Tacoma has been stamping it as a disability.

"So, this is the purpose of this amendment to clarify for IRS purposes that it is a duty related disability. This does not cost the state anything; he has been receiving this check for forty years--since 1957. Basically, it is a clarity and we had to go through all these sections to gain this purpose. It was the same amendment, Senator, that you might remember that I tried to hang on in Ways and Means and we had some problems."

Senator Loveland: "Thank you, Senator Winsley. This would be to just solve one problem. Thank you, very much."

Further debate ensued.

The motion by Senator Strannigan carried and the striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "death and disability benefits for certain general authority police officers; amending RCW 41.20.060; adding a new section to chapter 41.40 RCW; adding a new section to chapter 41.20 RCW; creating new sections; and declaring an emergency."

On motion of Senator Roach, the rules were suspended, Engrossed Senate Bill No. 6305 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6305.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6305 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Goings and Stevens - 2. ENGROSSED SENATE BILL NO. 6305, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PARLIAMENTARY INQUIRY

Senator Johnson: "Mr. President, I rise to a point of parliamentary inquiry. Based upon precedent, would it be the President's opinion that if the Senate has made a measure a special order of business shortly before 5:00 p.m. today and is considering another measure at the time of the special order of business, that the Senate, after having dealt with the special order, might return to that one previous measure notwithstanding the 5:00 p.m. cutoff?"

#### REPLY BY THE PRESIDENT

President Owen: "The President believes that based on precedent between both Pritchard and Cherberg that we would be able to return to a special order of business. However, the President does also believe that since this question comes up fifteen years out of twenty that it possibly should be placed in the rules from this point forward, so that I don't have to answer it in the future."

Senator Johnson: "Good advice, Mr. President."

#### SPECIAL ORDER OF BUSINESS

On motion of Senator Johnson, Senate Bill No. 6509 will be made a special order of business at 4:55 p.m. today.

#### SECOND READING

SENATE BILL NO. 6235, by Senators Jacobsen and Kohl

Creating the community athletic facilities council.

#### MOTIONS

On motion of Senator McCaslin, Second Substitute Senate Bill No. 6235 was substituted for Senate Bill No. 6235 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator McDonald, the following amendment by Senators McDonald, McCaslin and Jacobsen was adopted:

On page 2, beginning on line 4, strike all of NEW SECTION, Sec 2. and insert the following:

"NEW SECTION. Sec. 2 (1) A community outdoor athletic fields advisory committee is established within the interagency committee for outdoor recreation. The committee consists of five members from the public at large, appointed by the governor. The governor must use his or her best efforts to achieve a balance among the appointed members of the public at large based upon factors of geographic, racial, ethnic, and gender diversity, and with a sense and awareness of community outdoor athletic field needs.

(2) The terms of the members shall commence on the date of appointment and shall be for three years, or until a successor is appointed except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term. However, the first members shall be appointed for terms as follows: Two members for one year and three members for two years. The governor shall appoint one of the members to serve as chair of the council for the duration of the member's term.

(3) Members shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement individually for travel expenses incurred in performance of their duties as members of the council in accordance with RCW 43.03.050 and 43.03.060."

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6235 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6235.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6235 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin,

McDonald, Morton, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Newhouse and Prentice - 2. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6235, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6330, by Senators Oke, Jacobsen, Swecker, Spanel, Loveland and Rasmussen

Modifying provisions concerning recreational fish and wildlife licenses.

#### MOTIONS

On motion of Senator Oke, Second Substitute Senate Bill No. 6330 was substituted for Senate Bill No. 6330 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Oke, the rules were suspended, Second Substitute Senate Bill No. 6330 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Goings, Senator Fairley was excused.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6330.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6330 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 44. Voting nay: Senators Bauer, Snyder and Wojahn - 3. Excused: Senators Fairley and Newhouse - 2. SECOND SUBSTITUTE SENATE BILL NO. 6330, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6421, by Senators Schow, Heavey and Winsley (by request of Employment Security Department)

Revising unemployment compensation for persons with public employment contracts.

#### MOTIONS

On motion of Senator Schow, Substitute Senate Bill No. 6421 was substituted for Senate Bill No. 6421 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the following amendment by Senators Schow and Heavey was adopted:

On page 3, after line 5, insert the following:

"NEW SECTION. Sec. 2. It is the intent of the legislature to provide taxation relief to those businesses or corporations that have been required to provide unemployment insurance coverage to members of their boards of directors.

Sec. 3. RCW 50.04.165 and 1993 c 290 s 2 are each amended to read as follows:

Services performed by a person appointed as an officer of a corporation under RCW 23B.08.400 or as a member of a board of directors under RCW 23B.08.010, other than those covered by chapter 50.44 RCW, shall not be considered services in employment. However, a corporation may elect to cover not less than all of its corporate officers or board of directors under RCW 50.24.160. If an employer does not elect

to cover its corporate officers under RCW 50.24.160, the employer must notify its corporate officers in writing that they are ineligible for unemployment benefits. If the employer fails to notify any corporate officer, then that person shall not be considered to be a corporate officer for the purposes of this section.

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

NEW SECTION. Sec. 5. Section 3 of this act applies retroactively to all administrative tax claims currently pending before the employment security department for claims incurred after March 1, 1992, regarding unemployment insurance coverage of members of boards of directors."

Renumber the sections consecutively and correct any internal references accordingly.

#### MOTIONS

On motion of Senator Schow, the following title amendments were considered simultaneously and adopted:

On page 1, line 2 of the title, after "50.04.320" insert "and 50.04.165"

On page 1, beginning on line 2 of the title, after "creating" strike "a new section" and insert "new sections"

On motion of Senator Schow, the rules were suspended, Engrossed Substitute Senate Bill No. 6421 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Heavey: "Senator Schow, it is my understanding that the language of this bill does not apply to employees under a collective bargaining agreement or employees at will. Is that a correct understanding?"

Senator Schow: "Senator Heavey, your understanding of this bill is correct. The language of this bill only applies to employees who have a personal employment contract with an employer."

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6421.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6421 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Newhouse - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6421, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6461, by Senators Prince, Haugen, Wood, Winsley, Heavey, Loveland, Snyder, Kohl, Jacobsen, Patterson, Prentice, Thibaudeau, Franklin, Spanel, McAuliffe, Goings, Fraser, Schow and Rasmussen (by request of Governor Locke)

Creating partnerships for strategic freight investments.

#### MOTIONS

On motion of Senator Prince, Substitute Senate Bill No. 6461 was substituted for Senate Bill No. 6461 and the substitute bill was placed on second reading and read the second time.

Senator Benton moved that the following amendments by Senators Benton and Prince be considered simultaneously and be adopted:

On page 6, line 6, after "composed of" strike "twelve" and insert "seven"

On page 6, line 8, after "(a)" strike "Two members, one of whom is" and insert "One member"

On page 6, line 10, after "at least" strike "four" and insert "two"

On page 6, beginning on line 12, strike "two members, one of whom is" and insert "one member"

On page 6, line 13, after "at least" strike "four" and insert "two"

On page 6, line 15, after "(c)" strike "two members, one of whom is" and insert "one member"

On page 6, line 17, after "at least" strike "four" and insert "two"

On page 6, line 18, after "its successor;" strike "(d) one member representing the office of financial management;"

On page 6, beginning on line 22, strike "(h) one member representing the steamship industry;"

On page 6, line 30, after "compensation" strike all material through "43.03.060" on line 31, and insert the following: "reimbursement for travel and other expenses shall be provided by each respective organization that a member represents on the board"

Reletter subsections accordingly.

On page 7, after line 2, insert the following:

"NEW SECTION. Sec. 5. A new section is added to chapter 43.131 RCW to read as follows:

The freight mobility strategic investment board and all powers granted under this act shall be terminated on June 30, 2003, unless otherwise extended by act of the legislature."

Correct internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Benton and Prince on page 6, lines 6, 8, 10, 12, 13, 15, 17, 18, 22, 30, and page 7, after line 2, to Substitute Senate Bill No. 6461.

The motion by Senator Benton carried and the amendments were adopted.

#### MOTION

Senator Benton moved that the following amendment by Senators Benton and Prince be adopted:

On page 7, line 11, after "December 31, 1998." insert

"The plan shall include an assessment of a methodology for administrative cost-sharing among the state, cities, counties, public port districts, and other entities as appropriate."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton and Prince on page 7, line 11, to Substitute Senate Bill No. 6461.

The motion by Senator Benton carried and the amendment was adopted.

#### MOTIONS

Senator Patterson moved that the following amendment by Senators Patterson, Haugen and Horn be adopted:

On page 8, line 25, after "Sec. 9." strike "To the greatest extent practicable, port" and insert "Port"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Patterson, Haugen and Horn on page 8, line 25, to Substitute Senate Bill No. 6461.

The motion by Senator Patterson carried and the amendment was adopted.

#### MOTIONS

On motion of Senator Prince, the following title amendment was adopted:

On page 1, line 2 of the title, after "47.05.051;" insert "adding a new section to chapter 43.131 RCW;"

On motion of Senator Prince, the rules were suspended, Engrossed Substitute Senate Bill No. 6461 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Schow was excused.



The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6461.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6461 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 42. Voting nay: Senators Fairley, Finkbeiner, Heavey, Jacobsen, Thibaudeau and Wojahn - 6. Excused: Senator Schow - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6461, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6231, by Senators Hargrove, Anderson, Snyder, Swecker, T. Sheldon, Oke and Goings

Limiting the near-term growth of the natural area preserve program, and providing for a study of the program.

#### MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6231 was substituted for Senate Bill No. 6231 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Hargrove, the following amendment by Senators Hargrove, Oke and Jacobsen was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The department of natural resources shall not adopt a new management plan pertaining to any natural area preserves in Grays Harbor county and Pacific county before January 10, 1999.

**NEW SECTION. Sec. 2.** The senate natural resources and parks committee shall study the following aspects of the natural area preserves program created under chapter 79.70 RCW:

- (1) The potential impact, if any, of defining natural area preserve boundaries which encompass land that has not yet been purchased for the program;
- (2) The correlation between the goals and purposes of the natural area preserve program and the natural resource conservation area program and the potential integration of the two programs in selected areas;
- (3) The current procedures that ensure the adequacy of local public input concerning natural area preserve boundaries and management;
- (4) The criteria and scientific methods used to ensure that natural area preserves fulfill the purposes of the program."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 6231 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6231.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6231 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 46. Voting nay: Senators Fairley and Thibaudeau -

2. Excused: Senator Schow - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6231, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5517, by Senators Wood, Kohl, Bauer, Patterson, Winsley, Brown, Goings, Fraser, Loveland, Benton, Sellar, Franklin and Oke

Requiring one student member on each state institution of higher education's governing board.

#### MOTIONS

On motion of Senator Wood, Substitute Senate Bill No. 5517 was substituted for Senate Bill No. 5517 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Wood, the rules were suspended, Substitute Senate Bill No. 5517 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5517.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5517 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Horn, Jacobsen, Kline, Kohl, Loveland, McAuliffe, McDonald, Morton, Oke, Patterson, Prentice, Rasmussen, Sellar, Sheldon, T., Snyder, Swecker, Thibaudeau, Winsley, Wojahn and Wood - 31. Voting nay: Senators Anderson, Deccio, Heavey, Hochstatter, Johnson, Long, McCaslin, Newhouse, Prince, Roach, Rossi, Schow, Sheldon, B., Spanel, Stevens, Strannigan, West and Zarelli - 18. SUBSTITUTE SENATE BILL NO. 5517, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the seventh order of business.

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5098, by Senate Committee on Ways and Means (originally sponsored by Senators Loveland, B. Sheldon, Snyder, Fairley and Kohl)

Changing provisions relating to bond debt service payments from the community and technical college capital projects account.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute Senate Bill No. 5098 was returned to second reading and read the second time.

#### MOTION

On motion of Senator West, the following amendment by Senators Loveland and West was adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.50.360 and 1997 c 42 s 1 are each amended to read as follows:

Within thirty-five days from the date of start of each quarter all collected building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of building fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital projects account. Such amounts of the funds deposited in the community and technical college capital projects account as are necessary to pay and secure the payment of the principal of and interest on the building bonds issued by the college board as authorized by this chapter shall be exclusively devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, and for the payment of principal of and interest on any bonds issued for such purposes.

~~((3) Notwithstanding the provisions of subsections (1) and (2) of this section, at such time as all outstanding building bonds of the college board payable from the community and technical college capital projects account have been paid, redeemed, and retired, or at such time as ample provision has been made by the state for full payment, from some source other than the community and technical college capital projects account, of the principal of and the interest on and call premium, if applicable, of such bonds as they mature and/or upon their call prior to their maturity, through refunding or otherwise, that portion of all building fees of the community and technical colleges equal to the amount required to pay yearly debt service on any general obligation bonds issued by the state in accordance with Article VIII, section 1, Washington state Constitution, for community and technical college purposes, shall be paid into the general fund of the state treasury. The state finance committee shall determine whether ample provision has been made for payment of such bonds payable from the community and technical college capital projects account and shall determine the amount required to pay yearly debt service on such general obligation bonds of the state. Nothing in this subsection shall be construed as obligating the legislature or the state to provide for payment of such college building bonds from some source other than the community and technical college capital projects account or as pledging the general credit of the state to the payment of such bonds.))~~

**Sec. 2.** 1997 c 235 s 709 (uncodified) is amended to read as follows:

Notwithstanding any other provisions of law, ~~((for the 1997-99 biennium,))~~ transfers of reimbursement by the state treasurer to the general fund from the community college capital projects account for debt service payments made under Title 28B RCW shall occur only after such debt service payment has been made and only to the extent that funds are actually available to the account. Any ~~((unpaid reimbursements shall be a continued obligation against the community college capital projects account until paid))~~ reimbursements unpaid as of June 30, 1998, are hereby forgiven. The state board for community and technical colleges need not accumulate any specific balance in the community college capital projects account in anticipation of transfers to reimburse the general fund.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

## MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, line 2 of the title, after "account;" strike the remainder of the title and insert "amending RCW 28B.50.360; amending 1997 c 235 s 709 (uncodified); and declaring an emergency."

On motion of Senator West, the rules were suspended, Engrossed Substitute Senate Bill No. 5098 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5098.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5098 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon,

T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 5098, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, the Senate returned to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6328, by Senators Oke, Jacobsen and Swecker (by request of Department of Fish and Wildlife)

Enacting the fish and wildlife code enforcement.

#### MOTIONS

On motion of Senator Oke, Substitute Senate Bill No. 6328 was substituted for Senate Bill No. 6328 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Oke, the following amendment by Senators Hargrove and Oke was adopted:

On page 33, line 38, delete "reason" and insert "probable cause"

#### MOTION

On motion of Senator Oke, the rules were suspended, Engrossed Substitute Senate Bill No. 6328 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6328.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6328 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 6328, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6600, by Senators T. Sheldon, Hochstatter, Long, Kohl, Oke and Winsley (by request of Superintendent of Public Instruction Bergeson)

Establishing an education program for juveniles incarcerated in adult correctional facilities.

#### MOTIONS

On motion of Senator Hochstatter, Substitute Senate Bill No. 6600 was substituted for Senate Bill No. 6600 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Hochstatter, the following amendment by Senators Tim Sheldon, Hochstatter, Long and McAuliffe was adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature intends to provide for the operation of education programs for the department of corrections' juvenile inmates. School districts, educational service districts, or any combination thereof should be the primary providers of the education programs. However, the legislature does not intend to preclude community and technical colleges, four-year institutions of higher education, or other qualified entities from contracting to provide all or part of these education programs if no school district or educational service district is willing to operate all or part of the education programs.

The legislature finds that this chapter fully satisfies any constitutional duty to provide education programs for juvenile inmates in adult correctional facilities. The legislature further finds that biennial appropriations for education programs under this chapter amply provide for any constitutional duty to educate juvenile inmates in adult correctional facilities.

**NEW SECTION. Sec. 2.** Any school district or educational service district may operate all or any portion of an education program for juveniles in accordance with this chapter, notwithstanding the fact the services or benefits provided extend beyond the geographic boundaries of the school district or educational service district providing the service.

**NEW SECTION. Sec. 3.** The superintendent of public instruction shall solicit an education provider for the department of corrections' juvenile inmates within sixty days as follows:

(1) The superintendent of public instruction shall notify and solicit proposals from all interested and capable school districts, educational service districts, institutions of higher education, private contractors, or any combination thereof. The notice shall describe the proposed education program's requirements and the appropriated amount. The selection of an education provider shall be in the following order:

(a) The school district where there is an educational site for juveniles in an adult correctional facility maintained by the state department of corrections has first priority to operate an education program for inmates at that site. The district may elect to operate an education program by itself or with another school district, educational service district, institution of higher education, private contractor, or any combination thereof. If the school district elects not to exercise its priority, it shall notify the superintendent of public instruction within thirty calendar days of the day of solicitation.

(b) The educational service district where there is an educational site for juveniles in an adult correctional facility maintained by the state department of corrections has second priority to operate an education program for inmates at that site. The educational service district may elect to do so by itself or with a school district, another educational service district, institution of higher education, private contractor, or any combination thereof. If the educational service district elects not to exercise its priority, it shall notify the superintendent of public instruction within forty-five calendar days of the day of solicitation.

(c) If neither the school district nor the educational service district chooses to operate an education program for inmates as provided for in (a) and (b) of this subsection, the superintendent of public instruction may contract with an entity, including, but not limited to, school districts, educational service districts, institutions of higher education, private contractors, or any combination thereof, within sixty calendar days of the day of solicitation. The selected entity may operate an education program by itself or with another school district, educational service district, institution of higher education, or private contractor, or any combination thereof.

(2) If the superintendent of public instruction does not contract with an interested entity within sixty days of the day of solicitation, the educational service district where there is an educational site for juveniles in an adult correctional facility maintained by the state department of corrections shall begin operating the education program for inmates at the site within ninety days from the day of solicitation in subsection (1) of this section.

**NEW SECTION. Sec. 4.** Except as otherwise provided for by contract under section 7 of this act, the duties and authority of a school district, educational service district, institution of higher education, or private contractor to provide for education programs under this chapter are limited to the following:

(1) Employing, supervising, and controlling administrators, teachers, specialized personnel, and other persons necessary to conduct education programs, subject to security clearance by the department of corrections;

(2) Purchasing, leasing, or renting and providing textbooks, maps, audiovisual equipment, paper, writing instruments, physical education equipment, and other instructional equipment, materials, and supplies deemed necessary by the provider of the education programs;

(3) Conducting education programs for inmates under the age of eighteen in accordance with program standards established by the superintendent of public instruction. The education provider shall develop the curricula, instructional methods, and educational objectives of the education programs, subject to applicable requirements of state and federal law. The department of corrections shall establish behavior standards that govern inmate participation in education programs, subject to applicable requirements of state and federal law;

(4) Students age eighteen who have participated in an education program governed by this chapter may continue in the program with the permission of the department of corrections and the education provider, under the rules adopted by the superintendent of public instruction.

**NEW SECTION. Sec. 5.** School districts and educational service districts providing an education program to juvenile inmates in an adult corrections facility, notwithstanding that their geographical boundaries do not include the facility, may:

(1) Award appropriate diplomas or certificates to inmates who successfully complete graduation requirements;

(2) Spend only funds appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating education programs under this chapter, including direct and indirect costs of maintaining and operating the

education programs, and funds from federal and private grants, bequests, and gifts made for that purpose. School districts may not expend excess tax levy proceeds authorized for school district purposes to pay costs incurred under this chapter.

**NEW SECTION. Sec. 6.** To support each education program under this chapter, the department of corrections and each superintendent or chief administrator of a correction facility shall:

- (1) Through construction, lease, or rental of space, provide necessary building and exercise spaces for the education program that is secure, separate, and apart from space occupied by nonstudent inmates;
- (2) Through construction, lease, or rental, provide vocational instruction machines; technology and supporting equipment; tools, building, and exercise facilities; and other equipment and fixtures deemed necessary by the department of corrections to conduct the education program;
- (3) Provide heat, lights, telephone, janitorial services, repair services, and other support services for the building and exercise spaces, equipment, and fixtures provided under this section;
- (4) Employ, supervise, and control security staff to safeguard agents of the education providers and inmates while engaged in educational and related activities conducted under this chapter;
- (5) Provide clinical and medical evaluation services necessary for a determination by the education provider of the educational needs of inmates; and
- (6) Provide such other support services and facilities as are reasonably necessary to conduct the education program.

**NEW SECTION. Sec. 7.** Each education provider under this chapter and the department of corrections shall negotiate and execute a written contract for each school year or such longer period as may be agreed to that delineates the manner in which their respective duties and authority will be cooperatively performed and exercised, and any disputes and grievances resolved through mediation, and if necessary, arbitration. Any such contract may provide for the performance of duties by an education provider in addition to those set forth in this chapter, including duties imposed upon the department of corrections and its agents under section 6 of this act if supplemental funding provided by the department of corrections is available to fully pay the direct and indirect costs of these additional duties.

**NEW SECTION. Sec. 8.** By April 15th of each school year, the department of corrections shall provide written notice to the superintendent of public instruction and education providers operating programs under this chapter of any reasonably foreseeable education site closures, reductions in the number of inmates or education services, or any other cause for a reduction in certificated or classified staff the next school year. In the event the department of corrections fails to provide notice as required by this section, the department is liable and responsible for the payment of the salary and employment-related costs for the next school year of each employee whose contract would or could have been nonrenewed but for the failure of the department to provide notice. Disputes arising under this section shall be resolved in accordance with the alternative dispute resolution method or methods specified in the contract required by section 7 of this act.

**NEW SECTION. Sec. 9.** The superintendent of public instruction shall:

- (1) Allocate money appropriated by the legislature to administer and provide education programs under this chapter to school districts, educational service districts, and other education providers selected under section 3 of this act that have assumed the primary responsibility to administer and provide education programs under this chapter. The allocation of moneys to any private contractor is contingent upon and must be in accordance with a contract between the private contractor and the department of corrections; and
- (2) Adopt rules in accordance with chapter 34.05 RCW that establish reporting, program compliance, audit, and such other accountability requirements as are reasonably necessary to implement this chapter and related provisions of the biennial operating act effectively.

**Sec. 10.** RCW 72.09.460 and 1997 c 338 s 43 are each amended to read as follows:

(1) The legislature intends that all inmates be required to participate in department-approved education programs, work programs, or both, unless exempted under subsection (4) of this section. Eligible inmates who refuse to participate in available education or work programs available at no charge to the inmates shall lose privileges according to the system established under RCW 72.09.130. Eligible inmates who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges. The legislature recognizes more inmates may agree to participate in education and work programs than are available. The department must make every effort to achieve maximum public benefit by placing inmates in available and appropriate education and work programs.

(2) The department shall provide access to a program of education to all offenders who are under the age of eighteen and who have not met high school graduation or general equivalency diploma requirements in accordance with chapter 28A.-- RCW (sections 1 through 9 of this act). The program of education established by the department and education provider under section 3 of this act for offenders under the age of eighteen must provide each offender a choice of curriculum that will assist the inmate in achieving a high school diploma or general equivalency diploma. The program of education may include but not be limited to basic education, prevocational training, work ethic skills, conflict resolution counseling, substance abuse intervention, and anger management counseling. The curriculum may balance these and other rehabilitation, work, and training components.

(3) The department shall, to the extent possible and considering all available funds, prioritize its resources to meet the following goals for inmates in the order listed:

(a) Achievement of basic academic skills through obtaining a high school diploma or its equivalent and achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release;

(b) Additional work and education programs based on assessments and placements under subsection (5) of this section; and

(c) Other work and education programs as appropriate.

(4) The department shall establish, by rule, objective medical standards to determine when an inmate is physically or mentally unable to participate in available education or work programs. When the department determines an inmate is permanently unable to participate in any available education or work program due to a medical condition, the inmate is exempt from the requirement under subsection (1) of this section. When the department determines an inmate is temporarily unable to participate in an education or work program due to a medical condition, the inmate is exempt from the requirement of subsection (1) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all temporarily disabled inmates to ensure the earliest possible entry or reentry by inmates into available programming.

(5) The department shall establish, by rule, standards for participation in department-approved education and work programs. The standards shall address the following areas:

(a) Assessment. The department shall assess all inmates for their basic academic skill levels using a professionally accepted method of scoring reading, math, and language skills as grade level equivalents. The department shall determine an inmate's education history, work history, and vocational or work skills. The initial assessment shall be conducted, whenever possible, within the first thirty days of an inmate's entry into the correctional system, except that initial assessments are not required for inmates who are sentenced to life without the possibility of release, assigned to an intensive management unit within the first thirty days after entry into the correctional system, are returning to the correctional system within one year of a prior release, or whose physical or mental condition renders them unable to complete the assessment process. The department shall track and record changes in the basic academic skill levels of all inmates reflected in any testing or assessment performed as part of their education programming;

(b) Placement. The department shall follow the policies set forth in subsection (1) of this section in establishing criteria for placing inmates in education and work programs. The department shall, to the extent possible, place all inmates whose composite grade level score for basic academic skills is below the eighth grade level in a combined education and work program. The placement criteria shall include at least the following factors:

(i) An inmate's release date and custody level, except an inmate shall not be precluded from participating in an education or work program solely on the basis of his or her release date;

(ii) An inmate's education history and basic academic skills;

(iii) An inmate's work history and vocational or work skills;

(iv) An inmate's economic circumstances, including but not limited to an inmate's family support obligations; and

(v) Where applicable, an inmate's prior performance in department-approved education or work programs;

(c) Performance and goals. The department shall establish, and periodically review, inmate behavior standards and program goals for all education and work programs. Inmates shall be notified of applicable behavior standards and program goals prior to placement in an education or work program and shall be removed from the education or work program if they consistently fail to meet the standards or goals;

(d) Financial responsibility. (i) The department shall establish a formula by which inmates, based on their ability to pay, shall pay all or a portion of the costs or tuition of certain programs. Inmates shall, based on the formula, pay a portion of the costs or tuition of participation in:

(A) Second and subsequent vocational programs associated with an inmate's work programs; and

(B) An associate of arts or baccalaureate degree program when placement in a degree program is the result of a placement made under this subsection;

(ii) Inmates shall pay all costs and tuition for participation in:

(A) Any postsecondary academic degree program which is entered independently of a placement decision made under this subsection;

and

(B) Second and subsequent vocational programs not associated with an inmate's work program.

Enrollment in any program specified in (d)(ii) of this subsection shall only be allowed by correspondence or if there is an opening in an education or work program at the institution where an inmate is incarcerated and no other inmate who is placed in a program under this subsection will be displaced; and

(e) Notwithstanding any other provision in this section, an inmate sentenced to life without the possibility of release:

(i) Shall not be required to participate in education programming; and

(ii) May receive not more than one postsecondary academic degree in a program offered by the department or its contracted providers.

If an inmate sentenced to life without the possibility of release requires prevocational or vocational training for a work program, he or she may participate in the training subject to this section.

(6) The department shall coordinate education and work programs among its institutions, to the greatest extent possible, to facilitate continuity of programming among inmates transferred between institutions. Before transferring an inmate enrolled in a program, the department

shall consider the effect the transfer will have on the inmate's ability to continue or complete a program. This subsection shall not be used to delay or prohibit a transfer necessary for legitimate safety or security concerns.

(7) Before construction of a new correctional institution or expansion of an existing correctional institution, the department shall adopt a plan demonstrating how cable, closed-circuit, and satellite television will be used for education and training purposes in the institution. The plan shall specify how the use of television in the education and training programs will improve inmates' preparedness for available work programs and job opportunities for which inmates may qualify upon release.

(8) The department shall adopt a plan to reduce the per-pupil cost of instruction by, among other methods, increasing the use of volunteer instructors and implementing technological efficiencies. The plan shall be adopted by December 1996 and shall be transmitted to the legislature upon adoption. The department shall, in adoption of the plan, consider distance learning, satellite instruction, video tape usage, computer-aided instruction, and flexible scheduling of offender instruction.

(9) Following completion of the review required by section 27(3), chapter 19, Laws of 1995 1st sp. sess. the department shall take all necessary steps to assure the vocation and education programs are relevant to work programs and skills necessary to enhance the employability of inmates upon release.

**Sec. 11.** RCW 41.59.080 and 1975 1st ex.s. c 288 s 9 are each amended to read as follows:

The commission, upon proper application for certification as an exclusive bargaining representative or upon petition for change of unit definition by the employer or any employee organization within the time limits specified in RCW 41.59.070(3), and after hearing upon reasonable notice, shall determine the unit appropriate for the purpose of collective bargaining. In determining, modifying or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the educational employees; the history of collective bargaining; the extent of organization among the educational employees; and the desire of the educational employees; except that:

(1) A unit including nonsupervisory educational employees shall not be considered appropriate unless it includes all such nonsupervisory educational employees of the employer; and

(2) A unit that includes only supervisors may be considered appropriate if a majority of the employees in such category indicate by vote that they desire to be included in such a unit; and

(3) A unit that includes only principals and assistant principals may be considered appropriate if a majority of such employees indicate by vote that they desire to be included in such a unit; and

(4) A unit that includes both principals and assistant principals and other supervisory employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(5) A unit that includes supervisors and/or principals and assistant principals and nonsupervisory educational employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(6) A unit that includes only employees in vocational-technical institutes or occupational skill centers may be considered to constitute an appropriate bargaining unit if the history of bargaining in any such school district so justifies; and

(7) Notwithstanding the definition of collective bargaining, a unit that contains only supervisors and/or principals and assistant principals shall be limited in scope of bargaining to compensation, hours of work, and the number of days of work in the annual employment contracts; and

(8) The bargaining unit of certificated employees of school districts, educational service districts, or institutions of higher education that are education providers under chapter 28A.-- RCW (sections 1 through 9 of this act) must be limited to the employees working as education providers to juveniles in each adult correctional facility maintained by the department of corrections and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education.

**NEW SECTION. Sec. 12.** A new section is added to chapter 41.56 RCW to read as follows:

This chapter applies to the bargaining unit of classified employees of school districts, educational service districts, or institutions of higher education that are education providers under chapter 28A.-- RCW (sections 1 through 9 of this act). Such bargaining units must be limited to the employees working as education providers to juveniles in each adult correctional facility maintained by the department of corrections and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education.

**Sec. 13.** RCW 28A.310.300 and 1990 c 33 s 283 are each amended to read as follows:

In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Assist the school districts in preparation of their budgets as provided in chapter 28A.505 RCW.

(2) Enforce the provisions of the compulsory attendance law as provided in RCW 28A.225.010 through ~~((28A.225.150))~~ 28A.225.140, 28A.200.010, and 28A.200.020.

(3) Perform duties relating to capital fund aid by nonhigh districts as provided in chapter 28A.540 RCW.

(4) Carry out the duties and issue orders creating new school districts and transfers of territory as provided in chapter 28A.315 RCW.

(5) Perform the limited duties as provided in chapter 28A.-- RCW (sections 1 through 9 of this act).

~~(6)~~ Perform all other duties prescribed by law and the educational service district board.

**Sec. 14.** RCW 28A.225.010 and 1996 c 134 s 1 are each amended to read as follows:



(1) All parents in this state of any child eight years of age and under eighteen years of age shall cause such child to attend the public school of the district in which the child resides and such child shall have the responsibility to and therefore shall attend for the full time when such school may be in session unless:

(a) The child is attending an approved private school for the same time or is enrolled in an extension program as provided in RCW 28A.195.010(4);

(b) The child is receiving home-based instruction as provided in subsection (4) of this section;

(c) The child is attending an education center as provided in chapter 28A.205 RCW;

(d) The school district superintendent of the district in which the child resides shall have excused such child from attendance because the child is physically or mentally unable to attend school, is attending a residential school operated by the department of social and health services, is incarcerated in an adult correctional facility, or has been temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and the parent: PROVIDED, That such excused absences shall not be permitted if deemed to cause a serious adverse effect upon the student's educational progress: PROVIDED FURTHER, That

students excused for such temporary absences may be claimed as full time equivalent students to the extent they would otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260 and shall not affect school district compliance with the provisions of RCW 28A.150.220; or

(e) The child is sixteen years of age or older and:

(i) The child is regularly and lawfully employed and either the parent agrees that the child should not be required to attend school or the child is emancipated in accordance with chapter 13.64 RCW;

(ii) The child has already met graduation requirements in accordance with state board of education rules and regulations; or

(iii) The child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW 28A.305.190.

(2) A parent for the purpose of this chapter means a parent, guardian, or person having legal custody of a child.

(3) An approved private school for the purposes of this chapter and chapter 28A.200 RCW shall be one approved under regulations established by the state board of education pursuant to RCW 28A.305.130.

(4) For the purposes of this chapter and chapter 28A.200 RCW, instruction shall be home-based if it consists of planned and supervised instructional and related educational activities, including a curriculum and instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of an appreciation of art and music, provided for a number of hours equivalent to the total annual program hours per grade level established for approved private schools under RCW 28A.195.010 and 28A.195.040 and if such activities are:

(a) Provided by a parent who is instructing his or her child only and are supervised by a certificated person. A certificated person for purposes of this chapter and chapter 28A.200 RCW shall be a person certified under chapter 28A.410 RCW. For purposes of this section, "supervised by a certificated person" means: The planning by the certificated person and the parent of objectives consistent with this subsection; a minimum each month of an average of one contact hour per week with the child being supervised by the certificated person; and evaluation of such child's progress by the certificated person. The number of children supervised by the certificated person shall not exceed thirty for purposes of this subsection; or

(b) Provided by a parent who is instructing his or her child only and who has either earned forty-five college level quarter credit hours or its equivalent in semester hours or has completed a course in home-based instruction at a postsecondary institution or a vocational-technical institute; or

(c) Provided by a parent who is deemed sufficiently qualified to provide home-based instruction by the superintendent of the local school district in which the child resides.

(5) The legislature recognizes that home-based instruction is less structured and more experiential than the instruction normally provided in a classroom setting. Therefore, the provisions of subsection (4) of this section relating to the nature and quantity of instructional and related educational activities shall be liberally construed.

NEW SECTION. Sec. 15. Sections 1 through 9 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 16. Sections 1 through 9 and 11 through 14 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 17. Section 10 of this act takes effect September 1, 1998.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

## MOTIONS

On motion of Senator Hochstatter, the following title amendment was adopted:

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 72.09.460, 41.59.080, 28A.310.300, and 28A.225.010; adding a new section to chapter 41.56 RCW; adding a new chapter to Title 28A RCW; providing an effective date; and declaring an emergency."

On motion of Senator Hochstatter, the rules were suspended, Engrossed Substitute Senate Bill No. 6600 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6600.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6600 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 6600, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6628, by Senators Benton, Finkbeiner, Anderson, Zarelli and Schow

Clarifying transportation planning.

The bill was read the second time.

#### MOTION

Senator Haugen moved that the following amendment be adopted:

On page 3, after line 27, insert the following:

"**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus transportation appropriations act, this act is null and void."

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 3, after line 27, to Senate Bill No. 6628.

The motion by Senator Haugen failed and the amendment was not adopted.

#### MOTIONS

On motion of Senator Benton, the following amendment by Senators Rasmussen and Benton was adopted:

On page 3, after line 27, insert the following:

"**Sec. 3.** RCW 47.50.010 and 1991 c 202 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Regulation of access to the state highway system is necessary in order to protect the public health, safety, and welfare, to preserve the functional integrity of the state highway system, and to promote the safe and efficient movement of people and goods within the state;

(b) The development of an access management program, in accordance with this chapter, which coordinates land use planning decisions by local governments and investments in the state highway system, will serve to control the proliferation of connections and other access approaches to and from the state highway system. Without such a program, the health, safety, and welfare of the residents of this state are at risk, due to the fact that uncontrolled access to the state highway system is a significant contributing factor to the congestion and functional deterioration of the system; and

(c) The development of an access management program in accordance with this chapter will enhance the development of an effective transportation system and increase the traffic-carrying capacity of the state highway system and thereby reduce the incidences of traffic accidents, personal injury, and property damage or loss; mitigate environmental degradation; promote sound economic growth and the growth management goals of the state; reduce highway maintenance costs and the necessity for costly traffic operations measures; lengthen the effective life of transportation facilities in the state, thus preserving the public investment in such facilities; and shorten response time for emergency vehicles.

(2) In furtherance of these findings, all state highways are hereby declared to be controlled access facilities as defined in RCW 47.50.020, except those highways that are defined as limited access facilities in chapter 47.52 RCW.

(3) It is the policy of the legislature that:

(a) The access rights of an owner of property abutting the state highway system (~~are subordinate to~~) should be fairly considered with the public's right and interest in a safe and efficient highway system; (and)

(b) Every owner of property which abuts a state highway has a right to reasonable access to that highway, unless such access has been acquired pursuant to chapter 47.52 RCW, but may not have the right of a particular means of access. The right of access to the state highway may be restricted under RCW 47.50.080 if, pursuant to local regulation, reasonable access can be provided to another public road which abuts the property; and

(c) Every property owner who has access to the state highway must be notified of proposed changes to the access.

(4) The legislature declares that it is the purpose of this chapter to provide a coordinated planning process for the permitting of access points on the state highway system to effectuate the findings and policies under this section. This coordinated planning process must include a public involvement process that includes abutting property owners, business owners, and emergency services that may require access to the affected property. The public involvement process must provide the affected ownership with standards and principles of access management. The public involvement process that addresses access management standards and principles may include, but is not limited to, public notices, public meetings, public hearings, written notification, and individual meetings with the affected ownership.

(5) Nothing in this chapter shall affect the right to full compensation under section 16, Article I of the state Constitution.

**Sec. 4.** RCW 47.50.040 and 1991 c 202 s 4 are each amended to read as follows:

(1) No connection to a state highway shall be constructed or altered without obtaining an access permit in accordance with this chapter in advance of such action. A permitting authority has the authority to deny access to the state highway system at the location specified in the permit until the permittee constructs or alters the connection in accordance with the permit requirements.

(2) ~~((The cost of construction or alteration of a connection shall be borne by the permittee, except for alterations which are not required by law or administrative rule, but are made at the request of and for the convenience of the permitting authority. The permittee, however, shall bear the cost of alteration of any connection which is required by the permitting authority due to increased or altered traffic flows generated by changes in the permittee's facilities or nature of business conducted at the location specified in the permit.))~~ The permittee shall bear the cost of construction or alteration of a connection, including alterations required by increased or altered traffic flows generated by the nature of business conducted at the location specified in the permit, except for alterations that are not required by law or administrative rule, but are made at the request of and the convenience of the permitting authority, or that are required by the permitting authority due to increased or altered traffic flows along the state highway to which the connection provides access in the general area of the permittee's facility.

(3) Except as otherwise provided in this chapter, an unpermitted connection is subject to closure by the appropriate permitting authority which shall have the right to install barriers across or remove the connection. When the permitting authority determines that a connection is unpermitted and subject to closure, it shall provide reasonable notice of its impending action to the owner of property served by the connection. The permitting authority's procedures for providing notice and preventing the operation of unpermitted connections shall be adopted by rule.

**Sec. 5.** RCW 47.50.080 and 1991 c 202 s 8 are each amended to read as follows:

(1) Unpermitted connections to the state highway system in existence on July 1, 1990, and in active use shall not require the issuance of a permit and may continue to provide access to the state highway system, unless the permitting authority determines that such a connection does not meet minimum acceptable standards of highway safety and mobility based on accident data, traffic data, and accepted traffic engineering criteria, a copy of which must be provided to the property owner, upon written request. However, a permitting authority may require that a permit be obtained for such a connection if a significant change occurs in the use, design, or traffic flow of the connection or of the state highway to which it provides access. If a permit is not obtained, the connection may be closed pursuant to RCW 47.50.040.

(2) Access permits granted prior to adoption of the permitting authorities' standards shall remain valid until modified or revoked as provided in this chapter. Access connections to state highways identified on plats and subdivisions approved prior to July 1, 1991, shall be deemed to be permitted pursuant to chapter 202, Laws of 1991. The permitting authority may, after written notification, under rules adopted in accordance with RCW 47.50.030, modify or revoke an access permit granted prior to adoption of the standards by requiring relocation, alteration, or closure of the connection if a significant change occurs in the use, design, or traffic flow of the connection or the state highway to which the connection provides access in the general area of the permittee's facility, and if, as a result of that change, the connection does not meet minimum acceptable standards of highway safety and mobility based on accident and traffic data and accepted traffic engineering criteria.

(3) The permitting authority may issue a nonconforming access permit after finding that to deny an access permit would leave the property without a reasonable means of access to the public roads of this state. Every nonconforming access permit shall specify limits on the maximum vehicular use of the connection and shall be conditioned on the availability of future alternative means of access for which access permits can be obtained."

On motion of Senator Benton, the following title amendment was adopted:

On line 3 of the title, after "47.06.050" strike "and 47.06.090" and insert ", 47.06.090, 47.50.010, 47.50.040, and 47.50.080"

#### MOTION

On motion of Senator Benton, the rules were suspended, Engrossed Senate Bill No. 6628 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6628.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6628 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SENATE BILL NO. 6628, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5278, by Senators Patterson, Hargrove, Winsley, Wood, Benton, Goings, Prince, Bauer, B. Sheldon, Heavey, Long, Anderson, Haugen and Oke

Requiring court-ordered use of long-term pharmaceutical birth control for mothers who have given birth to a baby with drug addiction.

#### MOTIONS

On motion of Senator West, Third Substitute Senate Bill No. 5278 was substituted for Senate Bill No. 5278 and the third substitute bill was placed on second reading and read the second time.

Senator West moved that the following amendment by Senators West, Patterson and Long be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that all children have the right to be born healthy and free of the consequences of the nonprescription use of controlled substances by the mother during pregnancy. Individuals who have a drug addiction are unable to make reasoned decisions that help ensure the birth of a healthy infant. The availability of long-term pharmaceutical birth control, when combined with other treatment regimens, may allow women to regain control of their lives and make long-term decisions in the best interest of themselves and their children. The legislature further finds that a third or subsequent drug-affected infant being born to the same mother means it may be unreasonable to attempt to continue efforts to reunify the family and that all reasonable reunification efforts that have previously been made have proven futile and there is no likelihood that future efforts will produce a different outcome.

**NEW SECTION. Sec. 2.** A new section is added to chapter 13.34 RCW to read as follows:

(1) A physician licensed under chapter 18.71 RCW primarily responsible for the supervision of the birth of an infant who has reasonable cause to believe an infant has been exposed to nonprescription use of controlled substances shall: (a) Conduct appropriate tests to determine whether the infant is drug-affected; (b) notify the department of the name and address of the parents of an infant who is drug-affected; and (c) retain the infant in the birthing facility for medical treatment or place the infant in an appropriate pediatric care facility with the concurrence of the department for sufficient time for the infant to undergo withdrawal from the affects of the controlled substances. The withdrawal shall be under the supervision of appropriate medical professionals.

(2) The physician shall, as soon as practical, inform the mother of a drug-affected infant of: (a) Her right to publicly funded tubal ligation surgery as provided under section 13 of this act; (b) available drug treatment and counseling; and (c) birth control counseling and education. The mother may accept the offer of a tubal ligation up to six months following its tender.

(3) A physician who makes any determination under this section shall not be liable in any cause of action as a result of his or her determination except for acts of gross negligence or intentional misconduct.

(4) This section expires June 30, 2002.

**NEW SECTION. Sec. 3.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The department, upon receipt of a report under section 2 of this act, shall investigate and, in appropriate cases, file a dependency petition. In the event the department does not file a petition, it shall refer the mother to available chemical dependency treatment programs or a pilot project.

(2) The department and the mother may enter an agreement in which the mother agrees to chemical dependency treatment on an inpatient or outpatient basis or be referred to a pilot project created under section 10 of this act.

(3) If the department and mother enter an agreement under subsection (2) of this section, the department shall, if a dependency petition has been filed, request the court to defer the entry of an order of dependency for as long as the mother remains in treatment or enrolled in the pilot project, subject to the department's monitoring for compliance. As a condition of deferral of the order of dependency, the parents, if both are available and known, shall stipulate to facts sufficient to constitute a dependency and the court shall order treatment or enrollment in a pilot project and prohibit nonprescription use of controlled substances. In the event that an available parent unreasonably refuses to stipulate to facts constituting a dependency, the court may proceed with the hearing on the petition.

(4) This section expires June 30, 2002.

**NEW SECTION. Sec. 4.** A new section is added to chapter 13.34 RCW to read as follows:

(1) If the department receives a report under section 2 of this act of a mother who has given birth to a second drug-affected infant, the department:

(a) May request the court to proceed immediately with the entry of a dependency for the first drug-affected infant; and

(b) Shall investigate and, unless there are compelling reasons to the contrary, file a dependency petition on the second drug-affected infant. If the department does not file a petition, it shall refer the woman to available chemical dependency treatment programs or a pilot project.

(2) The department and the mother may enter an agreement in which the mother agrees to: (a) Enter chemical dependency inpatient treatment or a pilot project, together with an aftercare program that includes participation in a pilot project when feasible; and (b) medically appropriate pharmaceutical pregnancy prevention, such as Norplant or depo-provera, that is administered not less than once every thirty days. The selection of the pregnancy prevention method shall be based on an evaluation of the medical and physical consequences to the mother and shall remain in effect until the dependency petition is dismissed or the court determines it is no longer medically appropriate.

(3) If the department and the mother enter an agreement under subsection (2) of this section, the department shall request the court to defer the entry of an order of dependency on the second drug-affected infant for as long as the mother remains in treatment or enrolled in the pilot project, subject to the department's monitoring for compliance. As a condition of deferral of the order of dependency, the parents, if both are available and known, shall stipulate to facts sufficient to constitute a dependency and the court shall order treatment or enrollment in a pilot project and prohibit nonprescription use of controlled substances. In the event that an available parent unreasonably refuses to stipulate to facts constituting a dependency, the court may proceed with the hearing on the petition.

(4) This section expires June 30, 2002.

**NEW SECTION. Sec. 5.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The department may request the court to dismiss the petition deferred under section 3 or 4 of this act at any time. No petition may be vacated or dismissed unless the mother demonstrates by clear and convincing evidence that she has not used controlled substances in a nonprescription manner for at least thirty-six consecutive months and can safely provide for the child's welfare without continuing supervision by the department or court.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 6.** A new section is added to chapter 13.34 RCW to read as follows:

(1) If the department receives a report under section 2 of this act of a mother who has given birth to a third or subsequent drug-affected infant, the department shall:

(a) Request the court to proceed immediately with the entry of a finding of dependency on all drug-affected children born before the third or subsequent birth unless an order of dependency has been vacated or dismissed; and

(b) File a dependency petition on any drug-affected infant subject to this section as well as any other child born before the third or subsequent birth of a drug-affected infant.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 7.** A new section is added to chapter 13.34 RCW to read as follows:

(1) Following a filing of a petition under section 6 of this act:

(a) The court shall order evaluation by a designated chemical dependency specialist, as defined in RCW 70.96A.020 who shall undertake the processes described in RCW 70.96A.140.

(b) If the court has ordered removal of a child or children, the out-of-home placement order shall remain in effect until the petition is dismissed or the mother has successfully completed inpatient treatment and any aftercare program for controlled substances ordered by the court.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 8.** A new section is added to chapter 13.34 RCW to read as follows:

(1) There is a rebuttable presumption in any petition filed under section 6 of this act that termination of parental rights is in the best interest of the child and it is unreasonable to provide services to reunify the children with the mother. The court shall give great weight to the fact that the mother has given birth to a third or subsequent drug-affected infant.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 9.** By July 1, 1999, the department of social and health services, in consultation with the department of health, shall adopt rules to implement this act, including a definition of "drug-affected infant," which shall be limited to infants who are affected by a mother's nonprescription use of controlled substances.

**NEW SECTION. Sec. 10.** To the extent funds are appropriated, the department shall operate a pilot project to provide services to women who give birth to infants exposed to the nonprescription use of controlled substances by the mother during pregnancy. Within available funds, the project may be offered in each of the department's administrative regions. The project shall accept women referred to it by the department following the birth of a drug-affected infant. The pilot project shall be concluded by July 1, 2001.

**NEW SECTION. Sec. 11.** To the extent funds are appropriated, the institute for public policy shall study the cost-effectiveness of this act and report to the governor and legislature not later than September 1, 2002. The study shall measure the reduction in the birth rate of drug-affected infants among women and shall compare the reduction with the rate of birth of drug-affected infants born to women referred to chemical dependency treatment programs. The study shall identify the factors that promote or discourage the ability of women to avoid giving birth to drug-affected infants.

**NEW SECTION. Sec. 12.** A new section is added to chapter 70.96A RCW to read as follows:

(1) Any treatment program or pilot project in which a mother is enrolled under sections 3 through 5 of this act shall provide family planning, education, counseling, information, and services other than pregnancy termination.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 13.** A new section is added to chapter 70.96A RCW to read as follows:

The department may make available, or cause to be made available, pharmaceutical birth control services, information, and counseling to any person who enters chemical dependency treatment under section 3 or 4 of this act. Within available funds, the department may pay for any tubal ligations requested under section 2 of this act if the mother's income is less than two hundred percent of the federal poverty level. The department shall report by December 1st of each year to the governor and legislature: (1) The number of tubal ligations performed as a result of chapter . . . , Laws of 1998 (this act); (2) the number of women who decline to undergo the surgery; (3) the number of women who obtain pharmaceutical birth control, by type of birth control; and (4) the number of women who are reported to the department.

**NEW SECTION. Sec. 14.** A new section is added to chapter 18.71 RCW to read as follows:

(1) Nothing in section 2 of this act imposes any additional duties or responsibilities on, or remove any duties or responsibilities from, a physician licensed under this chapter, except as specifically included in chapter 13.34 RCW and sections 12 and 13 of this act.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 15.** Sections 1 through 8 and 10 through 12 of this act take effect July 1, 1999."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators West, Patterson and Long to Third Substitute Senate Bill No. 5278.

The motion by Senator West carried and the striking amendment was adopted.

## MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, line 2 of the title, after "addiction;" strike the remainder of the title and insert "adding new sections to chapter 13.34 RCW; adding new sections to chapter 70.96A RCW; adding a new section to chapter 18.71 RCW; creating new sections; providing an effective date; and providing expiration dates."

On motion of Senator West, the rules were suspended, Engrossed Third Substitute Senate Bill No. 5278 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Third Substitute Senate Bill No. 5278.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Third Substitute Senate Bill No. 5278 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED THIRD SUBSTITUTE SENATE BILL NO. 5278, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6418, by Senators Deccio, Wojahn, Fairley, Wood and Winsley (by request of Department of Social and Health Services)

Implementing amendments to the federal personal responsibility and work opportunity reconciliation act of 1996.

## MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 6418 was substituted for Senate Bill No. 6418 and the substitute bill was placed on second reading and read the second time.

Senator Hargrove moved that the following amendment by Senators Hargrove, Kline, Zarelli, Strannigan, Fairley, Hochstatter and Franklin be adopted:

Beginning on page 14, after line 32, strike all material through "applicants." on page 15, line 3, and insert the following:

"The federal personal responsibility and work opportunity reconciliation act of 1996, P.L. 104-193, requires states to collect social security numbers as part of the application process for professional, occupational, recreational, and driver's licenses. The legislature finds that if social security numbers are accessible to the public, it will be relatively easy for someone fraudulently to use another's social security number to assume that person's identity and gain access to bank accounts, credit services, billing information, driving history, and other sources of personal information. Public law 104-193 will compound and exacerbate the disturbing trend of social security number-related fraud. In order to prevent fraud and curtail invasions of privacy, the governor, through the department of social and health services, shall seek a waiver to the federal mandate of P.L. 104-193."

Debate ensued.

## POINT OF ORDER

Senator Johnson: "A point of order Mr. President. It is 4:55 p.m. and time to consider the Special Order of Business on Senate Bill No. 6509."

## SECOND READING

SENATE BILL NO. 6509, by Senators Hochstatter, Benton, Zarelli, Rossi, Swecker, Deccio, Johnson, Oke, McCaslin, Stevens, Morton, Roach and Schow

Requiring training for reading instruction.

## MOTIONS

On motion of Senator Hochstatter, Second Substitute Senate Bill No. 6509 was substituted for Senate Bill No. 6509 and the second substitute bill was placed on second reading and read the second time.

Senator Hochstatter moved that the following amendment by Senators Hochstatter, Finkbeiner, Zarelli and Johnson be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the ability to read fluently, accurately, and with comprehension is critical to success in school and in life. Research has found that reading instruction and curriculum in the early grades must consist of a comprehensive program that builds upon the firm foundational skills of phonemic awareness, decoding, and reading comprehension, to provide students with the skills necessary to engage in rich literature activities, and further develop thinking and application skills.

The legislature further finds that many primary grade teachers would benefit from additional professional development instruction in beginning reading skills and access to current information regarding scientifically proven instructional strategies that improve student achievement in reading. The legislature further finds that the use of volunteers to provide individualized tutoring and mentoring to students will improve students' ability to read.

**NEW SECTION. Sec. 2.** The superintendent of public instruction shall establish grant programs to provide training for teachers in reading instruction in accordance with subsection (1) of this section and in the use of tutors and mentors for reading instruction in accordance with subsection (2) of this section as follows:

(1) Elementary schools interested in providing professional development and the purchase of curriculum or related materials for certificated instructional staff that provide direct instructional services to students in kindergarten, first, and second grade may apply for reading instruction grants and receive funding from the office of the superintendent of public instruction.

(a) The reading instruction grant application shall be limited to:

(i) Verification that the school has developed a comprehensive school-wide reading improvement plan that includes, but is not limited to, a beginning reading-language arts program for use in kindergarten through second grade, the primary elements of which must:

(A) Provide numerous daily opportunities for teachers in kindergarten and first grade to read to students from a variety of printed materials including rich literature and expository text;

(B) Provide explicit and sequential instruction in phonemic awareness for all students in kindergarten and first grade and students with limited English proficiency;

(C) Provide explicit systematic decoding instruction and practice in using those skills in decodable text materials;

(D) Provide explicit instruction in reading comprehension skills and opportunities for students to apply them;

(E) Require diagnosis of a student's ability to decode in first and second grade;

(F) Provide explicit and systematic instruction in spelling and provide students in kindergarten and first grade with an opportunity to use student-invented spelling in all writing activities; and

(G) Provide students with structured assistance in learning to write with ample opportunities to engage in writing activities;

(ii) Verification that the intended professional development supports the efforts of the school's beginning reading-language arts program required in (a)(i) of this subsection and includes primary emphasis on the following beginning reading skills:

(A) Phonemic awareness strategies;

(B) Explicit and systematic decoding instruction and how to assess a student's ability to decode;

(C) Explicit spelling and vocabulary instruction;

(D) Explicit instruction in reading comprehension strategies; and

(E) Research findings on the skills needed by beginning and proficient readers, and how beginning reading skills are acquired;

(iii) Verification that grant funds expended in accordance with this section will not be used for staff development, intervention, or remediation programs; and

(iv) Verification that representatives of kindergarten, first, or second grade teachers and reading specialists from the school will be attending a leadership and accountability institute conducted by the office of the superintendent of public instruction in accordance with section 4 of this act.

(b) The training in reading instruction shall be provided by public or private nonsectarian contractors that provide training using the methods defined in this section. Priority for reading instruction grants shall be given to those schools in which less than one-quarter of all students tested on the fourth grade assessment in reading met the state-wide standard, or in schools where average performance on the reading component of the state-wide standardized test required in RCW 28A.230.190 were in the bottom quartile for the previous three years. Priority shall then be given to those schools in which less than one-third of all students tested on the fourth grade assessment in reading met the state-wide standard, or in schools where average performance on the reading component of the state-wide standardized test required in RCW 28A.230.190 were in the bottom third for the previous three years. Priority shall then be given to schools in which one-half of all students tested on the fourth grade assessment in reading met the state-wide standard, or in schools where average performance on the reading component of the state-wide standardized test required in RCW 28A.230.190 were in the bottom half for the previous three years.

(c) Reading instruction grants provided under this subsection (1) may be used to provide additional professional development materials for classroom volunteers providing assistance in kindergarten, first, and second grades, interested in attending the professional development opportunity identified in this subsection (1).



(d) An elementary school receiving funding in accordance with this subsection (1) shall certify and provide documentation to the superintendent of public instruction that funds received were expended for professional development and related materials in accordance with this subsection (1).

(e) Schools or school districts that received funds under RCW 28A.300.330 are not eligible to apply for reading instruction grants.

(f) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(i) "Phonemic awareness instruction" means teaching awareness of letter sounds, and segmenting and blending phonemes, syllables, and words in a sequential progression.

(ii) "Explicit systematic decoding instruction" means direct, sequential teaching of how to read words fluently and automatically that includes instruction in letter-sound correspondences, letter combinations, multisyllabic words, blending, and structural elements, and initially incorporates the use of decodable text. "Explicit systematic decoding instruction" does not include the use of context and syntax as word identification strategies in teaching beginning reading skills.

(iii) "Decodable text" means connected text containing a high percentage of words that provide practice on the letter-sound correspondences and letter combinations previously taught.

(iv) "Diagnosis of a student's ability to decode" means regularly assessing the student's mastery of word recognition, fluency and automaticity, and word analysis in order to plan future instructional activities.

(v) "Explicit and systematic instruction in spelling" means teaching a logical scope and sequence of word knowledge, orthographic patterns, syllabication, and frequently used words connected to the sequence used in reading and writing instruction.

(vi) "Vocabulary instruction" means teaching word meanings.

(vii) "Instruction in reading comprehension skills" means explicit, systematic teaching of vocabulary development, text structure, context, syntax, and syntactic patterns, including but not limited to, strategies for higher order thinking skills such as interpretation, summarization, prediction, clarification, and question generation.

(2) Elementary schools interested in providing teacher training in the use of tutors and mentors for reading instruction in grades kindergarten through fourth grade may apply for tutoring and mentoring grants for programs that are research based and of proven effectiveness. The programs must include the following elements:

(a) Teacher training in program planning, assessment, and diagnosis, and training of volunteers;

(b) A tutoring and mentoring program providing a minimum of two hours of individual instruction a week by a volunteer;

(c) Teacher training in recruiting and retaining tutors and mentors for reading instruction;

(d) A plan to assess student reading performance before entering the program and upon exit or at the end of the year as appropriate.

The results must be compiled and reported to the superintendent of public instruction. The superintendent of public instruction shall provide a report to the legislature by December 1999 on the effectiveness of the various programs.

(3) By April 15th, the superintendent of public instruction shall notify all school districts that the grants under subsections (1) and (2) of this section are available. Funding provided for the grants must be available to schools no later than June 1, 1998. School districts may apply and become eligible for both grants.

(4) Teachers participating in the grant programs will receive a stipend from the grant.

(5) This section expires July 30, 2005.

**NEW SECTION. Sec. 3.** (1) By July 31, 1998, each educational service district shall establish a reading resource center within the district.

(2) Schools accessing funds in accordance with section 2 of this act may request and the center may assist schools and school districts within its service area in matching local needs with reading programs, providing professional development opportunities, and facilitating discussions among teachers to promote best practices for beginning reading instruction, all in accordance with section 2 of this act.

**NEW SECTION. Sec. 4.** (1) Before September 30, 1998, the office of the superintendent of public instruction, in cooperation with educational service districts, shall conduct leadership and accountability institutes designed to provide teachers, administrators, and school board members with information and tools to improve beginning reading instructional programs and practices in their schools. School district board of directors of each school district, school administrators, and teachers identified by the school district board of directors as having demonstrated leadership in reading instruction in the school district or from schools receiving funds in accordance with section 2 of this act shall be invited to attend the institutes. The institutes shall provide professional development and supporting materials to: Evaluate reading curriculum and reading instructional weaknesses in schools to determine whether the school has a comprehensive reading program; for elementary schools, ensure that the primary, but not sole, element is a beginning reading component that includes, but is not limited to, explicit instruction in phonemic awareness, explicit systematic instruction in decoding skills, diagnosis of a student's ability to decode, explicit and systematic instruction in spelling, vocabulary instruction, and explicit instruction in reading comprehension skills; conduct research on how children learn to read, including those with limited English proficiency, learning disabilities, or who are economically disadvantaged; diagnose reading deficiencies; and monitor the movement of students from beginning or deficient reading skills to independent reading of rich literature and expository text.

(2) School districts sending teams to the institutes must make a commitment to provide sufficient time to team members before and during the next school year to support implementation of strategies learned while at the institute.

(3) This section expires December 31, 1998.

**NEW SECTION. Sec. 5.** A new section is added to chapter 28A.150 RCW to read as follows:

Starting in the 1998-99 school year, school districts must administer a standardized, nationally norm-referenced test to measure second grade reading skills of second grade students. The state-wide second grade reading test, in addition to reporting in other formats, shall report student reading levels in terms of grade level and monthly increments. The purpose of the second grade reading test is to provide information to parents, teachers, and school administrators on the level of acquisition of reading skills of each student at the beginning of second grade.

Each school must have the test results available by the winter parent-teacher conference. Schools must notify parents about the second grade reading test during the conferences, inform the parents of their students' performance on the test, identify actions the school intends to take to improve the child's reading skills, and provide parents with strategies to help the parents improve their child's score.

Each school shall annually report to its community the number and the actual percentage of second grade students reading at or above second grade level and the distribution and range of all reading scores by grade and monthly increments on the state-wide second grade reading assessment required under this section.

Each district shall report to the superintendent of public instruction annually beginning March 1999 the number and the actual percentage of second grade students reading at or above second grade level on the state-wide second grade reading assessment required under this section.

**NEW SECTION. Sec. 6.** This act may be known and cited as the successful readers act.

**NEW SECTION. Sec. 7.** Sections 1 through 4 of this act are each added to chapter 28A.165 RCW.

**NEW SECTION. Sec. 8.** The following acts or parts of acts are each repealed:

- (1) RCW 28A.300.310 and 1997 c 262 s 2;
- (2) RCW 28A.300.320 and 1997 c 262 s 3;
- (3) RCW 28A.300.330 and 1997 c 262 s 4; and
- (4) RCW 28A.300.340 and 1997 c 262 s 7.

**NEW SECTION. Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### MOTION

Senator Patterson moved that the following amendment to the striking amendment by Senators Hochstatter, Finkbeiner, Zarelli and Johnson be adopted:

On page 5 of the amendment, after line 7 insert the following subsection:

"(5) In order to maintain and increase the gains through improved reading instruction, schools receiving the grant shall implement a class size reduction program for reading. Class sizes for reading instruction shall not exceed fifteen students for each certificated instructional staff throughout the school. Grant funds shall be available to improve the class size for reading instruction."

Renumber the remaining subsection consecutively.

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendment on page 5, after line 7, by Senator Patterson to the striking amendment by Senators Hochstatter, Finkbeiner, Zarelli and Johnson to Second Substitute Senate Bill No. 6509.

#### ROLL CALL

The Secretary called the roll and the amendment to the striking amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hochstatter, Finkbeiner, Zarelli and Johnson to Second Substitute Senate Bill No. 6509.

Debate ensued.

The motion by Senator Hochstatter carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Hochstatter, the following title amendment was adopted:

On page 1, line 1 of the title, after "instruction;" strike the remainder of the title and insert "adding new sections to chapter 28A.165 RCW; adding a new section to chapter 28A.150 RCW; creating a new section; repealing RCW 28A.300.310, 28A.300.320, 28A.300.330, and 28A.300.340; providing expiration dates; and declaring an emergency."

On motion of Senator Hochstatter, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6509 was advanced to third

reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator McAuliffe: "Senator Hochstatter, if I were to offer you a course to be an electrician, and I asked you which tools you would select--and it would only be one tool for the first year that you would be able to use--what tool would you choose?"

Senator Hochstatter: "Thank you, Senator McAuliffe, you've asked me this question before and I appreciate you for priming me months earlier. The bill does not do that. If you notice, it says, 'comprehensive vocabulary, spelling,' and a lot of other things, so please don't be so prescriptive on me, because I am not being that prescriptive on you. Did you get a political answer? Thank you."

Senator McAuliffe: "Yes, I did."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6509.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6509 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley and Zarelli - 25. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau, Wojahn and Wood - 24. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6509, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of Substitute Senate Bill No. 6418 and the pending amendment by Senators Hargrove, Kline, Zarelli, Strannigan, Fairley, Hochstatter and Franklin on page 14, after line 32, deferred before the Special Order of Business.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove, Kline, Zarelli, Strannigan, Fairley, Hochstatter and Franklin on page 14, line 32, to Substitute Senate Bill No. 6418.

Debate ensued.

The motion by Senator Hargrove carried and the amendment was adopted on a rising vote.

#### MOTION

On motion of Senator West, the rules were suspended, Engrossed Substitute Senate Bill No. 6418 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF ORDER

Senator Roach: "A point of order, Mr. President. I just want to let everyone know that if we send a delegation back to DC to try and change their minds, I volunteer to go."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6418.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6418 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 48. Voting nay: Senator Wojahn - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6418, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the third order of business.

#### MESSAGES FROM THE GOVERNOR GUBERNATORIAL APPOINTMENTS

January 22, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Robert D. Fukai, appointed January 22, 1998, for a term ending September 30, 1998, as a member of the Spokane Joint Center for Higher Education.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

January 29, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Dennis Marshall, reappointed January 29, 1998, for a term ending December 26, 2000, as a member of the Board of Pilotage Commissioners.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Transportation.

February 17, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

John Austin, appointed February 17, 1998, for a term ending April 15, 2000, as a member of the Indeterminate Sentence Review Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Law and Justice.

MOTION

At 5:51 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Wednesday, February 18, 1998.

BRAD OWEN President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

THIRTY-SEVENTH DAY, FEBRUARY 17, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**THIRTY-EIGHTH DAY**

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MORNING SESSION  
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Senate Chamber, Olympia, Wednesday, February 18, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Anderson, Bauer, Benton, Fairley, Finkbeiner, Franklin, Hargrove, McCaslin, Morton, Prentice, Roach, Schow, Sellar, Betti Sheldon, Stevens, Strannigan, Thibaudeau, Wojahn and Zarelli. On motion of Senator Hale, Senators Anderson, Finkbeiner, McCaslin, Roach, Sellar and Stevens were excused. On motion of Senator Kline, Senators Franklin, Betti Sheldon and Thibaudeau were excused.

The Sergeant at Arms Color Guard, consisting of Pages Jewel Hargrove and Matthew Ramirez, presented the Colors. Deborah Spangle-York of the Olympia Bahai' Assembly, offered the prayer.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

At 10:09 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The members of the Senate retired to the House Chamber for the purpose of a Joint Session

JOINT SESSION  
MEDAL OF MERIT CEREMONY

The Sergeant at Arms of the House announced the arrival of the Senate at the bar of the House of Representatives.

The Speaker of the House instructed the Sergeants at Arms of the House and Senate to escort the President of the Senate to his place on the rostrum.

The Speaker of the House invited the Senators to seats within the House Chamber.

REMARKS BY SPEAKER CLYDE BALLARD

Speaker Ballard: "It is our privilege to again host the Medal of Merit Award Ceremony. We welcome President Owen, our colleagues from the Senate, and all other guests who are with us today. It is a pleasure for me to give you, President Owen, the gavel to preside over this joint session."

The roll of the House and Senate was called.

#### APPOINTMENT OF SPECIAL COMMITTEES

The President of the Senate appointed Senators Patterson, Haugen, Horn and Oke and Representatives Romero, O'Brien, Alexander and Dunn as a special committee to escort the Statewide Elected Officials and Supreme Court Justices from the State Reception Room to the House Chamber.

The President of the Senate appointed Senators Loveland and Deccio and Representatives Conway and D. Schmidt a special committee to advise Governor Locke that the Joint Session had assembled and to escort him from his office to the House Chamber.

The President appointed Senator Snyder and Representative Boldt as a special committee to escort United States Senator Slade Gorton to the rostrum.

#### INTRODUCTION OF STATE ELECTED OFFICIALS

The President of the Senate introduced and welcomed Secretary of State Ralph Munro, State Treasurer Mike Murphy, State Attorney General Christine O. Gregoire and Commissioner of Public Lands Jennifer Belcher.

#### INTRODUCTION OF SUPREME COURT JUSTICES

The President of the Senate introduced and welcomed Justice Charles Z. Smith, Justice Charles W. Johnson, Justice Gerry L. Alexander and Justice Richard B. Sanders.

#### INTRODUCTION OF GOVERNOR GARY LOCKE

The President of the Senate introduced and welcomed Governor Gary Locke. The committee escorted Governor Locke to his place on the rostrum.

#### INTRODUCTION OF UNITED STATES SENATOR SLADE GORTON

The President of the Senate introduced and welcomed United States Senator Slade Gorton.

#### INTRODUCTION OF FORMER GOVERNOR AL ROSELLINI

The President of the Senate introduced and welcomed former Governor Al Rosellini, who was seated in the gallery.

#### INTRODUCTION OF SPECIAL GUESTS

The President of the Senate introduced guests of the Medal of Merit honorees, who were seated in the gallery.

#### APPOINTMENT OF SPECIAL COMMITTEE

The President of the Senate appointed Senators Kohl, Kline, Sellar and McDonald and Representatives Dickerson, Veloria, Parlette and Huff as a special committee to escort the 1998 Medal of Merit honorees: Dr. E. Donnall Thomas, Mr. Jacob Lawrence, Mr. Grady Auvil and Mrs. Clare McNaughton and Mr. Stanley W. McNaughton from the State Reception Room to the rostrum.

#### REMARKS BY THE PRESIDENT

President Owen: "The purpose of the joint session is to present the Medal of Merit awards for the sixth time, honoring four deserving Washington State citizens. It is now my pleasure to introduce Governor Gary Locke."

#### REMARKS BY GOVERNOR LOCKE

Governor Locke: "Thank you very much. It is indeed a most honored occasion that we gather here today. I am very proud and honored to be the Governor of the state of Washington, but there are times such as these when it is an especially humbling experience. For today, we bestow the state's highest honor on four individuals, who by anyone's standard have truly excelled. It is especially humbling to be in their presence to hear their individual stories. They have not only had successful careers, but they have selfishly given up of themselves to improve the lives of others. They have made a positive difference of people in the state of Washington, all across America and all across the world.

"Dr. Donnal Thomas helped develop the lifesaving bone marrow transplant technique and for that he won the Nobel Prize in 1990. Grady Auvil is an orchardist who was a key leader and a visionary in developing our state's renowned apple industry. He helped us establish a research program focusing on alternatives to the use of pesticides. Long before it was fashionable, he shared his company's profits with his employees.

"Jacob Lawrence, University of Washington Professor Emeritus, uses his artistic gift to communicate to the world about American culture and history and particularly about the experiences of the African-American people. His paintings are hanging in major museums like the Smithsonian and the Metropolitan Museum of Art. His art has inspired us to reflect on every day and personal struggles that make us stronger as a people.

"Stanley O. McNaughton, CEO of PEMCO, was a pillar of the Seattle community, with his city contributions and his decision that PEMCO donate five percent of its profits to charitable causes. This included one thousand scholarships for students pursuing a career in education. He passed away just four days after he was selected to receive the Medal of Merit.

"Donnal Thomas, Grady Auvil, Jacob Lawrence and Stan McNaughton are the types of Washingtonians that the Forty-ninth Legislature had in mind in 1986, when it created the Medal of Merit. Since then, Medals of Merit have been bestowed upon only fourteen individuals, the last time in 1995.

"Typically, a legislative session focuses on fixing what's wrong, imposing proper sentences on criminals, curving pollution of the environment or reducing poverty and child abuse. But, our quality of life equally depends on celebrating what is right on making examples of the most generous, the wisest, the most insightful and the kindest among us all. When we draw special attention to the people who embody these virtues, we encourage people from every walk of life in every part of our state to emulate them.

"It is truly an honor to be here, to be part of this momentous occasion as we celebrate four Washingtonians who are making the state of Washington, America and the world, a better place to live, work and raise a family. Thank you very much."

#### INTRODUCTION OF SECRETARY OF STATE RALPH MUNRO

The President of the Senate introduced Secretary of State Ralph Munro who listed past recipients of the Medal of Merit.

#### REMARKS BY SECRETARY OF STATE RALPH MUNRO INTRODUCTION OF JACOB LAWRENCE

Secretary of State Munro: "On the rarest of occasions, someone comes into our midst who inspires us, who challenges us, who warns us of struggles past and who demands that we think of the future. Such a man is Jacob Lawrence. Mr. Lawrence's career as a painter and educator has spanned the greater part of this century. In his six major historical series, as well as individual works focusing on scenes of community life, Mr. Lawrence acts as a chronicler of both the American and the African-American scene, rendering the situation in human rather than heroic terms. His work has been the subject of three major retrospectives since 1960 and has been collected by many major museums and corporations throughout the world.

"Mr. Lawrence began teaching in the late 1940s at Black Mountain College in North Carolina and worked at Pratt Institute in New York during the '50s and '60s. He was appointed a full professor at the University of Washington in 1971, and continued to teach there until 1983. At the University, Jacob Lawrence was known for his ability to offer critiques of work that were both to the point and respectful of the

students' or colleagues' feelings. He painted in his studio in the art building, sharing his works and progress with students and providing an example of how a professional artist goes about his or her job. Mr. Lawrence continues to meet with students at both local events and in his travels. Jacob Lawrence is a man with a strong sense of community and a modest sense of self, and these beliefs have shaped the content of his work and the tenor of his style."

"Ladies and gentlemen, a great American--painter Jacob Lawrence."

Governor Locke presented the Medal of Merit and Certificate to Mr. Jacob Lawrence. Mr. Lawrence addressed the chamber.

#### INTRODUCTION OF JUSTICE GERRY ALEXANDER

President Owen: "Ladies and gentlemen, the President has the honor to present to you Justice Gerry Alexander for the purpose of introducing and honoring Dr. E. Donnall Thomas."

#### REMARKS BY JUSTICE GERRY ALEXANDER INTRODUCTION OF DR. E. DONNALL THOMAS

Justice Alexander: "Thank you, Lieutenant Governor Owen, Governor Locke, Governor Rosellini, Senator Gorton, Speaker Ballard, state elected officials, members of the Washington State Legislature, fellow justices, and ladies and gentlemen. In the course of my public and private life, I have introduced many individuals at many events. I must say though that in all that time, I have never been so in awe of a person I am about to introduce--as I am today. Neither have I felt more honored than I do now in being permitted the privilege to introduce such a distinguished recipient of the Washington State Medal of Merit, as Dr. E. Donnall Thomas.

"Dr. Thomas's curriculum vita lists so many achievements, awards and honors that one hardly knows when to begin the introduction. I am tempted as a loyal alumnus of the University of Washington to tell you first that Dr. Thomas is a professor emeritus at the University of Washington School of Medicine or perhaps I could begin by telling you that he was elected to the Washington Statehood Centennial Hall of Honor or that he had been presented with the nation's highest scientific honor, the National Medal of Science, in ceremonies at the White House.

"All of those great honors pale in one he received in 1990, in Stockholm, Sweden, directly from the hand of the King of Sweden. It was, of course, the Nobel Prize for Medicine. This award was given to Dr. Thomas for recognition of his pioneer work in the use of bone marrow transplantation to treat certain cancers and other blood related and genetic diseases. Appropriately, his Nobel Prize is inscribed with these words: 'For paving the way for transplantation in man.' Incidentally, Governor, this morning, Dr. Thomas told me that when one received a Nobel Prize from the King of Sweden, they are expected to bow. I told him that was not required here. However, in the event he shall do that, he told me that the King also, in that very democratic nation, bows back to the recipient.

"Like many of our state's citizens, Dr. Thomas is not a native Washingtonian. Our honoree hails from the state of Texas where he received his bachelor's and master's degrees at the University of Texas. It was also there that he met his future wife, Dorothy or Dot, as she is known. She is here today with their son, Jeffery Thomas, who is very involved in the real estate profession in Seattle. Also, they are accompanied by Jeffery's wife, Debbie, and their son--the Thomas' grandson--Alex. I would like for them to please stand. I believe they are up there in the gallery. Would you all please stand? Dr. and Mrs. Thomas have two other children, both of whom are physicians. One in the private practice of medicine in the state of Montana and the other, a daughter, is a professor of medicine, at the University of New Mexico, and is doing AIDS research at that institution.

"Dr. Thomas received his medical degree from Harvard University in 1946. After completing his internship in Boston, he stayed in that city to do post-doctorate work at MIT. It was there that he began to investigate marrow transplantation. In 1956, while serving as physician and chief at a hospital in Cooperstown, New York, he became the first person to demonstrate that marrow could be safely infused into a human patient. It was at that hospital that he and his team first treated patients who were affected with acute leukemia or aplastic anemia with marrow transplants.

"Good fortune smiled on the state of Washington in 1963, when Dr. Thomas moved to Seattle to become the first head of the Division of Oncology at the University of Washington School of Medicine. While there, he created the original Seattle marrow transplant team which continued to refine the transplantation procedure that he earlier developed in the state of New York. When the University's program moved to Seattle's world famous Fred Hutchinson Center in 1974, Dr. Thomas became the Director of the Center's Division of Clinical Research, a position he maintained until he stepped down from the administrative post in 1989 to become Director Emeritus of that division. To this day, he continues to pursue his research at the Hutchinson's Center and indeed, he is writing a book almost as we speak. Mrs. Thomas was telling me as they were driving down this



morning in the dark--they left fairly early--she with a flashlight, was helping to edit the book that Dr. Thomas is writing on marrow transplantations. So, he never stops working.

"The Washington State Medal of Merit is awarded to a person who has been distinguished by exceptional meritorious conduct in performing outstanding services to the people and the state of Washington. Dr. Thomas fills that bill perfectly. For fifteen years, Dr. Thomas headed the largest marrow transplant center in the world at the Hutchinson Center. The clinical team that he assembled there resolved many of the problems surrounding the complex transplantation procedure. Because of his work and that of his colleagues, literally tens of thousands of transplants are performed worldwide each year. At the Hutchinson Center, over seven thousand have been performed alone.

"He tells me that for some diseases, the transplant success rate exceeds eighty percent and is approaching ninety percent. As Mrs. Thomas told me this morning, this is just the beginning of this work. Governor Locke it is my great privilege to present to you and to all those assembled here today, Dr. E. Donnall Thomas, a citizen of our state, who in a brilliant career has harnessed science to better the lot of the citizens of this state, our nation and, indeed, the entire world."

Governor Locke presented the Medal of Merit and Certificate to Dr. E. Donnall Thomas. Dr. Thomas addressed the chamber.

#### INTRODUCTION OF HOUSE SPEAKER CLYDE BALLARD

President Owen: "Ladies and gentlemen, it is now my pleasure to present to you, the Speaker of the House of Representatives, Clyde Ballard, who will introduce Mr. Grady Auvil."

#### REMARKS BY SPEAKER CLYDE BALLARD INTRODUCTION OF GRADY AUVIL

Speaker Ballard: "We have spent many days and hours here in this chamber the past few days and at times, we didn't all agree. What a wonderful privilege it is today to be able to take part in something that, quite frankly, is overwhelming to me--to see the kind of people that we are blessed with in the state of Washington and the incredible impact they have, not only in our lives, but upon the lives of everybody in the United States and throughout the world. So, this is a great honor.

"Grady Auvil is known throughout North Central Washington and all of Washington as a leader in fruit production. At age ninety-two, he and his wife, Lillian, still spend time in the orchard working and caring for the orchards and their employees, which has made him a pillar in the fruit industry. Grady started farming in 1928. I was given a little history this morning that I was not aware of. In 1923, George Munro, who is the father of our Secretary of State, and Grady Auvil were roommates at Washington State University.

"His first major success was in the 1940s with the introduction of Red Haven Peaches. He then followed with Red Globe Nectarines in the 60s, Rainier Cherries in the 70s, and has led the way in the apple industry by the production of Granny Smiths, Washington's third leading apple, though, they too soon will be replaced by another Auvil innovation, the Fuji.

"Grady is known for his success in agriculture, but his expertise is not just limited to apples. As a founding member of the Washington State Tree/Fruit Research Commission, Grady has invented and introduced new approaches and ideas involving grafting, irrigation, variety and harvest. His profit sharing plans for his employees have not only enhanced his success, but has created a solid working relationship with the most important people in his business, his employees.

"It cannot be stated clearly enough, Washington State would not be the world leader in apple production today without Grady Auvil. His foresight, knowledge and dedication, have enabled Washington fruit to compete on a global market and our state's economy has felt his impact. Throughout his years of success, Grady has remained humble, dedicated and caring. In fact, when I called Grady to invite him here for this ceremony today, he asked me, in a typical Grady fashion, 'Is it ok if I bring Lillian?'

"Named 'Grower of the Year' in 1954, 1981 and 1990, it is my pleasure to introduce one of Washington's State's 1998 Medal of Merit recipients, Grady Auvil."

Governor Locke presented the Medal of Merit and Certificate to Mr. Grady Auvil. Mr. Auvil addressed the chamber.

INTRODUCTION OF CLARE McNAUGHTON  
AND STANLEY W. McNAUGHTON

President Owen: "Our next presentation of the Medal of Merit is exceptional, because it is the first time that the award will be presented posthumously. We did not have the opportunity to tell Stanley O. McNaughton that he was among the recipients. His untimely death came just four days after the award's committee had officially approved his nomination

"We are honored to have twenty-four members of Stanley O. McNaughton's immediate family with us today and I would like to have them stand and be recognized, if they would be so gracious to do so. Chief among the family is Stanley's gracious wife, Clare. It has been Clare's choice, through fifty-five years of marriage, to make her first commitment to home and family, including three sons, three daughters and eleven grandchildren. Throughout, she supported Stanley O's dedication to community, business and charitable endeavors.

"Before I introduce Stan W. McNaughton, who with his mother will accept the Medal of Merit for his father, I would like to say a few words about my personal debt to Stanley O. He was a chief supporter of my efforts to stamp out the tragedy of drug abuse in Washington State. Stanley O. was also an enthusiastic partner with Norm Maleng and myself in opposing Initiative 685, a proposal that would have effectively legalized drugs in our state. His support against such efforts was indicative of his abhorrence of drugs and anything that threatened the safety and the welfare of our children. I cannot thank him enough for his leadership in supporting his community, education and the safety of our children.

"It is now my great pleasure to tell you a little bit about Stan W. McNaughton, who recently became President and Chief Operating Officer of PEMCO Insurance Company. As a young businessman, he served six years as the CPA with Price Waterhouse. For the next seven years, he distinguished himself in the world of newspapers as Corporate Treasurer for the Herald in Everett, a subsidiary of the Washington Post. Then, in 1986, he joined PEMCO Financial Services as an Executive Assistant to the President and later became Executive Vice President. "As I had the pleasure of visiting the PEMCO Company, I was totally impressed with the very positive attitude that permeated throughout the company and each and every employee. This was truly representative of Stanley O's corporate philosophy and has been carried on by my good friend, Stanley W. In addition to his dedication to PEMCO, Stan is a devoted family man. He, too, is deeply involved in education and other children's issues. His wife, Cathy, and his two children are here today.

"It is my great pleasure to introduce to you, Clare McNaughton and Stanley W. McNaughton to accept the award, posthumously, for the great Stanley O. McNaughton."

Governor Locke presented the Medal of Merit and Certificate to Mrs. Clare McNaughton. Mr. Stanley W. McNaughton addressed the chamber.

The President of the Senate invited everyone to the State Reception Room immediately after the joint session to greet the honorees and their guests.

The President of the Senate asked the special committees to come forward and escort the medal of merit recipients, Senator Gorton, Governor Locke, the State Elected Officials and the Supreme Court Justices to the State Reception Room.

MOTION

On motion of Representative Lisk, the Joint Session was dissolved.

The President returned the gavel to the Speaker of the House. The Speaker requested the Sergeants at Arms of the House and Senate to escort the President of the Senate and members of the Senate from the House Chamber.

The Senate was called to order 11:28 a.m. by President Pro Tempore Newhouse.

MESSAGES FROM THE HOUSE

February 16, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2395, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 16, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2303,  
SECOND SUBSTITUTE HOUSE BILL NO. 2340,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2496,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2578,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2769,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2819,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2887,  
HOUSE BILL NO. 3123,  
HOUSE JOINT MEMORIAL NO. 4011, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 16, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 2371,  
SUBSTITUTE HOUSE BILL NO. 2422,  
SUBSTITUTE HOUSE BILL NO. 2490,  
SUBSTITUTE HOUSE BILL NO. 2544,  
SUBSTITUTE HOUSE BILL NO. 2785,  
HOUSE BILL NO. 3044,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3049,  
HOUSE BILL NO. 3053,  
ENGROSSED HOUSE BILL NO. 3078,  
SUBSTITUTE HOUSE BILL NO. 3096,  
HOUSE BILL NO. 3124, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 16, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 2418,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439,  
SUBSTITUTE HOUSE BILL NO. 2705,  
HOUSE BILL NO. 2750,  
SUBSTITUTE HOUSE BILL NO. 2811,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2818,  
SUBSTITUTE HOUSE BILL NO. 2911,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2925, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 16, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2462,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2761, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 2303 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Regala, Huff, Kastama, Bush, McDonald, Sullivan and Linville)

Regulating public water systems.

Referred to Committee on Agriculture and Environment.

2SHB 2340 by House Committee on Appropriations (originally sponsored by Representatives Thompson, Mulliken, Pennington, Gardner, Romero, Backlund, Anderson, Lambert, Boldt and Lantz)

Creating a pilot project to provide wetlands technical assistance to owners of wetlands.

Referred to Committee on Agriculture and Environment.

HB 2371 by Representatives Carlson, Radcliff, Constantine, Sheahan, Mulliken, Kastama, Johnson, Gardner, Pennington, Kenney, H. Sommers, L. Thomas, Kessler, Anderson and Dyer

Creating a medical expense plan for certain retirees.

Referred to Committee on Ways and Means.

ESHB 2395 by House Committee on Law and Justice (originally sponsored by Representatives Sterk, Mulliken, D. Schmidt, Johnson, D. Sommers, Koster, Sherstad, Sheahan, Thompson, Mielke, Smith, Dunn, Boldt and Backlund)

Limiting partial-birth abortions.

Referred to Committee on Law and Justice.

SHB 2418 by House Committee on Appropriations (originally sponsored by Representatives Johnson, Talcott, Sterk, Sump, Mulliken, Lambert, Carlson, Thompson, Smith, McCune, Benson, O'Brien and Mason)

Requiring coursework in comprehensive beginning reading instruction as a prerequisite to teacher certification.

Referred to Committee on Education.

SHB 2422 by House Committee on Education (originally sponsored by Representatives Mulliken, Smith, Johnson, Talcott, Sump, Sterk, Thompson, Koster, McCune, Boldt and Backlund)

Clarifying parents' rights in public education.

Referred to Committee on Education.

ESHB 2439 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives D. Sommers, Costa, Benson, Sterk, Gombosky and O'Brien)

Providing for traffic safety education.

Referred to Committee on Transportation.

ESHB 2462 by House Committee on Health Care (originally sponsored by Representatives Backlund, Dyer and Anderson)

Providing for the registration of surgical technologists.

Referred to Committee on Health and Long-Term Care.

SHB 2490 by House Committee on Appropriations (originally sponsored by Representatives Carlson, Ogden, Conway, Wolfe, Lambert, H. Sommers, D. Sommers, Schoesler, Gardner and Carrell) (by request of Joint Committee on Pension Policy)

Sharing investment gains.

Referred to Committee on Ways and Means.

ESHB 2496 by House Committee on Appropriations (originally sponsored by Representatives Buck, Doumit, Anderson, Sump, D. Sommers, Clements, Butler, Schoesler, Honeyford, Thompson, D. Schmidt, Linville, Chandler, Johnson, Regala, Hatfield, O'Brien, Dickerson, Ogden, Cooper, Kessler, Gardner, Conway and Eickmeyer)

Recovering salmon.

Referred to Committee on Natural Resources and Parks.

SHB 2544 by House Committee on Appropriations (originally sponsored by Representatives H. Sommers, Sehlin, Ogden, D. Sommers, Carlson, Conway and O'Brien) (by request of Joint Committee on Pension Policy)

Funding the state retirement systems.

Referred to Committee on Ways and Means.

ESHB 2578 by House Committee on Commerce and Labor (originally sponsored by Representatives McMorris and Wood)

Expanding membership of the electrical board.

Referred to Committee on Commerce and Labor.

SHB 2705 by House Committee on Commerce and Labor (originally sponsored by Representatives McMorris, Kessler, Hatfield, Doumit, Linville, Buck, Dyer and Gardner)

Extending existing employer workers' compensation group self-insurance.

Referred to Committee on Commerce and Labor.

HB 2750 by Representatives Wolfe, Kessler, Dickerson, Anderson, Gardner and Lambert

Providing a procedure for persons other than parents to intervene in custody proceedings in order to obtain visitation.

Referred to Committee on Law and Justice.

ESHB 2752 by House Committee on Energy and Utilities (originally sponsored by Representatives Bush, Crouse, Gardner, Cairnes, Dyer, Mulliken, Morris, Linville, Reams, Romero, Smith, McDonald, Ogden, Dickerson, Butler, O'Brien, Ballasiotes, Talcott and Appelwick) (by request of Attorney General Gregoire)

Prohibiting unsolicited electronic mail.

Referred to Committee on Energy and Utilities.

ESHB 2761 by House Committee on Children and Family Services (originally sponsored by Representatives Carrell, Wolfe, B. Thomas, Cooke, Boldt, Smith, Gombosky, Talcott, D. Schmidt, D. Sommers, McDonald and Backlund)

Revising provisions relating to at-risk youth.

Referred to Committee on Human Services and Corrections.

ESHB 2769 by House Committee on Law and Justice (originally sponsored by Representatives Clements, Sheahan, Zellinsky, Wensman, McMorris, Honeyford, Lisk, Sterk, Lambert and Mulliken)

Establishing procedure for reporting felonies by state employees.

Referred to Committee on Law and Justice.

SHB 2785 by House Committee on Commerce and Labor (originally sponsored by Representatives Van Luven, McMorris, Honeyford, Gardner, Cairnes, Sheahan and Morris)

Prescribing disclosures required for prize promotions.

Referred to Committee on Commerce and Labor.

SHB 2811 by House Committee on Education (originally sponsored by Representatives Johnson, Cole, Talcott, Keiser and Quall)

Changing the notification date for nonrenewal of educational employees' contracts.

Referred to Committee on Education.

ESHB 2818 by House Committee on Children and Family Services (originally sponsored by Representatives Cooke and Boldt)

Changing provisions relating to WorkFirst assistance units.

Referred to Committee on Health and Long-Term Care.

ESHB 2819 by House Committee on Natural Resources (originally sponsored by Representatives Buck, Regala and Chandler) (by request of Department of Fish and Wildlife)

Requiring display of a vehicle use permit while using department of fish and wildlife improved access facilities.

Referred to Committee on Natural Resources and Parks.

ESHB 2887 by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Honeyford and Schoesler)

Identifying livestock.

Referred to Committee on Agriculture and Environment.

SHB 2911 by House Committee on House Government Reform and Land Use (originally sponsored by Representatives Reams, Cairnes and Thompson)

Imposing mitigation measures under the state environmental policy act.

Referred to Committee on Agriculture and Environment.

E2SHB 2925 by House Committee on Appropriations (originally sponsored by Representatives Chandler, Cairnes, Radcliff, Robertson, Linville, Backlund, Regala, Mitchell and Scott)

Changing water provisions.

Referred to Committee on Agriculture and Environment.

HB 3044 by Representative McMorris

Determining an injured worker's wages for temporary total disability compensation eligibility.

Referred to Committee on Commerce and Labor.

E2SHB 3049 by House Committee on Appropriations (originally sponsored by Representatives Linville, Chandler, Fisher, Mastin, Murray, Romero, Gardner, Robertson, Regala, K. Schmidt, Mitchell, Huff, Cooper, Scott, Tokuda, Mason, Ogden, Kenney and Morris)

Providing for watershed planning and project mitigation.

Referred to Committee on Agriculture and Environment.

HB 3053 by Representatives Clements and Skinner

Providing a lump sum distribution option for certain members of the teachers' retirement system, plan III.

Referred to Committee on Ways and Means.

EHB 3078 by Representatives Ballasiotes, Zellinsky and McDonald

Restricting juvenile diversion eligibility.

Referred to Committee on Law and Justice.

SHB 3096 by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives Zellinsky and L. Thomas)

Declaring the state's preemption of excise or privilege taxes on health care services.

Referred to Committee on Financial Institutions, Insurance and Housing.

HB 3123 by Representatives Mulliken, Sullivan, Thompson and Mielke

Providing for senate confirmation of growth management hearings board members.

Referred to Committee on Government Operations.

HB 3124 by Representatives Johnson, Talcott, Smith, Hickel, Sterk, Sump, Mastin, Radcliff, Benson, Mielke, Sherstad, Backlund, Delvin and Thompson

Establishing reading improvement programs.

Referred to Committee on Education.

HJM 4011 by Representatives Boldt and Dunn

Requesting Congress to review the impact of the Columbia River Gorge National Scenic Area Act.

Referred to Committee on Natural Resources and Parks.

MOTION

At 11:32 a.m., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Thursday, February 19, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

THIRTY-EIGHTH DAY, FEBRUARY 18, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**THIRTY-NINTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Thursday, February 19, 1998

The Senate was called to order at 12:00 noon by President Pro Tempore Newhouse. No roll call was taken.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

February 18, 1998

SHB 1121 Prime Sponsor, House Committee on Child and Family Service: Revising legal custody of children. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl and Schow.

Passed to Committee on Rules for second reading.

February 18, 1998

SHB 2051 Prime Sponsor, House Committee on Agriculture and Ecology: Exempting environmental remedial services, labor, and businesses from taxation. Reported by Committee on Agriculture and Environment



MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Referred to Committee on Ways and Means.

February 18, 1998

HB 2557 Prime Sponsor, Representative Tokuda: Concerning judicial review for certain out-of-home child placements. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl and Schow.

Passed to Committee on Rules for second reading.

February 18, 1998

HB 2558 Prime Sponsor, Representative Tokuda: Correcting statutory references. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl and Schow.

Passed to Committee on Rules for second reading.

February 18, 1998

HB 2717 Prime Sponsor, Representative Chandler: Implementing House Joint Resolution No. 4209. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 18, 1998

SHB 3056 Prime Sponsor, House Committee on Agriculture and Ecology: Implementing the recommendations of the on-site wastewater certification work group. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

#### MESSAGES FROM THE HOUSE

February 17, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2300,  
SUBSTITUTE HOUSE BILL NO. 2308,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2514,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2831,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2935, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 17, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 2748,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2830,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2871,  
SUBSTITUTE HOUSE BILL NO. 2922,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3008,  
HOUSE BILL NO. 3031,  
SUBSTITUTE HOUSE BILL NO. 3099, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 2300 by House Committee on Education (originally sponsored by Representatives Johnson, Keiser, Huff, Talcott, Hickel, Carrell, Linville, Lisk, Veloria, Skinner, Cairnes, Mason, Lambert, Mulliken, Backlund, Mitchell, Wolfe, Constantine, Kastama, Kenney, Gardner, Benson, Ogden, Butler, Carlson, Kessler, Costa, Anderson, Conway, Lantz and McDonald)

Changing provisions relating to educational pathways.

Referred to Committee on Education.

SHB 2308 by House Committee on Education (originally sponsored by Representatives Mulliken, Johnson, McCune, Backlund, Carrell, Boldt, Sheahan, Smith and Talcott)

Requiring parental consent before a school conducts certain tests, questionnaires, surveys, analyses, or evaluations.

Referred to Committee on Education.

ESHB 2514 by House Committee on Appropriations (originally sponsored by Representatives Chandler, Linville, Mastin, Parlette, Koster, Anderson, Regala and Cooper)

Providing for integrated watershed management.

Referred to Committee on Agriculture and Environment.

HB 2748 by Representatives Mulliken, Thompson, Cairnes, Lantz, DeBolt, McMorris, Sherstad, Koster, Mielke, Sump, Bush, Johnson, Zellinsky, Boldt, Sheahan, Honeyford, Pennington, Schoesler, Chandler and Dunn

Allowing rural counties to authorize additional industrial development in rural areas.

Referred to Committee on Government Operations.

ESHB 2830 by House Committee on House Government Reform and Land Use (originally sponsored by Representatives Reams, Romero and Lantz) (by request of Land Use Study Commission)

Implementing recommendations of the land use study commission.

Referred to Committee on Government Operations.

E2SHB 2831 by House Committee on Appropriations (originally sponsored by Representatives Crouse and Mielke)

Requiring electric utilities to unbundle the costs of their assets and operations.

Referred to Committee on Energy and Utilities.

ESHB 2871 by House Committee on Finance (originally sponsored by Representatives Parlette, Chandler, Wensman, Anderson, Reams, Clements, Romero, Linville, Gardner and Thompson)

Creating a system of classifying land as agricultural land with long-term commercial significance for tax purposes.

Referred to Committee on Ways and Means.

SHB 2922 by House Committee on Appropriations (originally sponsored by Representatives Carlson, H. Sommers, Alexander and Huff) (by request of Department of Retirement Systems)

Administering the deferred compensation plan.

Referred to Committee on Ways and Means.

E2SHB 2935 by House Committee on Appropriations (originally sponsored by Representatives Dyer, Cody, Huff and Backlund)

Adopting a new system for establishing nursing home payment rates.

Referred to Committee on Health and Long-Term Care.

E2SHB 3008 by House Committee on Appropriations (originally sponsored by Representatives Cooke, Dickerson, Boldt, Wolfe, McDonald, Tokuda, Ballasiotes, Kastama, Lambert, Dunshee, Carrell, Cody, Talcott, Cole, Johnson, Wood, Carlson, Lantz, Reams, Costa, L. Thomas, Clements, Zellinsky, Alexander, Dyer, D. Schmidt, Radcliff, Conway and Anderson)

Requiring dependency investigations for infants born drug affected.

Referred to Committee on Human Services and Corrections.

HB 3031 by Representatives McMorris, Boldt, Chandler and Clements

Defining misconduct for unemployment insurance purposes.

Referred to Committee on Commerce and Labor.

SHB 3099 by House Committee on House Government Reform and Land Use (originally sponsored by Representatives DeBolt, Kessler and Johnson)

Expanding the authority for counties to adopt master planned locations for major industrial activity.

Referred to Committee on Government Operations.

#### MOTION

At 12:04 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Friday, February 20, 1998.

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

THIRTY-NINTH DAY, FEBRUARY 19, 1998

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**FORTIETH DAY**

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MORNING SESSION  
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Senate Chamber, Olympia, Friday, February 20, 1998

The Senate was called to order at 10:00 a.m. by Vice President Pro Tempore Morton. The Secretary called the roll and announced to the Vice President Pro Tempore that all Senators were present except Senators Anderson, Deccio, Fairley, Finkbeiner, Goings, Hochstatter, Long, McAuliffe, McCaslin, Roach, Stevens and Winsley. On motion of Senator Hale, Senators Anderson, Deccio, Finkbeiner, Hochstatter, Long, McCaslin, Roach, Stevens and Winsley were excused. On motion of Senator Franklin, Senators Fairley, Goings and McAuliffe were excused.

The Sergeant at Arms Color Guard, consisting of Pages James Burke and Erica Roberts, presented the Colors. Reverend William Hallahan, pastor of Our Lady of Guadalupe Church of Seattle, and a guest of Senator Mike Heavey, offered the prayer.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

February 19, 1998

SHB 1088 Prime Sponsor, House Committee on Government Administration: Designating Mammuthus COLUMBI as the official fossil of the state of Washington. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators Hale, Vice Chair; Haugen, Horn and T. Sheldon.

MINORITY Recommendation: Do not pass. Signed by Senator Patterson.

Passed to Committee on Rules for second reading.

February 19, 1998

HB 1172 Prime Sponsor, Representative D. Sommers: Concerning the failure to register as a sex offender. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl and Schow.

Referred to Committee on Ways and Means.

February 19, 1998

SHB 1212 Prime Sponsor, House Committee on Government Administration: Making corrections regarding combining water-sewer districts. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 19, 1998

HB 1332 Prime Sponsor, Representative Sheahan: Authorizing diversion agreements to prohibit contact with victims or witnesses of offenses committed by the juvenile. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl and Schow.

Passed to Committee on Rules for second reading.

February 19, 1998

EHB 2350 Prime Sponsor, Representative McDonald: Directing the Washington state crime information center to provide law enforcement agencies with access to sex offender central registry information. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl and Schow.

Passed to Committee on Rules for second reading.

February 19, 1998

SHB 2710 Prime Sponsor, House Committee on Agriculture and Ecology: Changing irrigation district administration. Reported by Committee on Government Operations

MAJORITY Recommendation: That the bill be referred to Committee on Agriculture and Environment without recommendation. Signed by Senators Hale, Vice Chair; Horn, Patterson and T. Sheldon.

Referred to Committee on Agriculture and Environment.

#### MOTION

On motion of Senator Johnson, Engrossed House Bill No. 2350 was referred to the Committee on Rules.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 19, 1998

GA 9278 LARRY NICKELL, appointed October 1, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Big Bend Community College District No. 18.

Reported by the Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 19, 1998

GA 9283 JAMES ROBINSON, appointed October 1, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Olympic Community College District No. 3.

Reported by the Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 19, 1998

GA 9293 JEAN ANN BATCHELDER, appointed September 10, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Lake Washington Technical College District No. 26.

Reported by the Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 19, 1998

GA 9297 M.J. HRDLICKA, reappointed November 25, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Edmonds Community College District No. 23.

Reported by the Committee on Higher Education

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 19, 1998

GA 9304 RICHARD SPANGLER, JR., reappointed June 26, 1997, for a term ending June 30, 2001, as a member of the Work Force Training and Education Coordinating Board.

Reported by the Committee on Higher Education

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 19, 1998

GA 9323 RUTHANN KUROSE, reappointed September 15, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Bellevue Community College District No. 8.

Reported by the Committee on Higher Education

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 19, 1998

GA 9328 DR. JAY W. KIM, reappointed January 16, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Pierce Community College District No. 11.

Reported by the Committee on Higher Education

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

#### MOTION

On motion of Senator Johnson, the following bills which were left on the Second and Third Reading Calendars were returned to the Committee on Rules:

#### SECOND READING

SB 5972 Contributions by mail  
SB 6623 Lewis co. superior court  
SS 6740 Basic health plan eligibility  
SJM 8022 Forest land exchange  
SJM 8023 Tobacco litigation damages  
SJM 8024 B.P.A. sale  
SJM 8026 Dam breaching  
SJM 8028 Mexico's apple import duty  
SJM 8031 Agency telecommnctns service

#### SECOND READING

SB 5896 f Civil rights act of 1997  
SB 6023 Unemployment compensation  
SB 6132 f Sellers of travel  
SB 6140 f Public water systems  
SB 6148 Intl. trade/forest products  
SB 6170 Uranium or thorium mills  
SB 6207 f Correctional facility employe  
SB 6250 Geoduck diver licenses  
SB 6255 f Apiaries  
SB 6261 f Aquatic plant management  
SB 6274 f Slayers/retirmnt sys benefits  
SB 6277 Bus drivers' compensation  
SB 6338 f Abortion/parental notificatn  
SB 6339 f English as common language  
SB 6342 Salmon eggs sale  
SB 6350 f Pregnant women/controlld sub  
SB 6361 Health care workr identifctn  
SB 6365 f False claims against gvrnmnt  
SB 6372 f Child care provider/B&O tax  
SB 6378 Building codes adoption  
SB 6397 Rape victim protection  
SB 6410 f Fish & wildlife dept reorgnz  
SB 6432 Constitutn & Declar of Indep

SB 6436 RTA short-term obligations  
SB 6482 Growth managmnt prjct review  
SB 6487 State school directors' assn  
SB 6525 f Vehicle liability insurance  
SB 6538 Restaurant liquor licenses  
SB 6542 Family policy council  
SB 6546 School nurse/student ratios  
SB 6551 Boarding/adult home siting  
SB 6559 f Mental disorder evaluation  
SB 6567 Workers' comp/hearing loss  
SB 6593 \$f Finfish net-pen aquaculture  
SB 6642 f Research data protection  
SB 6673 Computer wires/fiber optics  
SB 6677 f Boarding homes/tax  
SB 6678 Highway access management  
SB 6686 f Tobacco possession by minors  
SB 6687 Mobile home park landlrd-ten  
SB 6702 Substnc abuse/mental disordr  
SB 6708 f Road rage  
SB 6716 f Child care background checks  
SJM 8002 State sovereignty  
SCR 8425 Gambling policy task force

#### SECOND READING

SB 5447 Hospital licensing/info disc  
SB 5585 f Water use for instream purpo  
SB 5638 f Traffic infractions/fatality  
SB 5708 f Child day care liability ins  
SB 5731 f Higher ed student child care  
SB 6187 f DUI penalties  
SB 6218 Sunsetting offices  
SB 6221 Storm water contrl facilities  
SB 6222 f Cooper Jones Act/traffc safe  
SB 6233 f Driving privilege revocation  
SB 6245 f Riparian habitat enhancement  
SB 6247 Sexually explicit mattr/minor  
2ESSB 6259 Lake managmnt service areas  
SB 6260 Lake management districts  
SB 6276 Linked deposit program  
SB 6282 f Threatened/endangerd species  
SB 6284 School levy ballot titles  
SB 6326 Student social security nos.  
SB 6351 f Vehicle accident reporting  
SB 6370 Occupationl drivers' licenses  
SB 6389 County conservation futures  
SB 6479 f Workers' comp death awards  
SB 6506 School employee annuities  
SB 6510 Drug paraphernalia  
SB 6553 Outdoor burning  
SB 6592 Intractable pain control  
SB 6596 Regionl transportatn planng  
SB 6597 f Fire prevention study group  
SB 6613 Health care info disclosure



SB 6638 f Contractors/consumer protectn  
SB 6660 f Child support license suspen  
SJM 8025 Teaming with Wildlife

THIRD READING

SSB 5002 K-20 cross-sector telecommun  
SSB 5006 f Sex offender sentncng/superv  
SB 5016 Local improvement assessmnts  
SB 5020 f Sentencing conditions  
ESSB 5033 f Stolen check/draft possessn  
ESSB 5035 f Mail theft/stolen mail recei  
ESB 5086 Child support/postsecndry ed  
SSB 5135 Vehicle impoundment  
SSB 5152 Emplymnt securty data access  
SB 5160 f Presidential primary elimin  
SSB 5190 f Inmates sentenced to death  
SSB 5208 f Environmental complaints  
SB 5244 Disabled parking enforcement  
ESB 5271 Legislator guest editorials  
SSB 5282 f Hit and run involving death  
ESSB 5303 Tourism & devlpmnt task forc  
ESSB 5351 Small scale mining/prospctng  
SSB 5363 Contracting by publ officers  
SB 5518 f Housing for older persons  
SB 5543 f Distressed area investmnt/tx

ESSB 5656 Voyeurism  
SSB 5667 \$ Professional guardian certif  
SB 5743 f Student housing/leasehold tx  
SB 5787 County land dedeed to DNR  
2SSB 5842 f Litter control & recycling  
SSB 5864 f Drive-by shooting  
SSB 5875 f Veterans & military personnl  
SSB 5894 Correctnl personnel training  
SSB 5919 f Sex offender sentncng altern  
SSB 5935 f Long-term medical care costs  
ESSB 5983 f Industrial investments

MOTION

At 10:18 a.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Monday, February 23, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FORTIETH DAY, FEBRUARY 20, 1998

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**FORTY-THIRD DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Monday, February 23, 1998

The Senate was called to order at 10:00 a.m. by President Pro Tempore Newhouse. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present except Senator Hale. On motion of Senator Swecker, Senator Hale was excused.

The Sergeant at Arms Color Guard, consisting of Pages Justin Nielson and Casey West, presented the Colors. Reverend Edsel Goldson, pastor of the Tumwater Methodist Church, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**REPORTS OF STANDING COMMITTEES**

February 20, 1998

HB 1046 Prime Sponsor, Representative Carlson: Requiring personal flotation devices for children on certain recreational vessels. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Snyder, Spanel and Swecker.

Passed to Committee on Rules for second reading.

February 19, 1998

2SHB 1065 Prime Sponsor, House Committee on Financial Institutions and Insurance: Filing certain insurance related corporate documents. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Heavey and Kline.

Passed to Committee on Rules for second reading.

February 19, 1998

EHB 1186 Prime Sponsor, Representative Hickel: Changing duties for aiding injured persons and the penalties for second degree murder. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 19, 1998

SHB 1193 Prime Sponsor, House Committee on Government Administration: Controlling personal service contracts. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 19, 1998

EHB 1205 Prime Sponsor, Representative Lambert: Prohibiting specified sex offenses against children. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Long and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator Fairley.

Passed to Committee on Rules for second reading.

February 20, 1998

ESHB 1230 Prime Sponsor, House Committee on Education: Protecting students' religious rights. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson, Rasmussen and Zarelli.

Passed to Committee on Rules for second reading.

February 20, 1998

SHB 1510 Prime Sponsor, House Committee on Government Administration: Regulating statements of financial matters. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 18, 1998

SHB 1672 Prime Sponsor, House Committee on Law and Justice: Prohibiting the use of intoxication as a defense. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Kline, Long, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

February 20, 1998

HB 1673 Prime Sponsor, Representative Dunn: Allowing parents to decline having their children in the transitional bilingual program. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator McAuliffe.

Passed to Committee on Rules for second reading.

February 19, 1998

ESHB 1769 Prime Sponsor, House Committee on Health Care: Providing for the electronic transfer of prescriptions. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

February 19, 1998

SHB 1867 Prime Sponsor, House Committee on Health Care: Revising provisions for food sanitation and safety. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley and Wojahn.

Passed to Committee on Rules for second reading.

February 19, 1998

HB 2144 Prime Sponsor, Representative Smith: Designating depositories. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Heavey and Kline.

Passed to Committee on Rules for second reading.

February 18, 1998

SHB 2295 Prime Sponsor, House Committee on Law and Justice: Revising procedures for staggering of terms for new court of appeals positions. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

February 19, 1998

SHB 2321 Prime Sponsor, House Committee on Financial Institutions and Insurance: Allowing consumer loan companies to charge borrowers fees for services provided by third parties. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Heavey and Kline.

Passed to Committee on Rules for second reading.

February 20, 1998

HB 2328 Prime Sponsor, Representative Sterk: Allowing for an extra unclassified employee in a sheriff's office that has adopted a system of community-oriented policing. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators Hale, Vice Chair; Haugen, Horn and Patterson.

Passed to Committee on Rules for second reading.

February 20, 1998

ESHB 2330 Prime Sponsor, House Committee on Education: Authorizing church schools. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators McAuliffe and Rasmussen.

Passed to Committee on Rules for second reading.

February 18, 1998

HB 2361 Prime Sponsor, Representative Sheahan: Revising notice requirements in proceedings involving support and income-withholding orders. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Long, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 19, 1998

SHB 2364 Prime Sponsor, House Committee on Health Care: Extending the time for the secretary of health to establish administrative procedures and requirements for health professions. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

February 20, 1998

ESHB 2462 Prime Sponsor, House Committee on Health Care: Providing for the registration of surgical technologists. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 19, 1998

SHB 2556 Prime Sponsor, House Committee on Child and Family Service: Making changes concerning the federal child abuse prevention and treatment act. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Referred to Committee on Ways and Means.

February 20, 1998

SHB 2634 Prime Sponsor, House Committee on Child and Family Service: Denying public assistance to fugitives from justice. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 19, 1998

SHB 2688 Prime Sponsor, House Committee on Health Care: Modifying the educational requirements for licensure as a hearing instrument fitter/dispenser. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

February 19, 1998

HB 2692 Prime Sponsor, Representative Clements: Clarifying references to food stamps or food stamp benefits transferred electronically. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 20, 1998

HB 2698 Prime Sponsor, Representative B. Thomas: Resolving conflicts in lodging tax statutes enacted in 1997. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 19, 1998

HB 2704 Prime Sponsor, Representative Skinner: Creating inactive license status for physical therapists. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

February 19, 1998

HB 2788 Prime Sponsor, Representative Backlund: Training nursing assistants. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

February 20, 1998

HB 2797 Prime Sponsor, Representative Regala: Modifying the membership of the natural heritage advisory council. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel and Swecker.

Passed to Committee on Rules for second reading.

February 20, 1998

SHB 2826 Prime Sponsor, House Committee on Natural Resources: Authorizing distribution of nonhighway vehicle funds to nonprofit off-road vehicle organizations. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel and Swecker.

Passed to Committee on Rules for second reading.

February 20, 1998

ESHB 2900 Prime Sponsor, House Committee on Child and Family Service: Providing for pro rata calculation of temporary assistance for needy families grants. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 19, 1998

ESHB 2901 Prime Sponsor, House Committee on Child and Family Service: Requiring a WorkFirst job search component. Reported by Committee on Health and Long-Term Care



MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

February 20, 1998

SHB 2914 Prime Sponsor, House Committee on Health Care: Diagnosing and reporting sexually transmitted diseases. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

February 20, 1998

EHB 2920 Prime Sponsor, Representative Skinner: Clarifying continuing education requirements for counselors. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 20, 1998

HB 3022 Prime Sponsor, Representative Boldt: Authorizing interstate agreements for public assistance cross matches. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 20, 1998

HB 3103 Prime Sponsor, Representative Dickerson: Requiring newborn screening for exposure to harmful drugs. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin and Wojahn.

Passed to Committee on Rules for second reading.

February 20, 1998

HJM 4029 Prime Sponsor, Representative Buck: Regarding the Olympic National Park as a Biosphere Reserve within the Man and Biosphere Program. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Morton, Snyder and Swecker.

Passed to Committee on Rules for second reading.

February 20, 1998

HJM 4030 Prime Sponsor, Representative Backlund: Petitioning for Medicaid flexibility. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley and Strannigan.

Passed to Committee on Rules for second reading.

February 20 1998

HJM 4032 Prime Sponsor, Representative Buck: Regarding salmon and steelhead under the federal Endangered Species Act. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel and Swecker.

Passed to Committee on Rules for second reading.

February 20, 1998

SHJM 4035 Prime Sponsor, House Committee on Natural Resources: Urging legislation facilitating forest land exchange. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel and Swecker.

Passed to Committee on Rules for second reading.

REPORT OF STANDING COMMITTEE  
GUBERNATORIAL APPOINTMENT

February 20, 1998

GA 9290 KELLY D. WHITE, reappointed July 10, 1997, for a term ending January 19, 2003, as a member of the Fish and Wildlife Commission.

Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Oke, Chair; Hargrove, Jacobsen, Morton, Snyder, Spanel and Swecker.

Passed to Committee on Rules.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENT

January 30, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Captain Harry Dudley, appointed January 30, 1998, for a term ending December 26, 2000, as a member of the Board of Pilotage Commissioners.

Sincerely,

Referred to Committee on Transportation.

MOTION

At 10:10 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:33 a.m. by President Pro Tempore Newhouse.

MOTION

On motion of Senator Franklin, the following resolution was adopted:

SENATE RESOLUTION 1998-8704

By Senators Franklin and Kohl

WHEREAS, 1998 marks the beginning of a new tradition in Tacoma with the first annual African-American Heritage Pageant; and

WHEREAS, The African-American Heritage Pageant continues the important mission and legacy of the former Afro Pageant; and

WHEREAS, Through the former Afro Pageant, community leaders worked tirelessly for many years to raise scholarship funds, and promote cultural awareness and civic responsibility among generations of black youth seeking to further their education beyond high school; and

WHEREAS, The newly created African-American Heritage Pageant is dedicated to providing qualifying Pierce County African-American high school seniors with college scholarships; and

WHEREAS, Pageant organizers are ever mindful of the effect of increasing technology and global competition on the lives and future employment opportunities of these students; and

WHEREAS, Organizers of the African-American Heritage Pageant believe that a higher education is an essential milestone that students must meet if they are to have a successful future in a rapidly changing world; and

WHEREAS, The Pageant came into being to help as many of these students as possible gain the college scholarship resources that will help them prepare for their future; and

WHEREAS, This first annual Pageant will take place February 28, 1998, at Clover Park High School, featuring fifteen male and female contestants; and

WHEREAS, The contestants represent ten Pierce County area high schools; and

WHEREAS, The participating students have a commendable cumulative grade point average of 3.25;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize and honor the African-American Heritage Pageant and those responsible for its creation; that we recognize and commend the contestants who merely by meeting the high standards required for participation have already demonstrated their commitment to their futures and the future of their community; and that we urge all citizens of Washington to support the worthy educational goals of the African-American Heritage Pageant; and

BE IT FURTHER RESOLVED, That copies of this resolution be transmitted immediately by the Secretary of the Senate to Pageant Board of Directors Chair Thel Johnson, and to Pageant Interim Director Jess Moultry.

Senators Franklin and Kohl spoke to Senate Resolution 1998-8704.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the African-American Heritage Pageant contestants who were seated in the gallery.

MOTION

On motion of Senator Johnson, the Senate reverted to the sixth order of business.

MOTION

On motion of Senator Anderson, Senator McCaslin was excused.

## SECOND READING

HOUSE BILL NO. 2557, by Representatives Tokuda, Cooke and O'Brien (by request of Department of Social and Health Services)

Concerning judicial review for certain out-of-home child placements.

The bill was read the second time.

## MOTION

Senator Long moved that the following Committee on Human Services and Corrections amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 74.13.350 and 1997 c 386 s 16 are each amended to read as follows:

It is the intent of the legislature that parents are responsible for the care and support of children with developmental disabilities. The legislature recognizes that, because of the intense support required to care for a child with developmental disabilities, the help of an out-of-home placement may be needed. It is the intent of the legislature that, when the sole reason for the out-of-home placement is the child's developmental disability, such services be offered by the department to these children and their families through a voluntary placement agreement. In these cases, the parents shall retain legal custody of the child.

As used in this section, "voluntary placement agreement" means a written agreement between the department and a child's parent or legal guardian authorizing the department to place the child in a licensed facility. Under the terms of this agreement, the parent or legal guardian shall retain legal custody and the department shall be responsible for the child's placement and care. The agreement shall at a minimum specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the department while the child is in placement. The agreement must be signed by the child's parent or legal guardian and the department to be in effect, except that an agreement regarding an Indian child shall not be valid unless executed in writing before the court and filed with the court as provided in RCW 13.34.245. Any party to a voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child's parent or legal guardian unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

As used in this section, "out-of-home placement" and "out-of-home care" mean the placement of a child in a foster family home or group care facility licensed under chapter 74.15 RCW.

Whenever the department places a child in out-of-home care under a voluntary placement pursuant to this section, the department shall have the responsibility for the child's placement and care. The department shall develop a permanency plan of care for the child no later than sixty days from the date that the department assumes responsibility for the child's placement and care. Within the first one hundred eighty days of the placement, the department shall obtain a judicial determination pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the placement is in the best interests of the child. If the child's out-of-home placement ends before one hundred eighty days have elapsed, no judicial determination under RCW 13.04.030(1)(b) is required. The permanency planning hearings shall review whether the child's best interests are served by continued out-of-home placement and determine the future legal status of the child.

The department shall provide for periodic administrative reviews as required by federal law. A review may be called at any time by either the department, the parent, or the legal guardian.

Nothing in this section shall prevent the department from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030.

The department shall adopt rules providing for the implementation of chapter 386, Laws of 1997 and the transfer of responsibility for out-of-home placements from the dependency process under chapter 13.34 RCW to the process under this chapter.

It is the intent of the legislature that the department undertake voluntary out-of-home placement in cases where the child's developmental disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child, and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home. If the department does not accept a voluntary placement agreement signed by the parent, a petition may be filed and an action pursued under chapter 13.34 RCW. The department shall inform the parent, guardian, or legal custodian in writing of their right to civil action under chapter 13.34 RCW.

**Sec. 2.** RCW 13.34.270 and 1997 c 386 s 19 are each amended to read as follows:

(1) Whenever the department of social and health services places a developmentally disabled child in out-of-home care pursuant to RCW 74.13.350, the department shall obtain a judicial determination within one hundred eighty days of the placement that continued placement

is in the best interests of the child. If the child's out-of-home placement ends before one hundred eighty days have elapsed, no judicial determination is required.

(2) To obtain the judicial determination, the department shall file a petition alleging that there is located or residing within the county a child who has a developmental disability, as defined in RCW 71A.10.020, and that the child has been placed in out-of-home care pursuant to RCW 74.13.350. The petition shall request that the court review the child's placement, make a determination that continued placement is in the best interests of the child, and take other necessary action as provided in this section. The petition shall contain the name, date of birth, and residence of the child and the names and residences of the child's parent or legal guardian who has agreed to the child's placement in out-of-home care. Reasonable attempts shall be made by the department to ascertain and set forth in the petition the identity, location, and custodial status of any parent who is not a party to the placement agreement and why that parent cannot assume custody of the child.

(3) Upon filing of the petition, the clerk of the court shall schedule the petition for a hearing to be held no later than fourteen calendar days after the petition has been filed. The department shall provide notification of the time, date, and purpose of the hearing to the parent or legal guardian who has agreed to the child's placement in out-of-home care. The department shall also make reasonable attempts to notify any parent who is not a party to the placement agreement, if the parent's identity and location is known. Notification under this section may be given by the most expedient means, including but not limited to, mail, personal service, telephone, and telegraph.

(4) The court shall appoint a guardian ad litem for the child as provided in RCW 13.34.100, unless the court for good cause finds the appointment unnecessary.

(5) Permanency planning hearings shall be held as provided in this subsection. At the hearing, the court shall review whether the child's best interests are served by continued out-of-home placement and determine the future legal status of the child.

(a) For children age ten and under, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the child's current placement episode.

(b) For children over age ten, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least fifteen months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than eighteen months following commencement of the current placement episode.

(c) No later than ten working days before the permanency planning hearing, the department shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties. The plan shall be directed toward securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent or legal guardian; adoption; guardianship; or long-term out-of-home care, until the child is age eighteen, with a written agreement between the parties and the child's care provider.

(d) If a goal of long-term out-of-home care has been achieved before the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remains appropriate. In cases where the primary permanency planning goal has not ~~((be [been]))~~ been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal.

(e) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the voluntary placement agreement is terminated.

(6) Any party to the voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child's parent or legal guardian, unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The department shall notify the court upon termination of the voluntary placement agreement and return of the child to the care of the child's parent or legal guardian. Whenever a voluntary placement agreement is terminated, an action under this section shall be dismissed.

(7) This section does not prevent the department from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030. An action filed under this section shall be dismissed upon the filing of a dependency petition regarding a child who is the subject of the action under this section.

**Sec. 3.** RCW 74.13.021 and 1997 c 386 s 15 are each amended to read as follows:

As used in this chapter, "developmentally disabled ~~((dependent))~~ child" is a child who has a developmental disability as defined in RCW 71A.10.020 and whose parent, guardian, or legal custodian and with the department mutually agree that services appropriate to the child's needs can not be provided in the home."

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the adoption of the Committee on Human Services and Corrections striking amendment to House Bill No. 2557.

The motion by Senator Long carried and the committee striking amendment was adopted.

MOTIONS

On motion of Senator Long, the following title amendment was adopted:

On page 1, line 2 of the title, after "placement;" strike the remainder of the title and insert "and amending RCW 74.13.350, 13.34.270, and 74.13.021."

On motion of Senator Long, House Bill No. 2557, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 2557, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2557, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Hale and McCaslin - 2. HOUSE BILL NO. 2557, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1077, by House Committee on Law and Justice (originally sponsored by Representatives Sterk, D. Sommers, Boldt and Sheahan)

Specifying the official forms of establishing proof of identity.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 1077 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1077.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1077 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Hale and McCaslin - 2.

SUBSTITUTE HOUSE BILL NO. 1077, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2558, by Representatives Tokuda and Cooke (by request of Department of Social and Health Services)

Correcting statutory references.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the following Committee on Human Services and Corrections amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.090 and 1990 c 246 s 4 are each amended to read as follows:

(1) Any party has a right to be represented by an attorney in all proceedings under this chapter, to introduce evidence, to be heard in his or her own behalf, to examine witnesses, to receive a decision based solely on the evidence adduced at the hearing, and to an unbiased fact-finder.

(2) At all stages of a proceeding in which a child is alleged to be dependent (~~((pursuant to))~~ as defined in RCW 13.34.030((2)) (4), the child's parent, guardian, or legal custodian has the right to be represented by counsel, and if indigent, to have counsel appointed for him or her by the court. Unless waived in court, counsel shall be provided to the child's parent, guardian, or legal custodian, if such person (a) has appeared in the proceeding or requested the court to appoint counsel and (b) is financially unable to obtain counsel because of indigency as defined in chapter 10.101 RCW.

(3) If a party to an action under this chapter is represented by counsel, no order shall be provided to that party for his or her signature without prior notice and provision of the order to counsel.

(4) Copies of department of social and health services or supervising agency records to which parents have legal access pursuant to chapter 13.50 RCW shall be given to the child's parent, guardian, legal custodian, or his or her legal counsel, within twenty days after the department or supervising agency receives a written request for such records from the parent, guardian, legal custodian, or his or her legal counsel. These records shall be provided to the child's parents, guardian, legal custodian, or legal counsel prior to the shelter care hearing in order to allow an opportunity to review the records prior to the hearing. These records shall be legible and shall be provided at no expense to the parents, guardian, legal custodian, or his or her counsel.

**Sec. 2.** RCW 43.43.700 and 1989 c 334 s 6 are each amended to read as follows:

There is hereby established within the Washington state patrol a section on identification, child abuse, vulnerable adult abuse, and criminal history hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

The section shall also contain like information concerning persons, over the age of eighteen years, who have been found (~~((pursuant to a dependency proceeding under RCW 13.34.030(2)(b) to have physically abused or sexually abused or exploited a child or, pursuant to a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult))~~ to have physically abused or sexually abused or exploited a child pursuant to a dependency proceeding under chapter 13.34 RCW, or to have abused or financially exploited a vulnerable adult pursuant to a protection proceeding under chapter 74.34 RCW."

## MOTIONS

On motion of Senator Long, the following title amendment was adopted:

On page 1, line 1 of the title, after "references;" strike the remainder of the title and insert "and amending RCW 13.34.090 and 43.43.700."

On motion of Senator Long, the rules were suspended, House Bill No. 2558, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 2558, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2558, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Prentice - 1. Excused:

Senators Hale and McCaslin - 2. HOUSE BILL NO. 2558, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MOTION

At 11:59 a.m., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Tuesday, February 24, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FORTY-THIRD DAY, FEBRUARY 23, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**FORTY-FOURTH DAY**

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NOON SESSION  
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Senate Chamber, Olympia, Tuesday, February 24, 1998

The Senate was called to order at 12:00 noon by President Pro Tempore Newhouse. No roll call was taken.

MOTION

On motion of Senator Strannigan, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

February 19, 1998

ESHB 1074 Prime Sponsor, House Committee on Law and Justice: Protecting personality rights. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Kline, Long, McCaslin and Zarelli.

Passed to Committee on Rules for second reading.

February 20, 1998

ESHB 1221 Prime Sponsor, House Committee on Law and Justice: Impounding vehicles driven by a person with a suspended or revoked license. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long and Thibaudeau.



Passed to Committee on Rules for second reading.

February 23, 1998

2SHB 1275 Prime Sponsor, House Committee on Finance: Establishing public utility tax credits for weatherization and energy assistance programs. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Referred to Committee on Ways and Means.

February 23, 1998

2SHB 1522 Prime Sponsor, House Committee on Appropriations: Providing for enhanced sentencing for criminal street gang activity. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Long and Stevens.

Referred to Committee on Ways and Means.

February 23, 1998

ESHB 2297 Prime Sponsor, House Committee on Government Administration: Recording documents. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 23, 1998

HB 2575 Prime Sponsor, Representative Pennington: Clarifying restrictions on public disclosure commission members' activities. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Anderson, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 23, 1998

E2SHB 2880 Prime Sponsor, House Committee on Select Vendor: Creating a task force on agency vendor contracting practices. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators McCaslin, Chair; Haugen, Horn, Patterson and T. Sheldon.

Referred to Committee on Ways and Means.

February 23, 1998

E2SHB 2881 Prime Sponsor, House Committee on Appropriations: Auditing state contractors. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators McCaslin, Chair; Haugen, Horn, Patterson and T. Sheldon.

Referred to Committee on Ways and Means.

February 23, 1998

HB 2965 Prime Sponsor, Representative Ballasiotes: Revising provisions for crime victims' compensation. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 23, 1998

SHB 2998 Prime Sponsor, House Committee on Law and Justice: Regulating privately owned semiautomatic external defibrillators. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long and Stevens.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Johnson, Second Substitute House Bill No. 1522 was referred to the Committee on Ways and Means.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 23, 1998

GA 9248 SHARON HART, appointed April 2, 1997, for a term ending September 30, 1998, as a member of the Board of Trustees for Lower Columbia Community College District No. 13.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 23, 1998

GA 9249 DR. BARBARA ANDERSON, appointed April 2, 1997, for a term ending September 30, 1998, as a member of the Board of Trustees for Skagit Valley Community College District No. 4.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 23, 1998

GA 9255 GERALDINE A. COLEMAN, appointed May 20, 1997, for a term ending June 30, 1998, as a member of the Work Force Training and Education Coordinating Board.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 23, 1998

GA 9262 ROBERT B. FONG, appointed April 16, 1997, for a term ending September 30, 1998, as a member of the Board of Trustees for Whatcom Community College District No. 21.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 23, 1998

GA 9306 JUDY YU, appointed November 20, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Central Washington University.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 23, 1998

GA 9307 GLENN E. JENNINGS, appointed December 10, 1997, for a term ending September 30, 2002, as a member of the Board of Trustees for Everett Community College District No. 5.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 23, 1998

GA 9312 BOB CRAVES, appointed December 15, 1997, for a term ending at the pleasure of the Governor, as Chair of the Higher Education Coordinating Board.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 23, 1998

GA 9322 JESUS del BOSQUE, appointed January 7, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Skagit Valley Community College District No. 4.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 23, 1998

GA 9333 LINDA SPRENGER, reappointed January 13, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Green River Community College District No. 10.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 23, 1998

GA 9335 ARNOLD WRIGHT, reappointed January 16, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Clover Park Technical College District No. 29.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

MESSAGES FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 7, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

Carin S. Schienberg, reappointed January 7, 1998, for a term ending July 1, 2002, as a member of the Board of Trustees for the State School for the Deaf.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Education.

January 15, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

James A. Medina, appointed January 15, 1998, for a term ending at the pleasure of the Governor, as Director of the Office of Minority and Women's Business Enterprises.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Commerce and Labor.

January 29, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Helen C. Malone, appointed January 29, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Spokane and Spokane Falls Community Colleges District No. 17.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Higher Education.

February 23, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Deborah J. Ross, appointed February 23, 1998, for a term concurrent with the Governor's, as Director of the Energy Facility Site Evaluation Council.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Energy and Utilities.

#### INTRODUCTION AND FIRST READING

SJM 8032 by Senators Bauer, Newhouse, Snyder, Sellar, Hale, Wojahn, Oke, Rasmussen, Deccio, Franklin, Hargrove, T. Sheldon, Haugen, McAuliffe, Loveland and Thibaudeau

Requesting that I-90 be designated a Memorial Highway to the Battle of Pearl Harbor.

Referred to Committee on Transportation.

#### MOTION

At 12:06 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Wednesday, February 25, 1998.

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FORTY-FOURTH DAY, FEBRUARY 24, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**FORTY-FIFTH DAY**

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MORNING SESSION  
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Senate Chamber, Olympia, Wednesday, February 25, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard, consisting of Pages Valerie Sorenson and Darrell Downing, presented the Colors. Reverend Edsel Goldson, pastor of the Tumwater Methodist Church, offered the prayer.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

February 24, 1998

SB 6108 Prime Sponsor, Senator West: Relating to fiscal matters. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6108 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

SB 6455 Prime Sponsor, Senator Strannigan: Adopting a supplemental capital budget. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 6455 be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, McDonald, Roach, Rossi, Schow, Snyder, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 23, 1998

ESHB 1194 Prime Sponsor, House Committee on Commerce and Labor: Requiring employers to allow mothers to breast-feed. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do Pass. Signed by Senators Show, Chair; Horn, Vice Chair; Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 23, 1998

HB 1308 Prime Sponsor, Representative Mielke: Providing additional exemptions from state law for the handling of hazardous devices. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

2E2SHB 1354 Prime Sponsor, House Committee on Appropriations: Changing air pollution control provisions. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 23, 1998

HB 1368 Prime Sponsor, Representative Huff: Easing restrictions on gambling fund-raisers. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 24, 1998

E2SHB 1374 Prime Sponsor, House Committee on Appropriations: Establishing alternate teacher certification. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator McAuliffe.

Passed to Committee on Rules for second reading.

February 23, 1998

HB 1405 Prime Sponsor, Representative McMorris: Authorizing joint bingo games. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Referred to Committee on Ways and Means.

February 23, 1998

HB 1549 Prime Sponsor, Representative H. Sommers: Reducing property tax assessments in response to government restrictions. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 23, 1998

SHB 1829 Prime Sponsor, House Committee on Commerce and Labor: Requiring a record of transaction for trade-in or exchange of computer hardware. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 23, 1998

HB 1835 Prime Sponsor, Representative Skinner: Requiring audit resolution reports. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 23, 1998

SHB 1971 Prime Sponsor, House Committee on Appropriations: Preventing double payment for insurance benefits for teachers who are legislators. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 1977 Prime Sponsor, House Committee on Education: Allowing arrangements for running start students to attend out-of-state community colleges. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.



Passed to Committee on Rules for second reading.

February 24, 1998

ESHB 2300 Prime Sponsor, House Committee on Education: Changing provisions relating to educational pathways. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Rasmussen and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator McAuliffe.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2311 Prime Sponsor, House Committee on Law and Justice: Adjusting the jurisdictional amount for small claims court. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Fairley, Goings, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

ESHB 2363 Prime Sponsor, House Committee on Health Care: Enacting department of health recommendations removing barriers to nurse delegation. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

2SHB 2430 Prime Sponsor, House Committee on Appropriations: Changing provisions relating to the advanced college tuition payment program. Reported by Committee on Higher Education

MAJORITY Recommendation: Do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2476 Prime Sponsor, Representative Schoesler: Providing a sales tax exemption for parts used for and repairs to farm machinery and implements used outside the state. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2503 Prime Sponsor, Representative Robertson: Authorizing consideration of the income level of customers when setting rates and charges for a storm water control facility. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass as amended. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2523 Prime Sponsor, House Committee on Agriculture and Ecology: Regarding fire training activities. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 23, 1998

SHB 2529 Prime Sponsor, House Committee on Trade and Economic Development: Assisting small business exporters. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass as amended. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2553 Prime Sponsor, Representative Crouse: Extending the prohibition on filing for a tariff on mandatory measured telecommunications service. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2577 Prime Sponsor, Representative Hankins: Using and administering the Hanford area economic investment fund. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2589 Prime Sponsor, House Committee on Child and Family Service: Requiring disclosure of the names of both parents of children as a condition of eligibility for temporary assistance for needy families. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2663 Prime Sponsor, Representative Crouse: Requiring companies that seek to contract with an affiliated interest to file with the utilities and transportation commission. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2712 Prime Sponsor, House Committee on Agriculture and Ecology: Requiring the department of ecology to extend the time for work under a permit if water use has been prevented or restricted use due to federal or state laws. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 24, 1998

ESHB 2752 Prime Sponsor, House Committee on Energy and Utilities: Prohibiting unsolicited electronic mail. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2773 Prime Sponsor, House Committee on Energy and Utilities: Requiring electric utilities to provide net metering systems to their customer-generators. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass as amended. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2907 Prime Sponsor, Representative Sheahan: Clarifying the process of appealing small claims cases. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2931 Prime Sponsor, House Committee on Commerce and Labor: Refining electronic signature law. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2941 Prime Sponsor, House Committee on Law and Justice: Limiting liability for utilities in protecting their facilities. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 23, 1998

2SHB 2962 Prime Sponsor, House Committee on Appropriations: Creating the crime of criminal mistreatment in the fourth degree. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Long and Thibaudeau.

MINORITY Recommendation: Do not pass. Signed by Senators Hargrove and Zarelli.

Passed to Committee on Rules for second reading.

February 23, 1998

SHB 3001 Prime Sponsor, House Committee on Commerce and Labor: Creating an exemption for wineries furnishing wine to nonprofit charitable organizations. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 3060 Prime Sponsor, Representative Chandler: Changing provisions relating to sufficient cause for nonuse of water rights. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 24, 1998

EHJM 4033 Prime Sponsor, Representative Grant: Urging Congress not to sell the Bonneville Power Administration.  
Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Johnson, House Bill No. 1405 was referred to the Committee on Ways and Means.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 24, 1998

GA 9310 GORDON BUDKE, appointed December 12, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for Eastern Washington University.  
Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 24, 1998

GA 9326 KEVIN GROSSMAN, appointed January 16, 1998, for a term ending September 30, 2001, as a member of the Board of Trustees for Shoreline Community College District No. 7.  
Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 24, 1998

GA 9327 MARK MAYS, appointed October 1, 1997, for a term ending September 30, 1999, as a member of the Board of Trustees for Eastern Washington University.  
Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 24, 1998

GA 9334 ELMER J. WARD, appointed January 16, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Yakima Valley Community College District No. 16.  
Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules.

MOTION

On motion of Senator Haugen, the following resolution was adopted:

SENATE RESOLUTION 1998-8705

By Senators Haugen, Wojahn, Spanel and Bauer

WHEREAS, The arts play a vital role in educating, inspiring, and enriching the lives of all the citizens of the state of Washington; and

WHEREAS, A vibrant arts community is a valuable economic and cultural asset, in that it stimulates business development and attracts tourism, while inspiring civic pride and positively influencing the quality of life; and

WHEREAS, The arts enable students to acquire and develop reading, writing, and problem-solving skills, in addition to increasing creativity, self-esteem, and acceptance of others; and

WHEREAS, The arts not only provide citizens of this state an opportunity to interact with different cultures and learn new ways of seeing and giving expression to their experiences, but also help transmit our shared cultural legacy to the next generation; and

WHEREAS, The artists and arts institutions of our state have received international recognition and generated millions of dollars, making the Northwest a world-renowned focal point of artistic creation, performance, and exhibition;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize and honor the arts community for its continued importance and vital contribution to the state's economy and cultural livelihood; and that we urge the citizens of Washington State to join us in celebrating Arts Day, this twenty-fifth day of February, 1998.

Senators Haugen and Wojahn spoke to Senate Resolution 1998-8705.

MOTION

At 10:14 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 10:27 a.m. by President Owen.

MOTION

On motion of Senator Kohl, the following resolution was adopted:

SENATE RESOLUTION 1998-8706

By Senators Kohl, Spanel and B. Sheldon

WHEREAS, The Seattle Reign is the first professional womens' basketball team in the state of Washington; and

WHEREAS, The Seattle Reign is one of the nine teams of the American Basketball League, the premier women's basketball league in the United States; and

WHEREAS, The Seattle Reign is composed of eleven exceptional women from around the nation, including Kate Starbird, Shalonda Enis, Kate Paye, Angela Aycock, Kira Orr, Christy Hedgpeth, Rhonda Smith, Joy Holmes, Astou Ndiaye, Linda Godby and Val Whiting; and

WHEREAS, There are many notable members of the Seattle Reign, such as Kate Starbird, a native of Tacoma, Washington, who attended Stanford University where she was awarded the Naismith Award as the nation's top college womens' basketball player and was first-team All-American and Pac-10 player of the year two consecutive seasons as she led

the Pac-10 in scoring, who was recently given the great honor of being named 1997 Seattle Post-Intelligencer Female Sports Star of the Year; Shalonda Enis, who was named MVP for the first ABL All-Star Game this year; Linda Godby who was the first professional female player to dunk in the ABL competition where she received third place; Astou Ndaiye, who led her college team to four straight National Championships; and Val Whiting, who was one of the leading scorers last year for the ABL's San Jose Lasers; and

WHEREAS, All the Seattle Reign athletes provide a vital and necessary contribution to the state of Washington by serving as positive role models and mentors for girls and boys throughout the state; and

WHEREAS, The Seattle Reign players and coaches continue to be active throughout the community by visiting schools and speaking to local groups; and

WHEREAS, The Seattle Reign and the American Basketball League are committed to five key principles: providing affordable family entertainment, giving back to the community through community service, serving as positive role models, being accessible to fans, and providing high-quality, competitive basketball games;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and express its appreciation for the accomplishments, dedication, spirit, and hard work of the players and coaches of the Seattle Reign; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Governor, and to the Seattle Reign players and coaches.

Senators Kohl, Betti Sheldon and Jacobsen spoke to Senate Resolution 1998-8706.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the members of the Seattle Reign who were seated in the gallery.

#### MOTION

At 10:35 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:46 a.m. by President Owen.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6455, by Senators Strannigan, West, Anderson, Fraser and Spanel (by request of Governor Locke)

Adopting a supplemental capital budget.

#### MOTIONS

On motion of Senator Strannigan, Substitute Senate Bill No. 6455 was substituted for Senate Bill No. 6455 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Strannigan, the rules were suspended, Substitute Senate Bill No. 6455 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6455.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6455 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 41. Voting nay: Senators Brown, Fairley, Heavey, Jacobsen, Loveland, Spanel, Thibaudeau and Wojahn - 8. SUBSTITUTE SENATE BILL NO. 6455, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6108, by Senator West

Relating to fiscal matters.

### MOTION

On motion of Senator West, Substitute Senate Bill No. 6108 was substituted for Senate Bill No. 6108 and the substitute bill was placed on second reading and read the second time.

### MOTION

Senator Hargrove moved that the following amendments be considered simultaneously and be adopted:

On page 30, line 18, increase the general fund--state appropriation for fiscal year 1999 by \$781,000 and adjust the totals accordingly.

On page 30, line 20, increase the general fund--federal appropriation by \$861,000 and adjust the totals accordingly.

On page 34, after line 21, insert the following:

"(18) \$781,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to increase compensation for agency homecare workers to an average of \$8.50 per hour effective July 1, 1998."

On page 44, line 9, increase the general fund--state appropriation for fiscal year 1999 by \$406,000 and adjust the totals accordingly.

On page 44, line 11, increase the general fund--federal appropriation by \$447,000 and adjust the totals accordingly.

On page 46, after line 25, insert the following:

"(1) \$406,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to increase compensation for agency homecare workers to an average of \$8.50 per hour effective July 1, 1998."

On page 48, line 8, increase the general fund--state appropriation for fiscal year 1999 by \$6,482,000 and adjust the totals accordingly.

On page 48, line 10, increase the general fund--federal appropriation by \$6,492,000 and adjust the totals accordingly.

On page 52, after line 31, insert the following:

"(12) \$6,482,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to increase compensation for agency homecare workers to an average of \$8.50 per hour effective July 1, 1998."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

The President declared the question before the Senate to be the roll call on the adoption of the amendments by Senator Hargrove on page 30, lines 18 and 20; page 34, after line 21; page 44, lines 9 and 11; page 46, after line 25; page 48, lines 8 and 10; and page 52, after line 31 to Substitute Senate Bill No. 6108.

### ROLL CALL

The Secretary called the roll and the amendments were not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.



## MOTION

Senator Kohl moved that the following amendment by Senators Kohl and Long be adopted:

On page 34, after line 21, insert the following:

"(18) To the extent funds are available, the department shall pay the expense of fingerprint criminal history record checks for low-income family day care homes through the federal bureau of investigation. The department may promulgate rules to set eligibility levels."

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kohl and Long on page 34, after line 21, to Substitute Senate Bill No. 6108.

The motion by Senator Kohl carried and the amendment was adopted.

## MOTION

Senator Thibaudeau moved that the following amendments by Senators Thibaudeau and Wojahn be considered simultaneously and be adopted:

On page 56, line 10, increase the general fund--state appropriation for fiscal year 1999 by \$431,000 and adjust the totals accordingly.

On page 56, line 12, increase the general fund--federal appropriation by \$815,000 and adjust the totals accordingly.

On page 58, after line 2, insert the following:

"(12) \$431,000 of the general fund--state appropriation is provided solely to design and operate a children's health initiative program in accordance with Title XXI of the social security act. The program shall provide medical coverage for children with special health care needs whose total countable family income is between two hundred percent and two hundred fifty percent of the federal poverty level. Children with special health care needs are those who have or who are at increased risk of having chronic physical, developmental, behavioral, or emotional conditions and who require health and related services of a type or a amount beyond that required by children generally."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendments by Senators Thibaudeau and Wojahn on page 56, lines 10 and 12, and page 58, after line 2, to Substitute Senate Bill No. 6108.

## ROLL CALL

The Secretary called the roll and the amendments were not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26

## MOTION

Senator Bauer moved that the following amendments be considered simultaneously and be adopted:

On page 81, line 7, increase the General Fund--State Appropriation (FY 1999) by \$245,000 and adjust the total accordingly.

On page 81, line 9, increase the General Fund--Private/Local Appropriation by \$130,000 and adjust the total accordingly.

On page 81, line 13 after "limitation:" insert "(1)"

On page 81, line 22, after "county." strike "Any state funds previously provided to Clark county that are not needed for implementation of the county's responsibilities under the national scenic area act may be transferred through an interlocal agreement to Skamania county solely for implementing the national scenic area act." and insert the following:

"(2) \$115,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a grant to Skamania county for the purpose of implementing the scenic area management plan."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendments by Senator Bauer on page 81, lines 7, 9, 13, and 22, to Substitute Senate Bill No. 6108.

#### ROLL CALL

The Secretary called the roll and the amendments were not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26

#### MOTION

Senator Brown moved that the following amendments be considered simultaneously and be adopted:

On page 102, line 33, decrease the FY 1999 General Fund appropriation by \$200,000 and adjust the total appropriation accordingly.

On page 104, strike lines 19 through 21.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Brown on page 102, line 33, and page 104, strike lines 19 through 21, to Substitute Senate Bill No. 6108.

The motion by Senator Brown carried and the amendments were adopted.

#### MOTION

Senator Bauer moved that the following amendment be adopted:

On page 127, after line 7, strike all the material down to and including "168,351,000" and insert the following:

TOTAL APPROPRIATION	<u>92,503,000</u>
	\$ ((173,952,000))

\$174,582,000

The appropriation in this section is subject to the following condition and limitation: \$6,231,000 of the appropriation is provided to implement SB 6473."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

#### POINT OF INQUIRY

Senator Thibaudeau: "Senator Brown, how many school districts do you have in Spokane? In addition to that, what is your property tax base in Spokane? In other words, how much money do you get out of a levy?"

Senator Brown: "Senator Thibaudeau, I don't know the exact answer to your question about the property tax base in Spokane. I think the point is that even though levies pass, because the property values are lower, a levy in Spokane does not raise the kind of money that a levy in a richer district raises. The point of levy equalization is that--you only get it if you pass your levy. If you pass your levy and your property values are not the same as a richer district, you can attract levy equalization money and I think that is the point."

Senator Thibaudeau: "Thank you, Senator Brown."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Bauer on page 127, after line 7, to Substitute Senate Bill No. 6108.

## ROLL CALL

The Secretary called the roll and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26

## MOTION

Senator McAuliffe moved that the following amendment be adopted:

On page 134, after line 23, insert the following:

**"NEW SECTION. Sec. 516. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION -- FOR CLASS SIZE IMPROVEMENT**

General Fund Appropriation (FY 1999)

\$ 50,000,000

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

(1) For the 1998-99 school year, the superintendent shall allocate a maximum of \$52.58 per full time equivalent student to eligible school districts to be used to provide lower class sizes consistent with the district's class size improvement plan.

(2) To be eligible for the funds, a school district shall:

(a) Develop a class size improvement plan. The plan shall specify how the funds will be used to lower the number of students per instructional staff at certain grade levels, for specific subjects or in specific settings. The plan shall include the reasons for the plan; the qualifications of the staff that will be used and training of staff, if applicable; use of facilities if appropriate; how class size will be improved in the classroom; and the effects of class size improvement on student learning. The plan shall also include strategies for continuing to improve class size as funds become available in future years; and

(b) Report to the superintendent of public instruction about the implementation of the plan and the effect of improving class size on student learning."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator McAuliffe on page 134, after line 23, to Substitute Senate Bill No. 6108.

## ROLL CALL

The Secretary called the roll and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26

## MOTION

Senator Franklin moved that the following amendment by Senators Franklin, Loveland, Rasmussen, Thibaudeau, B. Sheldon, Prentice, Patterson, Kline, Hargrove, Fairley, Kohl, McAuliffe, Fraser, Jacobsen, Bauer, T. Sheldon, Goings, Wojahn and Snyder be adopted:

On page 134, after line 23, insert the following:

**"NEW SECTION. Sec. 516. A new section is added to 1997 c 149 (uncodified) to read as follows:  
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION — FOR SCHOOL NURSES**

General Fund appropriation (FY 1999)

\$ 10,000,000

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

A maximum of \$10,000,000 is provided for the superintendent of public instruction to grant to school districts solely for the purposes of providing for school nurses. The superintendent of public instruction shall provide funds first to those districts with the students with the greatest need for nursing services. The superintendent of public instruction shall establish criteria for distribution of the funds including but not limited to: (a) The health needs of the students while in school; and (b) the number of students receiving free-and-reduced price lunches."

Debate ensued.

#### POINT OF INQUIRY

Senator McAuliffe: "Senator Deccio, I attended the same hearings that you attended on this very issue. I believe and remember from those hearings that there are models and programs that SPI has that set up criteria for how our students and their health care needs need to be served in our schools. Do you recall those model programs?"

Senator Deccio: "I recall them making those kinds of statements, but I guess I wasn't really impressed."

Senator McAuliffe: "Well, I would ask that you and many of the other people who are concerned about the health of our children in our schools, please take a look at those model programs. That is where the ten million dollars will go. They are tried and true programs in my school district--Northshore--today. It is one of the leaders in that model program. So, we aren't putting ten million dollars out there for something we don't know what they are going to do with it. Those programs are in place."

Senator Deccio: "Let me respond this way. This thing did not get life until we introduced the bill in the Senate Health and Long-Term Care Committee. If they have had those programs out there, why are they in such chaos today and why haven't they come forward and said, 'This is the plan we would like to implement in the school system to take care of childrens' health needs?' They haven't done that. I talked to the lobbyist for the SPI Office and they are very happy with the way we are dealing with this thing. If they are happy with it, I think we ought to take a deep breath and hang on for a little bit longer and let's make sure there is something in place for those kids out there. I still would urge a 'no' vote."

Further debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senators Franklin, Loveland, Rasmussen, Thibaudeau, B. Sheldon, Prentice, Patterson, Kline, Hargrove, Fairley, Kohl, McAuliffe, Fraser, Jacobsen, Bauer, T. Sheldon, Goings, Wojahn and Snyder on page 134, after line 23, to Substitute Senate Bill No. 6108.

#### ROLL CALL

The Secretary called the roll and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26

#### MOTION

Senator Loveland moved that the following amendment by Senators Loveland and Hargrove be adopted:

On page 160, after line 35, insert the following:

"(3) For payment to county governments for claims filed prior to February 20, 1998, for reimbursement for costs incurred under the specified state statutes:

- (a) Chapter 312, Laws of 1995 ("Becca Bill"). . . . . \$ 10,145,458
- (b) Domestic violence laws. . . . . \$ 162,679
- (c) Referendum 47 (property taxation). . . . . \$ 1,301,000"

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senators Loveland and Hargrove on page 160, after line 35, to Substitute Senate Bill No. 6108.

#### ROLL CALL

The Secretary called the roll and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26

#### MOTION

Senator Fraser moved that the following amendments by Senators Fraser and Spanel be considered simultaneously and be adopted:

On page 161, beginning on line 11, strike "31,421,000" and insert "~~((31,421,000))~~ 42,721,000"

On page 161, beginning on line 16, strike "45,901,000" and insert "~~((45,901,000))~~ 56,101,000"

On page 161, beginning on line 17, strike 128,708,000 and insert "~~((128,708,000))~~ 150,208,000".

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

The President declared the question before the Senate to be the roll call on the adoption of the amendments by Senators Fraser and Spanel on page 161, lines 11, 16, and 17, to Substitute Senate Bill No. 6108.

#### ROLL CALL

The Secretary called the roll and the amendments were not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26

#### MOTION

On motion of Senator West, the rules were suspended, Engrossed Substitute Senate Bill No. 6108 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6108.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6108 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 29. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 20. ENGROSSED SUBSTITUTE SENATE BILL NO. 6108, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6759 by Senator Roach

AN ACT Relating to drunk driving; amending RCW 46.20.308, 46.20.3101, 46.61.502, 46.61.503, 46.61.504, 46.61.506, 88.12.025, 46.20.355, 46.20.391, 46.20.117, 46.20.120, 46.20.311, 46.68.041, 46.55.113, 46.55.120, 46.61.5058, 46.12.240, 46.12.095, 46.12.101, 46.55.105, 46.55.110, 46.55.130, 46.55.010, 46.55.100, 46.20.720, and 46.20.740; reenacting and amending RCW 46.61.5055; adding a new section to chapter 46.68 RCW; adding a new section to chapter 46.12 RCW; adding new sections to chapter 46.20 RCW; adding a new section to chapter 46.55 RCW; adding a new section to chapter 46.61 RCW; creating new sections; repealing RCW 46.20.344; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Law and Justice.

MOTION

At 2:01 p.m., on motion of Senator Johnson, the Senate adjourned until 12:00 noon, Thursday, February 26, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FORTY-FIFTH DAY, FEBRUARY 25, 1998

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**FORTY-SIXTH DAY**

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NOON SESSION  
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Senate Chamber, Olympia, Thursday, February 26, 1998

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

February 24, 1998

SB 6456 Prime Sponsor, Senator Prince: Making supplemental transportation appropriations. Reported by Committee on Transportation

MAJORITY Recommendation: That Substitute Senate Bill No. 6456 be substituted therefor, and the substitute bill do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 23, 1998

SB 6562 Prime Sponsor, Senator Schow: Providing relief for the equine industry. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Second Substitute Senate Bill No. 6562 be substituted therefor, and the second substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Kohl, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 1043 Prime Sponsor, House Committee on Law and Justice: Requiring the state landlord/tenant act to preempt all other local landlord/tenant acts. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 1126 Prime Sponsor, House Committee on Finance: Providing for 911 emergency communications funding. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 1211 Prime Sponsor, House Committee on Transportation Policy and Budget: Making accident reports available to the traffic safety commission. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 1250 Prime Sponsor, Representative Wensman: Regulating trademarks. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

EHB 1408 Prime Sponsor, Representative Mielke: Authorizing carrying of concealed pistols by certain persons from out of state. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Fairley, Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 1541 Prime Sponsor, House Committee on Law and Justice: Protecting sport shooting ranges. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Long, McCaslin and Stevens.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Fairley and Kline.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 1784 Prime Sponsor, House Committee on Child and Family Service: Regulating public assistance fraud. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Strannigan.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 1805 Prime Sponsor, House Committee on Health Care: Requiring the health care authority to offer health care savings accounts to unsubsidized basic health plan enrollees. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Strannigan.

Referred to Committee on Ways and Means.

February 25, 1998

HB 2293 Prime Sponsor, Representative Sherstad: Authorizing Snohomish county to create one additional district court position. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.



February 24, 1998

HB 2309 Prime Sponsor, Representative Thompson: Revising notification of denial of property tax exemption. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2315 Prime Sponsor, House Committee on Finance: Making technical corrections to excise and property tax statutes. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

EHB 2414 Prime Sponsor, Representative Pennington: Extending the time in which to comply with outdoor burning prohibitions. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2436 Prime Sponsor, Representative McMorris: Eliminating review and termination of the center for international trade in forest products and delaying review and termination of the office of public defense under the Washington sunset act. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Newhouse.

MINORITY Recommendation: Do not pass. Signed by Senator Heavey.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2441 Prime Sponsor, Representative Scott: Clarifying that electronic communications are included in the crimes of harassment and stalking. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2442 Prime Sponsor, House Committee on Transportation Policy and Budget: Strengthening laws on disabled persons' parking permits. Reported by Committee on Law and Justice

MAJORITY Recommendation: That the bill be referred to Committee on Transportation without recommendation. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Referred to Committee on Transportation without recommendation.

February 25, 1998

HB 2463 Prime Sponsor, Representative Sheahan: Prescribing garnishee's processing fees. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

EHB 2465 Prime Sponsor, Representative Dyer: Expanding the privileged communication from physician-patient to the health care provider and patient privilege. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 23, 1998

HB 2472 Prime Sponsor, Representative Honeyford: Repealing public works board rural natural resources loans. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2486 Prime Sponsor, Representative Morris: Concerning the ad valorem taxation of vessels or ferries. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2490 Prime Sponsor, House Committee on Appropriations: Sharing investment gains. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, McDonald, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2525 Prime Sponsor, House Committee on Transportation Policy and Budget: Phasing in lightweight tire studs. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke, Patterson and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senators Morton and Sellar.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2538 Prime Sponsor, House Committee on Law and Justice: Creating a new superior court position for Lewis county. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2556 Prime Sponsor, House Committee on Child and Family Service: Making changes concerning the federal child abuse prevention and treatment act. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended by Committee on Human Services and Corrections. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, McDonald, B. Sheldon, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 23, 1998

SHB 2576 Prime Sponsor, House Committee on Commerce and Labor: Negotiating land transfers involving manufactured or mobile homes. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2598 Prime Sponsor, Representative Radcliff: Modifying property tax exemptions for nonprofit organizations. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 2682 Prime Sponsor, Representative McMorris: Changing disbursement of medicaid incentive payments to school districts. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, B. Sheldon, Spanel, Swecker, Thibaudeau and Winsley.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2702 Prime Sponsor, House Committee on Law and Justice: Creating two new superior court positions for Yakima county. Reported by Committee on Law and Justice

MAJORITY Recommendation: So pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

EHB 2709 Prime Sponsor, Representative B. Thomas: Eliminating double taxation of municipal utility taxes. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Energy and Utilities. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Rossi, Schow, Swecker, Winsley and Zarelli.

Referred to Committee on Energy and Utilities.

February 25, 1998

SHB 2710 Prime Sponsor, House Committee on Agriculture and Ecology: Changing irrigation district administration. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2724 Prime Sponsor, House Committee on Appropriations: Requiring legislative oversight of moneys received from enforcement actions. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Hochstatter, McDonald, Rossi, B. Sheldon, Snyder, Spanel, Swecker and Winsley.

Passed to Committee on Rules for second reading.

February 24, 1998

HB 2732 Prime Sponsor, Representative Robertson: Regarding wage assignment orders for child support or spousal maintenance payments. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Fairley, Goings, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2790 Prime Sponsor, House Committee on Law and Justice: Requiring restitution hearings for juvenile offenders to occur within one hundred eighty days of the disposition hearing. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2822 Prime Sponsor, House Committee on Commerce and Labor: Exempting agency medical coverage decisions by labor and industries from rule-making provisions. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 24, 1998

SHB 2842 Prime Sponsor, House Committee on Health Care: Repealing the health care liability risk management training program. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Franklin.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2960 Prime Sponsor, House Committee on Agriculture and Ecology: Authorizing permits-by-rule for certain solid waste recycling facilities. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe and Oke.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 3068 Prime Sponsor, Representative McMorris: Regarding a pilot project for limited private applicator licenses and rancher private applicator licenses. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass. Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse, Oke and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senators Fraser and McAuliffe.

Passed to Committee on Rules for second reading.

February 25, 1998

HJM 4036 Prime Sponsor, Representative Grant: Urging Congress to not breach dams. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 24, 1998

HJM 4039 Prime Sponsor, Representative Huff: Petitioning for amendment to the Federal Communications Commission ruling barring direct reimbursement to state agencies that provide telecommunications services. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Johnson, Substitute House Bill No. 1784 was referred to the Committee on Rules.

#### MESSAGE FROM STATE OFFICE

STATE OF WASHINGTON  
Department of Social and Health Services  
Olympia, Washington 98504-5000

February 24, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. O'Connell:

Enclosed is the Report to the Legislature regarding "Offenses Committed by Juveniles While on Authorized Leave, Unauthorized Leave, and Minimum Security Status during Fiscal Year 1997." This report is required by RCW 13.40.030(1).

Please call Gerard Sidorowicz at (360) 902-7084 if you have questions about the report.

Sincerely,

LYLE QUASIM, Secretary

The Department of Social and Health Services Report on Offenses Committed by Juveniles While on Authorized Leave, Unauthorized Leave and Minimum Security Status during Fiscal Year 1997 is on file in the Office of the Secretary of the Senate.

#### MESSAGE FROM THE HOUSE

February 25, 1998

MR. PRESIDENT:

The House has passed  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2342,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2933, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING

E2SHB 2342 by House Committee on Finance (originally sponsored by Representatives Van Luven, McDonald, Regala, Talcott, Huff, Conway, Lantz, Fisher, Gardner, Anderson, Lambert and Boldt)

Providing tax exemptions for businesses in community empowerment zones that provide selected international services.

Referred to Committee on Ways and Means.

ESHB 2933 by House Committee on Finance (originally sponsored by Representatives Radcliff, Cooper, Cooke, Morris, Doumit, Dyer, L. Thomas, Zellinsky, Grant and Thompson)

Prescribing the taxation of business warehousing and selling pharmaceutical drugs.

Referred to Committee on Ways and Means.

#### MOTION

At 12:05 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Friday, February 27, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

FORTY-SIXTH DAY, FEBRUARY 26, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**FORTY-SEVENTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Friday, February 27, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Deccio and Heavey. On motion of Senator Franklin, Senator Heavey was excused. On motion of Senator Hale, Senator Deccio was excused.

The Sergeant at Arms Color Guard, consisting of Pages Robert Schaefer and Leslie Schnoernberg, presented the Colors. Reverend Edsel Goldson, pastor of the Tumwater Methodist Church, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**REPORTS OF STANDING COMMITTEES**

February 26, 1998

E3SHB 1055 Prime Sponsor, House Committee on Appropriations: Creating undergraduate fellowships for needy and meritorious students. Reported by Committee on Higher Education

MAJORITY Recommendation: Do pass as amended. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 1112 Prime Sponsor, House Committee on Agriculture and Ecology: Adjudicating water rights. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse and Rasmussen.

Referred to Committee on Ways and Means.

February 25, 1998

SHB 1195 Prime Sponsor, House Committee on Transportation Policy and Budget: Requiring proof of auto insurance to drivers' license examiners. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke, Patterson, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

February 25, 1998



ESHB 1223 Prime Sponsor, House Committee on Law and Justice: Addressing the public nuisance activities of tenants.  
Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 1252 Prime Sponsor, Representative Wensman: Regulating the dissolution of limited partnerships. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 1253 Prime Sponsor, House Committee on Government Administration: Regulating naming of businesses. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 1260 Prime Sponsor, House Committee on Law and Justice: Providing that communications between certified counselors and their clients are privileged. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Franklin, Hargrove and Schow.

MINORITY Recommendation: Do not pass as amended. Signed by Senator Kohl.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 1487 Prime Sponsor, Representative K. Schmidt: Enhancing transportation planning. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Horn, Jacobsen, Morton, Oke, Prentice, Rasmussen and Sellar.

MINORITY Recommendation: Do not pass. Signed by Senator Patterson.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 1716 Prime Sponsor, Representative McMorris: Eliminating the authority of the department of licensing to keep records of pistol purchases or transfers. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Long, Stevens and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Fairley, Kline and Thibaudeau.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 1750 Prime Sponsor, House Committee on Government Administration: Protecting existing functional mobile home park septic systems. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass as amended. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 1858 Prime Sponsor, House Committee on Child and Family Service: Requiring parents who are the subject of an abuse or neglect allegation to be notified of their rights. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Franklin, Hargrove and Stevens.

MINORITY Recommendation: Do not pass as amended. Signed by Senator Zarelli, Vice Chair.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 2141 Prime Sponsor, Representative Cairnes: Providing changes to terminal audit violation penalties. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2166 Prime Sponsor, House Committee on Transportation Policy and Budget: Encouraging coordinated transportation services. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2303 Prime Sponsor, House Committee on Agriculture and Ecology: Regulating public water systems. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 24, 1998

ESHB 2317 Prime Sponsor, House Committee on Trade and Economic Development: Limiting the promotion of gambling. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass. Signed by Senator Heavey.

Passed to Committee on Rules for second reading.

February 26, 1998

E2SHB 2339 Prime Sponsor, House Committee on Appropriations: Authorizing wetlands mitigation banking. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Referred to Committee on Ways and Means.

February 26, 1998

ESHB 2346 Prime Sponsor, House Committee on Select Vendor Committee: Allowing the department of social and health services to recover revenue from vendors that have been overpaid. Reported by Committee on Human Services and Corrections.

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2355 Prime Sponsor, Representative Alexander: Managing state park lands. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 2357 Prime Sponsor, Representative L. Thomas: Setting the rates of interest and other fees charged by pawnbrokers. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Hale and Prentice.

MINORITY Recommendation: Do not pass. Signed by Senator Heavey.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2373 Prime Sponsor, House Committee on Higher Education: Creating the border county higher education opportunity pilot project. Reported by Committee on Higher Education

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Referred to Committee on Ways and Means.

February 26, 1998

SHB 2374 Prime Sponsor, House Committee on Higher Education: Requiring one student member on each state institution of higher education's governing board. Reported by Committee on Higher Education

MAJORITY Recommendation: Do pass as amended. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson and West.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2376 Prime Sponsor, Representative Carlson: Changing Washington award for vocational excellence provisions. Reported by Committee on Higher Education

MAJORITY Recommendation: Do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2385 Prime Sponsor, House Committee on Government Administration: Regarding the department of information services. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 2387 Prime Sponsor, Representative Sheahan: Regulating shareholder rights under the Washington business corporation act. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

ESHB 2395 Prime Sponsor, House Committee on Law and Justice: Limiting partial-birth abortions. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Fairley and Kline.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 2429 Prime Sponsor, Representative Huff: Providing for the operation of the state investment board. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2459 Prime Sponsor, House Committee on Trade and Economic Development: Regulating public housing authorities in large jurisdictions. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass as amended. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2461 Prime Sponsor, House Committee on Natural Resources: Requiring a timely distribution of certain state forest land funds back to the counties. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2483 Prime Sponsor, House Committee on Government Administration: Exempting specified computer software from public disclosure. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass as amended. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2496 Prime Sponsor, House Committee on Appropriations: Recovering salmon. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Prentice, Roach and Swecker.

Referred to Committee on Ways and Means.

February 25, 1998

HB 2499 Prime Sponsor, Representative Sheahan: Extending the long arm statute to district court civil cases. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 2500 Prime Sponsor, Representative Sheahan: Amending uniform act on fresh pursuit. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2511 Prime Sponsor, House Committee on Government Administration: Creating a limited exception for members of boards, commissions, and committees to have a small financial interest in the board's, commission's, or committee's transactions. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2514 Prime Sponsor, House Committee on Appropriations: Providing for integrated watershed management. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2515 Prime Sponsor, Representative Chandler: Deregulating apiaries. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse and Oke.

Passed to Committee on Rules for second reading.

February 25, 1998

ESHB 2527 Prime Sponsor, House Committee on Law and Justice: Making technical corrections to the Revised Code of Washington. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2534 Prime Sponsor, Representative Parlette: Waiving operating fees for students registered for a doctor of pharmacy. Reported by Committee on Higher Education

MAJORITY Recommendation: Do pass. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson, Prince, B. Sheldon and West.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2537 Prime Sponsor, Representative Butler: Regulating sanitary control of shellfish. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 2550 Prime Sponsor, Representative L. Thomas: Regulating the charitable gift annuity business. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass as amended. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2551 Prime Sponsor, House Committee on Energy and Utilities: Allowing utilities to take actions, such as requiring deposits, to ensure payment. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Jacobsen, Rossi, T. Sheldon and Strannigan.

MINORITY Recommendation: Do not pass. Signed by Senator Brown.

Passed to Committee on Rules for second reading.

February 25, 1998

HB 2560 Prime Sponsor, Representative L. Thomas: Regulating trust companies. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2568 Prime Sponsor, Representative Smith: Terminating state motor vehicle management programs. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2588 Prime Sponsor, House Committee on Child and Family Service: Regarding controlled substances as a risk factor in determining negligent treatment of a child. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2611 Prime Sponsor, House Committee on Financial Insurance and Institutions: Regulating mortgage insurance. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass as amended. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2628 Prime Sponsor, Representative Schoesler: Increasing the penalty for manufacture of methamphetamine. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Goings, Hargrove, Kline, Long, McCaslin, Stevens and Thibaudeau.



Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2680 Prime Sponsor, House Committee on Financial Institutions and Insurance: Clarifying the definition of capitalized cost for purposes of the consumer leasing act. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 26, 1998

EHB 2707 Prime Sponsor, Representative Backlund: Prohibiting sex offenders in inmate work programs from obtaining private individuals' names. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

EHB 2709 Prime Sponsor, Representative B. Thomas: Eliminating double taxation of municipal utility taxes. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass as amended. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Rossi, T. Sheldon and Strannigan.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Brown and Jacobsen.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2761 Prime Sponsor, House Committee on Child and Family Service: Revising provisions relating to at-risk youth. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Schow and Stevens.

MINORITY Recommendation: Do not pass as amended. Signed by Senator Kohl.

Passed to Committee on Rules for second reading.

February 24, 1998

2SHB 2782 Prime Sponsor, House Committee on Appropriations: Authorizing special event endorsements to full service private club licenses. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 26, 1998

EHB 2791 Prime Sponsor, Representative Schoesler: Fighting methamphetamine. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Fairley and Kline.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2819 Prime Sponsor, House Committee on Natural Resources: Requiring display of a vehicle use permit while using department of fish and wildlife improved access facilities. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass as amended. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Prentice, Snyder, Spanel and Swecker.

MINORITY Recommendation: Do not pass. Signed by Senator Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

E2SHB 2831 Prime Sponsor, House Committee on Appropriations: Requiring electric utilities to unbundle the costs of their assets and operations. Reported by Committee on Energy and Utilities

MAJORITY Recommendation: Do pass. Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Jacobsen, Rossi, T. Sheldon and Strannigan.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2836 Prime Sponsor, House Committee on Natural Resources: Creating a pilot program for the recovery of fish runs. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass as amended. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2837 Prime Sponsor, Representative Clements: Identifying property abandoned by the department of fish and wildlife. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 26, 1998

E2SHB 2882 Prime Sponsor, House Committee on Appropriations: Providing technical assistance to agency personnel and state contractors. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Long, Chair; Franklin, Hargrove and Schow.

Referred to Committee on Ways and Means.

February 26, 1998

HB 2905 Prime Sponsor, Representative Carrell: Prohibiting placement of sexually violent predators in state mental facilities. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

E2SHB 2925 Prime Sponsor, House Committee on Appropriations: Changing water provisions. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended. Signed by Senators Morton, Chair; Swecker, Vice Chair; Oke and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senator Fraser.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2964 Prime Sponsor, House Committee on Transportation Policy and Budget: Enhancing regional transportation planning. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Horn, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2967 Prime Sponsor, House Committee on Natural Resources: Providing for feeding wildlife during emergency conditions. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Referred to Committee on Ways and Means.

February 25, 1998

HB 2969 Prime Sponsor, Representative Carrell: Providing a sales and use tax exemption for gun safes. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Kline, Long, Stevens and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator Fairley.

Referred to Committee on Ways and Means.

February 26, 1998

SHB 2989 Prime Sponsor, House Committee on Law and Justice: Augmenting provisions regarding guardians and guardians ad litem. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

E2SHB 3049 Prime Sponsor, House Committee on Appropriations: Providing for watershed planning and project mitigation. Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Morton, Chair; Swecker, Vice Chair; Oke and Rasmussen.

Referred to Committee on Ways and Means.

February 26, 1998

HB 3050 Prime Sponsor, Representative Smith: Regulating the sale of surplus state cars. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 3052 Prime Sponsor, Representative L. Thomas: Authorizing self-audits by insurers. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass as amended. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey and Prentice.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 3096 Prime Sponsor, House Committee on Financial Institutions and Insurance: Declaring the state's preemption of excise or privilege taxes on health care services. Reported by Committee on Financial Institutions, Insurance and Housing

MAJORITY Recommendation: Do pass as amended. Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 3110 Prime Sponsor, House Committee on Transportation Policy and Budget: Considering fish in advanced environmental mitigation. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 26, 1998

GA 9284 SUSAN SELLERS, appointed April 16, 1997, for a term ending September 30, 2001, as a member of the Board of Trustees for Clark Community College District No. 14.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson. Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 26, 1998

GA 9295 STANLEY L. FLEMMING, appointed December 10, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for The Evergreen State College.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson. Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 26, 1998

GA 9302 MARILEE ROLOFF, appointed December 12, 1997, for a term ending September 30, 2003, as a member of the Board of Trustees for The Evergreen State College.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson. Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 26, 1998

GA 9313 ROBERT D. FUKAI, appointed December 12, 1997, for a term ending September 30, 2003, as a member of the Board of Regents for Washington State University.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson. Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 26, 1998

GA 9329 DORA C. REYES, appointed January 16, 1998, for a term ending September 30, 2002, as a member of the Board of Trustees for Walla Walla Community College District No. 20.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson. Prince, B. Sheldon and West.

Passed to Committee on Rules.

February 26, 1998

GA 9330 LARRY BROWN, appointed January 16, 1998, for a term ending September 30, 2001, as a member of the Board of Trustees for Green River Community College District No. 10.

Reported by Committee on Higher Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Wood, Chair; Winsley, Vice Chair; Bauer, Hale, Kohl, Patterson. Prince, B. Sheldon and West.

Passed to Committee on Rules.

MESSAGES FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 9, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Michael E. Donohue, appointed January 9, 1998, for a term ending August 2, 2000, as a member of the Sentencing Guidelines Commission.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Law and Justice.

February 12, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Margaret M. Smith, appointed February 12, 1998, for a term ending September 25, 2001, as a member of the Clemency and Pardons Board.

Sincerely,

GARY LOCKE, Governor

Referred to Committee on Law and Justice.

#### MESSAGE FROM THE HOUSE

February 25, 1998

MR. PRESIDENT:

The House has passed:  
HOUSE BILL NO. 2428,  
HOUSE BILL NO. 2566,  
SUBSTITUTE HOUSE BILL NO. 2711,  
HOUSE BILL NO. 2993,  
SECOND SUBSTITUTE HOUSE BILL NO. 3058, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 2428 by Representatives Boldt, Schoesler, Mulliken, McDonald, O'Brien, Dunshee, Cooke, Backlund, Dunn, Thompson and Eickmeyer (by request of Department of Revenue)

Exempting fund-raising activities by nonprofit organizations from sales and use taxation.

Referred to Committee on Ways and Means.

HB 2566 by Representatives Alexander, Linville, DeBolt, Morris and Thompson

Extending the retail sales tax exemption for sales of laundry service.

Referred to Committee on Ways and Means.

SHB 2711 by House Committee on Finance (originally sponsored by Representatives Parlette, Chandler, Mulliken and Sump)

Providing tax exemptions for small irrigation districts.

Referred to Committee on Ways and Means.

HB 2993 by Representatives Van Luven, Quall, Sherstad, Dyer, D. Sommers and B. Thomas

Eliminating the business and occupation tax on property managers' compensation.

Referred to Committee on Ways and Means.

2SHB 3058 by House Committee on Appropriations (originally sponsored by Representatives Chandler and Linville)

Changing statutes for waste reduction, recycling, and litter control.

Referred to Committee on Ways and Means.

MOTION

On motion of Senator Loveland, the following resolution was adopted:

SENATE RESOLUTION 1998-8703

By Senators Loveland, Hale, B. Sheldon, Bauer and Haugen

WHEREAS, Camp Fire Boys and Girls, the national organization, will sponsor Absolutely Incredible Kid Day on March 19, 1998; and

WHEREAS, Camp Fire Boys and Girls has issued a call to action, asking every adult in America to write a letter to a child or children on March 19, 1998; and

WHEREAS, Camp Fire Boys and Girls throughout the state of Washington teaches boys and girls self-reliance, good citizenship and leadership; and

WHEREAS, Through contemporary programs and by speaking out on issues affecting youth and their families, Camp Fire Boys and Girls helps youth cope with their changing world; and

WHEREAS, In Camp Fire Boys and Girls, the choices and opportunities are inclusive to boys and girls; and

WHEREAS, Camp Fire Boys and Girls is commended for the valuable programs offered to young people in the state of Washington and throughout the nation, and for the many services these young people perform for their communities through Camp Fire;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate, do hereby recognize March 19, 1998, to be Absolutely Incredible Kid Day and declare the children of the state of Washington as absolutely incredible kids.

Senators Loveland and Hale spoke to Senate Resolution 1998-8703.

MOTION

On motion of Senator Rasmussen, the following resolution was adopted:

SENATE RESOLUTION 1998-8707

By Senators Rasmussen, B. Sheldon, Oke, Prince, Franklin, T. Sheldon, Goings, Fraser and Haugen

WHEREAS, The location of the Intel Corporation at DuPont was conditioned on rapid development of a highway interchange on Interstate 5; and

WHEREAS, The Department of Transportation, in cooperation with the city of DuPont, Weyerhaeuser Real Estate Company, and Intel Corporation set out to develop this interchange as rapidly as possible; and

WHEREAS, The DuPont Interchange Pilot Project demonstrates what can be accomplished when state, local, and private sectors work as partners; and

WHEREAS, This project has demonstrated methods that can be used to streamline and accelerate Department of Transportation design, environmental, right of way, and construction procedures; and

WHEREAS, The Department of Transportation, Olympic Region, completed the interchange \$3 million under the original budget estimate and in twenty-six months instead of the originally planned fifty months to complete this process; and

WHEREAS, The *Engineering News-Record* has recognized Gary Demich, Regional Administrator for the Olympic Region of the Department of Transportation, for his leadership in the completion of this project as one of the top twenty-five industry achievements in the nation;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate wishes to recognize the accomplishments of all those involved in this project including the entire staff of the Washington State Department of Transportation, and in particular those of the Olympic Region; and



BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Honorable Gary Locke, Governor of the state of Washington, the Washington State Transportation Commission, the Secretary of the Washington State Department of Transportation, and to Mr. Gary Demich, on behalf of all the employees of the Olympic Region.

Senators Rasmussen, Tim Sheldon, Franklin, Goings and Hargrove spoke to Senate Resolution 1998-8707.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Gary Demich, Regional Administrator for the Olympic Region of the Department of Transportation, and Kay Deasey, Community Affairs Director for Intel, who were seated in the gallery.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the sixth order of business.

#### SECOND READING

HOUSE BILL NO. 2717, by Representatives Chandler, Regala and Dunn

Implementing House Joint Resolution No. 4209.

The bill was read the second time.

#### MOTION

On motion of Senator Morton, the rules were suspended, House Bill No. 2717 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2717.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2717 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Newhouse - 1. Excused: Senators Deccio and Heavey - 2. HOUSE BILL NO. 2717, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3056, by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Linville and Constantine)

Implementing the recommendations of the on-site wastewater certification work group.

The bill was read the second time.

#### MOTION

On motion of Senator Morton, the rules were suspended, Substitute House Bill No. 3056 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3056.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3056 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Deccio and Heavey - 2. SUBSTITUTE HOUSE BILL NO. 3056, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1082, by Representatives McDonald and Sheahan

Extending authority to cite for contempt of court.

The bill was read the second time.

## MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 1082 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1082.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1082 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48.

Excused: Senator Deccio - 1.

HOUSE BILL NO. 1082, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

On motion of Senator McCaslin, Senator Hale was excused.

## SECOND READING

HOUSE BILL NO. 1117, by Representatives Benson, Sheahan, Costa, D. Sommers, McDonald, Gombosky, Mulliken, Robertson, O'Brien, D. Schmidt, Backlund, Sterk, Wood, Sheldon, Quall, Anderson, Boldt and DeBolt

Providing penalties for supplying liquor to or consuming liquor by minors.

The bill was read the second time.

## MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 1117 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1117.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1117 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Hale - 1. HOUSE BILL NO. 1117, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1165, by Representatives Backlund, O'Brien, Skinner, Cairnes, Dyer, Dunn, Lambert, Sherstad, Sterk, Delvin and Mielke.

Creating the crimes of homicide by watercraft and assault by watercraft.

The bill was read the second time.

## MOTION

On motion of Senator Roach, the following Committee of Law and Justice amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 88.12 RCW to read as follows:

(1) When the death of any person ensues within three years as a proximate result of injury proximately caused by the operating of any vessel by any person, the operator is guilty of homicide by watercraft if he or she was operating the vessel:

- (a) While under the influence of intoxicating liquor or any drug, as defined by RCW 88.12.025;
- (b) In a reckless manner; or
- (c) With disregard for the safety of others.

(2) When the death is caused by a skier towed by a vessel, the operator of the vessel is not guilty of homicide by watercraft.

(3) A violation of this section is punishable as a class A felony according to chapter 9A.20 RCW.

**NEW SECTION. Sec. 2.** A new section is added to chapter 88.12 RCW to read as follows:

(1) "Serious bodily injury" means bodily injury which involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body.

(2) A person is guilty of assault by watercraft if he or she operates any vessel:

(a) In a reckless manner, and this conduct is the proximate cause of serious bodily injury to another; or  
(b) While under the influence of intoxicating liquor or any drug, as defined by RCW 88.12.025, and this conduct is the proximate cause of serious bodily injury to another.

(3) When the injury is caused by a skier towed by a vessel, the operator of the vessel is not guilty of assault by watercraft.

(4) A violation of this section is punishable as a class B felony according to chapter 9A.20 RCW.

**NEW SECTION. Sec. 3.** A new section is added to chapter 88.12 RCW to read as follows:

A person convicted under section 1 or 2 of this act shall, as a condition of community supervision imposed under RCW 9.94A.383 or community placement imposed under RCW 9.94A.120(9), complete a diagnostic evaluation by an alcohol or drug dependency agency approved by the department of social and health services or a qualified probation department, defined under RCW 46.61.516, that has been approved by the department of social and health services. If the person is found to have an alcohol or drug problem that requires treatment, the person shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the person is found not to have an alcohol or drug problem that requires treatment, he or she shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The convicted person shall pay all costs for any evaluation, education, or treatment required by this section, unless the person is eligible for an existing program offered or approved by the department of social and health services. Nothing in chapter ..., Laws of 1998 (this act) requires the addition of new treatment or assessment facilities nor affects the department of social and health services use of existing programs and facilities authorized by law.

**Sec. 4.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XV Aggravated Murder 1 (RCW 10.95.020)
- XIV Murder 1 (RCW 9A.32.030)
  - Homicide by abuse (RCW 9A.32.055)
  - Malicious explosion 1 (RCW 70.74.280(1))
- XIII Murder 2 (RCW 9A.32.050)
  - Malicious explosion 2 (RCW 70.74.280(2))
  - Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
  - Assault of a Child 1 (RCW 9A.36.120)
  - Rape 1 (RCW 9A.44.040)
  - Rape of a Child 1 (RCW 9A.44.073)
  - Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
- XI Rape 2 (RCW 9A.44.050)
  - Rape of a Child 2 (RCW 9A.44.076)
  - Manslaughter 1 (RCW 9A.32.060)
- X Kidnapping 1 (RCW 9A.40.020)
  - Child Molestation 1 (RCW 9A.44.083)
  - Malicious explosion 3 (RCW 70.74.280(3))
  - Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406)
  - Leading Organized Crime (RCW 9A.82.060(1)(a))
  - Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
- IX Assault of a Child 2 (RCW 9A.36.130)
  - Robbery 1 (RCW 9A.56.200)
  - Explosive devices prohibited (RCW 70.74.180)
  - Malicious placement of an explosive 2 (RCW 70.74.270(2))
  - Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
  - Controlled Substance Homicide (RCW 69.50.415)
  - Sexual Exploitation (RCW 9.68A.040)
  - Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
  - Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
  - Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (section 1 of this act)
- VIII Arson 1 (RCW 9A.48.020)
  - Promoting Prostitution 1 (RCW 9A.88.070)
  - Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
  - Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
  - Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
  - Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)
  - Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
  - Homicide by Watercraft, by the operation of any vessel in a reckless manner (section 1 of this act)
  - Manslaughter 2 (RCW 9A.32.070)
- VII Burglary 1 (RCW 9A.52.020)
  - Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
  - Homicide by Watercraft, by disregard for the safety of others (section 1 of this act)
  - Introducing Contraband 1 (RCW 9A.76.140)
  - Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))

Child Molestation 2 (RCW 9A.44.086)  
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)  
Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)  
Involving a minor in drug dealing (RCW 69.50.401(f))  
Drive-by Shooting (RCW 9A.36.045)  
Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))  
Malicious placement of an explosive 3 (RCW 70.74.270(3))

VI Bribery (RCW 9A.68.010)  
Rape of a Child 3 (RCW 9A.44.079)  
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))  
Incest 1 (RCW 9A.64.020(1))  
Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))  
Intimidating a Judge (RCW 9A.72.160)  
Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))  
Theft of a Firearm (RCW 9A.56.300)

V Persistent prison misbehavior (RCW 9.94.070)  
Criminal Mistreatment 1 (RCW 9A.42.020)  
Abandonment of dependent person 1 (RCW 9A.42.060)  
Rape 3 (RCW 9A.44.060)  
Sexual Misconduct with a Minor 1 (RCW 9A.44.093)  
Child Molestation 3 (RCW 9A.44.089)  
Kidnapping 2 (RCW 9A.40.030)  
Extortion 1 (RCW 9A.56.120)  
Incest 2 (RCW 9A.64.020(2))  
Perjury 1 (RCW 9A.72.020)  
Extortionate Extension of Credit (RCW 9A.82.020)  
Advancing money or property for extortionate extension of credit (RCW 9A.82.030)  
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)  
Rendering Criminal Assistance 1 (RCW 9A.76.070)  
Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))  
Sexually Violating Human Remains (RCW 9A.44.105)  
Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))  
Possession of a Stolen Firearm (RCW 9A.56.310)

IV Residential Burglary (RCW 9A.52.025)  
Theft of Livestock 1 (RCW 9A.56.080)  
Robbery 2 (RCW 9A.56.210)  
Assault 2 (RCW 9A.36.021)  
Escape 1 (RCW 9A.76.110)  
Arson 2 (RCW 9A.48.030)  
Commercial Bribery (RCW 9A.68.060)  
Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)  
Malicious Harassment (RCW 9A.36.080)  
Threats to Bomb (RCW 9.61.160)  
Willful Failure to Return from Furlough (RCW 72.66.060)  
Hit and Run--Injury Accident (RCW 46.52.020(4))  
Hit and Run with Vessel--Injury Accident (RCW 88.12.155(3))  
Vehicular Assault (RCW 46.61.522)  
Assault by Watercraft (section 2 of this act)

- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or  
nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401  
(a)(1) (iii) through (v))
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal Gang Intimidation (RCW 9A.46.120)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Abandonment of dependent person 2 (RCW 9A.42.070)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)
- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)
- Custodial Assault (RCW 9A.36.100)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW  
69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Unlawful Practice of Law (RCW 2.48.180)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Class B Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Health Care False Claims (RCW 48.80.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW  
69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Escape from Community Custody (RCW 72.09.310)
- I Theft 2 (RCW 9A.56.040)
- Class C Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)

Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)  
Malicious Mischief 2 (RCW 9A.48.080)  
Reckless Burning 1 (RCW 9A.48.040)  
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
False Verification for Welfare (RCW 74.08.055)  
Forged Prescription (RCW 69.41.020)  
Forged Prescription for a Controlled Substance (RCW 69.50.403)  
Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from  
Schedule I-V (except phencyclidine) (RCW 69.50.401(d))

**Sec. 5.** RCW 88.12.010 and 1997 c 391 s 1 are each amended to read as follows:

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

(1) "Boat wastes" includes, but is not limited to, sewage, garbage, marine debris, plastics, contaminated bilge water, cleaning solvents, paint scrapings, or discarded petroleum products associated with the use of vessels.

(2) "Boater" means any person on a vessel on waters of the state of Washington.

(3) "Carrying passengers for hire" means carrying passengers in a vessel on waters of the state for valuable consideration, whether given directly or indirectly or received by the owner, agent, operator, or other person having an interest in the vessel. This shall not include trips where expenses for food, transportation, or incidentals are shared by participants on an even basis. Anyone receiving compensation for skills or money for amortization of equipment and carrying passengers shall be considered to be carrying passengers for hire on waters of the state.

(4) "Commission" means the state parks and recreation commission.

(5) "Darkness" means that period between sunset and sunrise.

(6) "Environmentally sensitive area" means a restricted body of water where discharge of untreated sewage from boats is especially detrimental because of limited flushing, shallow water, commercial or recreational shellfish, swimming areas, diversity of species, the absence of other pollution sources, or other characteristics.

(7) "Guide" means any individual, including but not limited to subcontractors and independent contractors, engaged for compensation or other consideration by a whitewater river outfitter for the purpose of operating vessels. A person licensed under RCW 77.32.211 or 75.28.780 and acting as a fishing guide is not considered a guide for the purposes of this chapter.

(8) "Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(9) "Motor driven boats and vessels" means all boats and vessels which are self propelled.

(10) "Muffler" or "muffler system" means a sound suppression device or system, including an underwater exhaust system, designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

(11) "Operate" means to steer, direct, or otherwise have physical control of a vessel that is underway.

(12) "Operator" means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.

(13) "Observer" means the individual riding in a vessel who is responsible for observing a water skier at all times.

(14) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(15) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, or other legal entity located within or outside this state.

(16) "Personal flotation device" means a buoyancy device, life preserver, buoyant vest, ring buoy, or buoy cushion that is designed to float a person in the water and that is approved by the commission.

(17) "Personal watercraft" means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

(18) "Polluted area" means a body of water used by boaters that is contaminated by boat wastes at unacceptable levels, based on applicable water quality and shellfish standards.

(19) "Public entities" means all elected or appointed bodies, including tribal governments, responsible for collecting and spending public funds.

(20) "Reckless" or "recklessly" means acting carelessly and heedlessly in a willful and wanton disregard of the rights, safety, or property of another.

(21) "Sewage pumpout or dump unit" means:

(a) A receiving chamber or tank designed to receive vessel sewage from a "porta-potty" or a portable container; and

(b) A stationary or portable mechanical device on land, a dock, pier, float, barge, vessel, or other location convenient to boaters, designed to remove sewage waste from holding tanks on vessels.

(22) "Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

(23) "Vessel" includes every description of watercraft on the water, other than a seaplane, used or capable of being used as a means of transportation on the water. However, it does not include inner tubes, air mattresses, sailboards, and small rafts or flotation devices or toys customarily used by swimmers.

(24) "Water skiing" means the physical act of being towed behind a vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or any other similar device.

(25) "Waters of the state" means any waters within the territorial limits of Washington state.

(26) "Whitewater river outfitter" means any person who is advertising to carry or carries passengers for hire on any whitewater river of the state, but does not include any person whose only service on a given trip is providing instruction in canoeing or kayaking skills.

(27) "Whitewater rivers of the state" means those rivers and streams, or parts thereof, within the boundaries of the state as listed in RCW 88.12.265 or as designated by the commission under RCW 88.12.279."

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 1 of the title, after "watercraft;" strike the remainder of the title and insert "amending RCW 88.12.010; reenacting and amending RCW 9.94A.320; adding new sections to chapter 88.12 RCW; and prescribing penalties."

On motion of Senator Roach, the rules were suspended, House Bill No. 1165, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Swecker, Senator Wood was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1165, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1165, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 47. Excused: Senators Hale and Wood - 2. HOUSE BILL NO. 1165, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1181, by Representatives Sterk, O'Brien and Crouse

Taking judicial notice of radar evidence.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the following Committee on Law and Justice amendment was adopted:

On page 2, line 6, after "if the" strike the remainder of the paragraph and insert "state patrol has adopted a rule setting forth the design, construction and function standards for radar speed measuring devices and provides a procedure for determining and declaring whether a device has met those standards."

#### MOTION



Senator Roach moved that the following amendment by Senators Fairley and Roach be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the national highway and traffic safety administration has established minimum performance specifications for speed measuring devices. The international association of chiefs of police, in cooperation with the national highway and traffic safety administration, has tested various radar and lidar speed measuring devices using the testing standards in the minimum performance specifications. Radar and lidar devices that are designed and constructed to provide accurate measurements of the speed of moving vehicles when properly calibrated and operated are approved for use as police traffic radar and lidar speed measuring devices. The international association of chiefs of police publishes a consumer products list of those radar and lidar devices. The legislature finds that those devices are sufficiently reliable when properly calibrated and operated that a court may take judicial notice of their reliability.

NEW SECTION. Sec. 2. A new section is added to chapter 46.63 RCW to read as follows:

In a hearing held to contest the determination that a traffic infraction has been committed, the court may take judicial notice of the reliability of the design, construction, and function of a radar and lidar speed measuring device if the state patrol has adopted a rule setting forth the design, construction, and function standards for radar and lidar speed measuring devices and provides a procedure for determining and declaring whether a device has met those standards.

This section does not abrogate the rules of evidence that govern other foundational requirements to admit radar and lidar test results such as the proper calibration and operation of the particular radar and lidar device."

Debate ensued.

The President declared the question before he Senate to be the adoption of the striking amendment by Senators Fairley and Roach to House Bill No. 1181.

The motion by Senator Roach failed and the amendment was not adopted.

#### MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 1181, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Anderson, Senator Deccio was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1181, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1181, as amended by the Senate, and the bill failed to pass the Senate by the following vote: Yeas, 18; Nays, 29; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Fairley, Goings, Hargrove, Haugen, Horn, Long, McCaslin, McDonald, Newhouse, Prince, Rasmussen, Schow, Spanel, Swecker, West, Winsley and Wood - 18. Voting nay: Senators Bauer, Benton, Brown, Finkbeiner, Franklin, Fraser, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, Morton, Oke, Patterson, Prentice, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Thibaudeau, Wojahn and Zarelli - 29. Excused: Senators Deccio and Hale - 2. HOUSE BILL NO. 1181, as amended by the Senate, having failed to receive the constitutional majority, was declared lost

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1254, by Representatives Sterk, D. Sommers, Carrell, Mulliken, Delvin, Chandler, O'Brien and Bush.

Prohibiting destruction of driving records for alcohol or drug-related offenses.

The bill was read the second time.

#### MOTION

Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.52.100 and 1995 c 219 s 3 are each amended to read as follows:

Every district court, municipal court, and clerk of superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to the court or a traffic violations bureau, and shall keep a record of every official action by the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or penalty resulting from every traffic complaint, citation, or notice of infraction deposited with or presented to the district court, municipal court, superior court, or traffic violations bureau. In the case of a record of a conviction for a violation of RCW 46.61.502 or 46.61.504, and notwithstanding any other provision of law, the record shall be maintained by the court permanently.

The Monday following the conviction, forfeiture of bail, or finding that a traffic infraction was committed for violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, every magistrate of the court or clerk of the court of record in which such conviction was had, bail was forfeited, or the finding made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the record of the court covering the case, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any finding involving the illegal parking or standing of a vehicle.

The abstract must be made upon a form or forms furnished by the director and shall include the name and address of the party charged, the number, if any, of the party's driver's or chauffeur's license, the registration number of the vehicle involved if required by the director, the nature of the offense, the date of hearing, the plea, the judgment, whether the offense was an alcohol-related offense as defined in RCW 46.01.260(2), whether bail forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty as the case may be.

Every court of record shall also forward a like report to the director upon the conviction of any person of a felony in the commission of which a vehicle was used.

The failure of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

The director shall keep all abstracts received hereunder at the director's office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all district courts shall be before one of the two nearest district judges in incorporated cities and towns nearest to the point the violation allegedly occurred: PROVIDED, That in counties with populations of one hundred twenty-five thousand or more such cases may be tried in the county seat at the request of the defendant.

It shall be the duty of the officer, prosecuting attorney, or city attorney signing the charge or information in any case involving a charge of driving under the influence of intoxicating liquor or any drug immediately to make request to the director for an abstract of convictions and forfeitures which the director shall furnish."

Debate ensued.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment to Engrossed House Bill No. 1254.

The motion by Senator Roach carried and the committee striking amendment was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted

On line 1 of the title, after "records;" strike the remainder of the title and insert "and amending RCW 46.52.100."

On motion of Senator Roach, the rules were suspended, Engrossed House Bill No. 1254, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Swecker, Senator Schow was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 1254, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1254, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Kline - 1. Excused: Senators Hale and Schow - 2. ENGROSSED HOUSE BILL NO. 1254, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Prentice: "Mr. President, I rise to a point of personal privilege. I would like to make a very happy announcement. Last Sunday, I became a Grandmother again. Our daughter in Phoenix adopted a baby boy and his name is Matthew Carl, so I also would like to make a plea, 'Let's get our business done and get out of here,' so that I can go down and see my new grandbaby."

#### MOTION

On motion of Senator Johnson, the Senate advanced to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SB 6760 by Senators Haugen, Goings, Prentice, Bauer, Jacobsen and Thibaudeau

AN ACT Relating to providing for transportation funding;  
Referred to Committee on Transportation.

#### MOTION

At 11:20 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 12:01 p.m. by President Owen.

There being no objection, the President advanced the Senate to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6456, by Senators Prince, Haugen, Wood, Kline and Horn (by request of Governor Locke)

Making supplemental transportation appropriations.

#### MOTIONS

On motion of Senator Prince, Substitute Senate Bill No. 6456 was substituted for Senate Bill No. 6456 and the substitute bill was placed on second reading and read the second time.

Senator Benton moved that the following amendment by Senators Benton and Prince be adopted:

On page 2, line 28, after "(3)" strike all material through and including "parks." on line 29, and insert "\$46,000 of this appropriation is provided solely for snow and ice removal on the approach roads to snow parks administered by Washington state parks and other state parks."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton and Prince on page 2, line 28, to Substitute Senate Bill No. 6456.

The motion by Senator Benton carried and the amendment was adopted.

#### MOTION

On motion of Senator Prince, the rules were suspended, Engrossed Substitute Senate Bill No. 6456, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6456.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6456 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 3; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senator Thibaudeau - 1. Absent: Senators Hargrove, Jacobsen and West - 3. ENGROSSED SUBSTITUTE SENATE BILL NO. 6456, having received the constitutional, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 12:12 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 5:47 p.m. by President Owen.

#### MOTION

On motion of Senator Sellar, the Senate returned to the first order of business.

#### REPORTS OF STANDING COMMITTEES

February 25, 1998

SHB 1072 Prime Sponsor, House Committee on Law and Justice: Regulating interception of communications. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, McCaslin and Zarelli.

MINORITY Recommendation: Do not pass as amended. Signed by Senator Thibaudeau.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 1083 Prime Sponsor, House Committee on Law and Justice: Authorizing use of department of licensing records in criminal prosecutions. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Fairley, Hargrove, Long, McCaslin and Stevens.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 1150 Prime Sponsor, House Committee on Law and Justice: Making assault of a school employee or sports official an aggravating factor for sentencing. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Long, McCaslin and Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 1172 Prime Sponsor, Representative D. Sommers: Concerning the failure to register as a sex offender. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended by Committee on Human Services and Corrections. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Roach, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 1248 Prime Sponsor, Representative Sump: Allowing facsimile filings with the secretary of state's office. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 1309 Prime Sponsor, Representative Mielke: Creating the crime of disarming a law enforcement officer. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 1390 Prime Sponsor, House Committee on Government Administration: Revising provisions regulating municipal officers' interest in contracts. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 27, 1998

ESHB 1490 Prime Sponsor, House Committee on Law and Justice: Clarifying liability of drivers of authorized emergency vehicles. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Kline, Long, McCaslin, Stevens and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Fairley and Thibaudeau.

Passed to Committee on Rules for second reading.

February 27, 1998

2SHB 1501 Prime Sponsor, House Committee on Transportation Policy and Budget: Clarifying and making technical corrections to driver's license statutes. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, McCaslin, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 1504 Prime Sponsor, House Committee on Government Administration: Protecting records of strategy discussions. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 27, 1998

2SHB 1618 Prime Sponsor, House Committee on Health Care: Modifying certain aspects of programs that treat impaired physicians. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 1648 Prime Sponsor, Representative Honeyford: Declaring buildings used for criminal street gang activity to be a nuisance. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 1655 Prime Sponsor, House Committee on Law and Justice: Extending protection for bus drivers. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 1692 Prime Sponsor, House Committee on Capital Budget: Describing those lands eligible to be included in a port district aquatic lands management agreement. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Referred to Committee on Ways and Means.

February 26, 1998

EHB 1740 Prime Sponsor, Representative Sheahan: Prohibiting the purchase of liquor by intoxicated persons. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Kline, Long, Stevens and Zarelli.

MINORITY Recommendation: Do not pass as amended. Signed by Senator Fairley.

Passed to Committee on Rules for second reading.

February 27, 1998

2ESHB 1746 Prime Sponsor, House Committee on Commerce and Labor: Making minor possession of tobacco a class 3 civil infraction and clarifying penalties for violation of current laws regarding youth access to tobacco. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass as amended. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Fraser.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Franklin and Heavey.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 1781 Prime Sponsor, House Committee on Appropriations: Expanding the supervision management and recidivist tracking program. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Franklin, Hargrove, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 1800 Prime Sponsor, House Committee on Appropriations: Assisting crime stoppers programs. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Fairley, Hargrove, Kline, Long and McCaslin.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 1846 Prime Sponsor, House Committee on Government Administration: Maintaining voter registration lists. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 1939 Prime Sponsor, House Committee on Government Administration: Covering reserve law enforcement officers under volunteer fire fighters relief benefits. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 1992 Prime Sponsor, House Committee on Commerce and Labor: Implementing workplace safety rules. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2077 Prime Sponsor, House Committee on Government Administration: Providing uniform exemptions to competitive bidding procedures utilized by municipalities when awarding contracts for public works and contracts for purchases. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998



EHB 2302 Prime Sponsor, Representative Honeyford: Authorizing counties that hold money in trust for school purposes to distribute the money to school districts. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2306 Prime Sponsor, House Committee on Government Administration: Indicating the citizenship requirement for voter registration. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2308 Prime Sponsor, House Committee on Education: Requiring parental consent before a school conducts certain tests, questionnaires, surveys, analyses, or evaluations. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson, Rasmussen and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2312 Prime Sponsor, House Committee on Commerce and Labor: Prescribing workers' compensation obligations of employers not domiciled in Washington. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2313 Prime Sponsor, House Committee on Commerce and Labor: Revising the regulation of elevators, escalators, and other conveyances. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 27, 1998

HB 2314 Prime Sponsor, Representative Hatfield: Recovering industrial insurance benefit payments. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2316 Prime Sponsor, House Committee on Criminal Justice and Corrections: Revising provisions relating to release of information about sex offenders and kidnapping offenders. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2326 Prime Sponsor, House Committee on Law and Justice: Limiting access to law enforcement personnel records and internal affairs files. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Fairley, Hargrove, Kline, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2333 Prime Sponsor, House Committee on Education: Allowing school districts to allow students funded at basic transportation rates to use school transportation that qualifies for special transportation rates. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Referred to Committee on Ways and Means.

February 26, 1998

HB 2343 Prime Sponsor, Representative Hickel: Changing school safety provisions. Reported by Committee on Education

MAJORITY Recommendation: Do pass as amended. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

ESHB 2344 Prime Sponsor, House Committee on House Government Reform and Land Use: Attempting to integrate planning, review, and terminology among growth management, environmental and ecological protection, and other related areas. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 27, 1998

E2SHB 2345 Prime Sponsor, House Committee on Appropriations: Revising administrative law. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

MINORITY Recommendation: Do not pass as amended. Signed by Senator Patterson.

Referred to Committee on Ways and Means.

February 26, 1998

SHB 2351 Prime Sponsor, House Committee on Government Administration: Allowing victims of sexual assault into the address confidentiality program. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2366 Prime Sponsor, House Committee on Health Care: Providing free infectious disease testing to good samaritans. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Strannigan.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2368 Prime Sponsor, House Committee on Criminal Justice and Corrections: Requiring sex offenders and kidnappers on college campuses to register with campus security. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2369 Prime Sponsor, House Committee on Law and Justice: Prohibiting slayers from receiving benefits because of the victim's death. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2386 Prime Sponsor, House Committee on Law and Justice: Creating the revised uniform partnership act. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Kline, Stevens, Thibaudeau and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator Fairley.

Passed to Committee on Rules for second reading.

February 25, 1998

SHB 2389 Prime Sponsor, House Committee on Law and Justice: Allowing for interstate professional services corporations. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2394 Prime Sponsor, House Committee on Appropriations: Consolidating general administration funds and accounts. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Roach, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2399 Prime Sponsor, House Committee on Government Administration: Revising provisions relating to use of small works rosters by state agencies. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2402 Prime Sponsor, Representative Sheahan: Authorizing the use of electronic copies for preservation of court record. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2411 Prime Sponsor, House Committee on Government Administration: Refining statutes related to county treasurers. Reported by Committee on Government Operations.

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2413 Prime Sponsor, House Committee on Health Care: Disclosing sexually transmitted disease information. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin and Strannigan.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2418 Prime Sponsor, House Committee on Appropriations: Requiring coursework in comprehensive beginning reading instruction as a prerequisite to teacher certification. Reported by Committee on Education

MAJORITY Recommendation: Do pass as amended. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator McAuliffe.

Referred to Committee on Ways and Means.

February 27, 1998

SHB 2422 Prime Sponsor, House Committee on Education: Clarifying parents' rights in public education. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson, Rasmussen and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator McAuliffe.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2424 Prime Sponsor, House Committee on Education: Regulating disclosure of students' federal social security numbers. Reported by Committee on Education

MAJORITY Recommendation: Do pass as amended. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson, Rasmussen and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2431 Prime Sponsor, House Committee on Appropriations: Refining provisions concerning the Southwest Washington Fair. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 27, 1998

EHB 2432 Prime Sponsor, Representative Hickel: Changing educator internship programs. Reported by Committee on Education

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Referred to Committee on Ways and Means.

February 27, 1998

SHB 2446 Prime Sponsor, House Committee on Law and Justice: Changing provisions relating to temporary restricted drivers' licenses. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, McCaslin, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2452 Prime Sponsor, House Committee on Health Care: Defining medication assistance in community-based settings. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2477 Prime Sponsor, House Committee on Commerce and Labor: Adding theatrical agencies to definition of employment agency. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass as amended. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 26, 1998

EHB 2501 Prime Sponsor, Representative Zellinsky: Exempting wholesale auto auctions from certain regulations. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Haugen, Horn, Jacobsen, Morton, Oke, Patterson, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 27, 1998

HB 2542 Prime Sponsor, Representative Mulliken: Allowing rural counties to remove themselves and their cities from planning requirements under the growth management act. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Haugen and Patterson.

Passed to Committee on Rules for second reading.

February 26, 1998

EHB 2570 Prime Sponsor, Representative Ballasiotes: Ordering a study of community residential facilities. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2573 Prime Sponsor, House Committee on Criminal Justice and Corrections: Defining the crime of custodial sexual misconduct. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Fairley, Kline, Long, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

February 27, 1998

ESHB 2578 Prime Sponsor, House Committee on Commerce and Labor: Expanding membership of the electrical board. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass as amended. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

Passed to Committee on Rules for second reading.

February 27, 1998

ESHB 2596 Prime Sponsor, House Committee on Government Reform and Land Use: Clarifying that master planned resorts may obtain facilities, utilities, and services from outside service providers. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2671 Prime Sponsor, House Committee on Government Administration: Clarifying procedures for absentee voting and mail ballots. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2685 Prime Sponsor, House Committee on Law and Justice: Creating a privilege for communications between victims of domestic violence and victims' advocates. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2705 Prime Sponsor, House Committee on Commerce and Labor: Extending existing employer workers' compensation group self-insurance. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass as amended. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass. Signed by Senators Franklin and Fraser.

Passed to Committee on Rules for second reading.

February 27, 1998

HB 2735 Prime Sponsor, Representative Ogden: Regarding Lewis and Clark bicentennial advisory committee. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 27, 1998

HB 2748 Prime Sponsor, Representative Mulliken: Allowing rural counties to authorize additional industrial development in rural areas. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and T. Sheldon.

MINORITY Recommendation: Do not pass as amended. Signed by Senator Patterson.



Referred to Committee on Ways and Means.

February 26, 1998

ESHB 2756 Prime Sponsor, House Committee on Law and Justice: Changing domestic violence protection orders. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Kline, Long, McCaslin and Thibaudeau.

Passed to Committee on Rules for second reading.

February 27, 1998

HB 2763 Prime Sponsor, Representative McDonald: Revising laws on dependent persons. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Fairley, Hargrove, Kline, Long, McCaslin and Thibaudeau.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2769 Prime Sponsor, House Committee on Law and Justice: Establishing procedure for reporting felonies by state employees. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Kline, Long and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

EHB 2772 Prime Sponsor, Representative McDonald: Revising provisions relating to drug paraphernalia. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Kline, Long, McCaslin, Stevens and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2774 Prime Sponsor, House Committee on Health Care: Creating an advisory committee on matters relating to the regulation of adult family homes. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 27, 1998

HB 2779 Prime Sponsor, Representative Dunn: Extending the Washington economic development finance authority. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 27, 1998

HB 2784 Prime Sponsor, Representative Johnson: Adding inhabitants of county as recipients of water works benefits. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2785 Prime Sponsor, House Committee on Commerce and Labor: Prescribing disclosures required for prize promotions. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass as amended. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2793 Prime Sponsor, House Committee on Appropriations: Revising provisions relating to education of offenders prosecuted as adults. Reported by Committee on Education

MAJORITY Recommendation: Do pass. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

2SHB 2794 Prime Sponsor, House Committee on Appropriations: Requiring offenders under the supervision of the department of corrections to obey all laws. Reported by Committee on Law and Justice.

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2811 Prime Sponsor, House Committee on Education: Changing the notification date for nonrenewal of educational employees' contracts. Reported by Committee on Education

MAJORITY Recommendation: Do pass as amended. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2817 Prime Sponsor, House Committee on Government Administration: Regarding district sales of real property. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2818 Prime Sponsor, House Committee on Child and Family Service: Changing provisions relating to WorkFirst assistance units. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Strannigan.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2821 Prime Sponsor, House Committee on Transportation Policy and Budget: Authorizing branch classrooms for driver training schools. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Haugen, Horn, Jacobsen, Morton, Oke, Patterson and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senator Sellar.

Passed to Committee on Rules for second reading.

February 26, 1998

ESHB 2823 Prime Sponsor, House Committee on Law and Justice: Changing statutes affecting deeds of trust. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

ESHB 2830 Prime Sponsor, House Committee on House Government Reform and Land Use: Implementing recommendations of the land use study commission. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Haugen and Patterson.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2840 Prime Sponsor, House Committee on Commerce and Labor: Issuing citations under the Washington industrial safety and health act. Reported by Committee on Commerce and Labor.

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass. Signed by Senators Fraser and Heavey.  
Passed to Committee on Rules for second reading.

February 27, 1998

HB 2847 Prime Sponsor, Representative McMorris: Making technical changes regarding designations for liquor licenses. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass as amended. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Franklin and Fraser.

Referred to Committee on Ways and Means.

February 27, 1998

2SHB 2849 Prime Sponsor, House Committee on Appropriations: Enhancing student achievement accountability. Reported by Committee on Education

MAJORITY Recommendation: Do pass and refer to Committee on Ways and Means . Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe and Rasmussen.

Referred to Committee on Ways and Means.

February 26, 1998

2SHB 2879 Prime Sponsor, House Committee on Appropriations: Facilitating the review and approval of fish habitat enhancement projects. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Morton, Roach, Snyder, Stevens and Swecker.

Referred to Committee on Ways and Means.

February 26, 1998

SHB 2885 Prime Sponsor, House Committee on Law and Justice: Providing additional penalty options for drunk driving. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Fairley, Goings, Kline, Long, McCaslin and Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2888 Prime Sponsor, House Committee on Transportation Policy and Budget: Deleting reference to obsolete transportation accounts. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Haugen, Horn, Jacobsen, Morton, Oke, Patterson and Rasmussen.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2902 Prime Sponsor, House Committee on Child and Family Service: Authorizing the department of social and health services to contract with private or public vendors for the WorkFirst program. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton and Strannigan.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 2908 Prime Sponsor, Representative Sheahan: Clarifying provisions affecting court commissioners. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens and Thibaudeau.

Passed to Committee on Rules for second reading.

February 27, 1998

2SHB 2929 Prime Sponsor, House Committee on Appropriations: Providing financial assistance to local governments for investigating extraordinary crimes. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended and refer to Committee on Ways and Means . Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Referred to Committee on Ways and Means.

February 27, 1998

E2SHB 2935 Prime Sponsor, House Committee on Appropriations: Adopting a new system for establishing nursing home payment rates. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin, Strannigan and Wojahn.

Referred to Committee on Ways and Means.

February 26, 1998

SHB 2936 Prime Sponsor, House Committee on Law and Justice: Clarifying statute of limitations on actions for professional negligence against health care providers. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long and McCaslin.

MINORITY Recommendation: Do not pass. Signed by Senator Stevens.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2973 Prime Sponsor, House Committee on Commerce and Labor: Clarifying the role of the liquor control board to hear appeals related to the seizure and forfeiture of cigarettes. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 2976 Prime Sponsor, House Committee on Transportation Policy and Budget: Requiring regional transit authorities to encourage train sets to be made in Washington. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Haugen, Horn, Jacobsen, Morton, Oke, Patterson and Rasmussen.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2977 Prime Sponsor, House Committee on Government Reform and Land Use: Changing provisions that relate to binding site plans. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

MINORITY Recommendation: Do not pass. Signed by Senators Haugen and Patterson.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2983 Prime Sponsor, House Committee on Appropriations: Encouraging the development of residential living arrangements for persons with developmental disabilities. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin, Strannigan and Wojahn.

Referred to Committee on Ways and Means

February 27, 1998

HB 2990 Prime Sponsor, Representative Dyer: Creating a pilot project for third-party accreditation of boarding homes. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass. Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Franklin, Strannigan and Wojahn.

Passed to Committee on Rules for second reading.

February 26, 1998

EHB 3003 Prime Sponsor, Representative Honeyford: Exempting computer wires and fiber optic cables from electrical wiring requirements. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass as amended. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 26, 1998

E2SHB 3008 Prime Sponsor, House Committee on Appropriations: Requiring dependency investigations for infants born drug affected. Reported by Committee on Human Services and Corrections

MAJORITY Recommendation: Do pass as amended. Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Passed to Committee on Rules for second reading.

February 26, 1998

EHB 3041 Prime Sponsor, Representative Cooke: Exempting the office of the family and children's ombudsman from certain proceedings. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass as amended. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 3044 Prime Sponsor, Representative McMorris: Determining an injured worker's wages for temporary total disability compensation eligibility. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

MINORITY Recommendation: Do not pass. Signed by Senators Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

February 26, 1998

HB 3053 Prime Sponsor, Representative Clements: Providing a lump sum distribution option for certain members of the teachers' retirement system, plan III. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Roach, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

E2SHB 3054 Prime Sponsor, House Committee on Appropriations: Augmenting provisions affecting truant, expelled and suspended students. Reported by Committee on Education

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Referred to Committee on Ways and Means.

February 26, 1998

SHB 3057 Prime Sponsor, House Committee on Transportation Policy and Budget: Allowing trademarks or business logos on adopt-a-highway signs. Reported by Committee on Transportation.

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Haugen, Horn, Jacobsen, Morton, Oke, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

February 26, 1998

2SHB 3070 Prime Sponsor, House Committee on Appropriations: Increasing penalties for drunk driving. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass and be referred to Committee on Ways and Means. Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Referred to Committee on Ways and Means.

February 27, 1998

SHB 3073 Prime Sponsor, House Committee on Commerce and Labor: Requiring the use of stratified random sampling survey technology for determination of prevailing wages. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.



Referred to Committee on Ways and Means.

February 26, 1998

SHB 3076 Prime Sponsor, House Committee on Finance: Authorizing sharing of tax information for purposes of investigating food stamp fraud. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Roach, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 26, 1998

2SHB 3089 Prime Sponsor, House Committee on Appropriations: Limiting eligibility for the deferred prosecution program to once in a lifetime. Reported by Committee on Law and Justice

MAJORITY Recommendation: Do pass. Signed by Senators Roach, Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin and Stevens.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 3099 Prime Sponsor, House Committee on Government Reform and Land Use: Expanding the authority for counties to adopt master planned locations for major industrial activity. Reported by Committee on Government Operations

MAJORITY Recommendation: Do pass as amended. Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Horn and T. Sheldon.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Haugen and Patterson.

Passed to Committee on Rules for second reading.

February 26, 1998

SHB 3109 Prime Sponsor, House Committee on Appropriations: Verifying the income of subsidized enrollees of the state basic health plan. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Roach, Rossi, Spanel, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

HB 3124 Prime Sponsor, Representative Johnson: Establishing reading improvement programs. Reported by Committee on Education

MAJORITY Recommendation: Do pass as amended and be referred to Committee on Ways and Means. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson, Rasmussen and Zarelli.

Referred to Committee on Ways and Means.

February 26, 1998

HJM 4011 Prime Sponsor, Representative Boldt: Requesting Congress to review the impact of the Columbia River Gorge National Scenic Area Act. Reported by Committee on Natural Resources and Parks

MAJORITY Recommendation: Do pass as amended. Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Morton, Roach, Stevens and Swecker.

MINORITY Recommendation: Do not pass. Signed by Senator Prentice.

Referred to Committee on Rules for second reading.

#### MOTION

On motion of Senator Sellar, Substitute House Bill No. 2333, Engrossed Second Substitute House Bill No. 2345, Substitute House Bill No. 2418 and House Bill No. 2847 were referred to the Committee on Ways and Means.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 27, 1998

GA 9261 JERRY FARLEY, appointed August 11, 1997, for a term ending July 1, 2002, as a member of the Board of Trustees for the State School for the Blind.

Reported by Committee on Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Passed to Committee on Rules.

February 27, 1998

GA 9279 NOEL NIGHTINGALE, appointed August 8, 1997, for a term ending July 1, 2002, as a member of the Board of Trustees for the State School for the Blind.

Reported by Committee on Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Passed to Committee on Rules.

February 27, 1998

GA 9321 HOLLY PARKER JENSEN, appointed January 7, 1998, for a term ending January 1, 2000, as a member of the Board of Trustees for the State School for the Deaf.

Reported by Committee on Education

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Passed to Committee on Rules.

February 27, 1998

GA 9343 CARIN S. SCHIENBERG, reappointed January 7, 1998, for a term ending January 1, 2002, as a member of the Board of Trustees for the State School for the Deaf.

Reported by Committee on Education

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Passed to Committee on Rules.

#### MOTION

At 5:50 p.m., on motion of Senator Sellar, the Senate adjourned until 9:00 a.m., Monday, March 2, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

FORTY-SEVENTH DAY, FEBRUARY 27, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

#### FIFTIETH DAY

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MORNING SESSION  
-----

Senate Chamber, Olympia, Monday, March 2, 1998

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Bauer, Benton, Finkbeiner, Hargrove, McDonald, Patterson, Rasmussen, Roach, Sellar and West. On motion of Senator Hale, Senators Benton, Finkbeiner, McDonald, Roach, Sellar and West were excused. On motion of Senator Franklin, Senators Bauer, Hargrove, Patterson and Rasmussen were excused.

The Sergeant at Arms Color Guard, consisting of Pages Elizabeth Hamel and Adam Hill, presented the Colors. Reverend Tom Minnich, pastor of Heritage Baptist Church of Monroe, and a guest of Senator Val Stevens, offered the prayer.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

#### REPORTS OF STANDING COMMITTEES

February 27, 1998

SHB 2051 Prime Sponsor, House Committee on Agriculture and Ecology: Exempting environmental remedial services, labor, and businesses from taxation. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, Schow, B. Sheldon, Spanel, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

HB 2371 Prime Sponsor, Representative Carlson: Creating a medical expense plan for certain retirees. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, Schow, B. Sheldon, Spanel, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

February 27, 1998

SHB 2922 Prime Sponsor, House Committee on Appropriations: Administering the deferred compensation plan. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, Schow, B. Sheldon, Spanel, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

MESSAGE FROM STATE OFFICE

STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
Olympia, Washington 98504-5000

February 24, 1998

Mr. Michael O'Connell  
Secretary of the Senate  
P. O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. O'Connell:

Enclosed is the Report to the Legislature regarding "Racial Disproportionality in County Juvenile Facilities 1990--1996." This report is required by RCW 13.06.050(3).

Please call Rebecca Sayan at (360) 902-8098 if you have questions about the report.

Sincerely,

LYLE QUASIM, Secretary

The Report on Racial Disproportionality in County Juvenile Facilities 1990-1996 from the Department of Social and Health Services is on file in the Office of the Secretary of the Senate.

MOTION

On motion of Senator Wood, the following resolution was adopted:

SENATE RESOLUTION 1998-8708

By Senators Wood, Spanel, B. Sheldon, Heavey, Rasmussen and Kohl

WHEREAS, The Washington State Legislature, in 1981, established the Washington Scholars Program to recognize selected senior students from Washington public and private high schools for their academic achievements, leadership abilities, and community service contributions; and

WHEREAS, Three graduating seniors are selected from each of the state's forty-nine legislative districts by a review committee composed of distinguished secondary and postsecondary educators; and

WHEREAS, The students selected for special recognition as Washington Scholars have distinguished themselves by their energy and diversity as student leaders; as participants in music, debate, sports, and other activities; and through valuable service to their communities; and

WHEREAS, The families of these students have nurtured and supported the individual interests and special talents of their children; and

WHEREAS, The state of Washington benefits from the accomplishments of these caring and gifted individuals, not only as students, but as citizens of our communities and our state;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and congratulate the Washington Scholars for their hard work, dedication, and maturity in achieving this noteworthy accomplishment; and

BE IT FURTHER RESOLVED, That the Senate commend the families of these students for their encouragement and support; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate immediately transmit copies of this resolution to all of the Washington Scholars from each of the forty-nine legislative districts.

There being no objection, the President reverted the Senate to the sixth order of business.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1193, by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Dunn, L. Thomas, Wolfe, Scott and Wensman)

Controlling personal service contracts.

The bill was read the second time.

## MOTION

On motion of Senator McCaslin, the following Committee on Government Operations amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 39.29.003 and 1993 c 433 s 1 are each amended to read as follows:

It is the intent of this chapter to establish a policy of open competition for all personal service contracts (~~and subcontracts to personal service contracts~~) entered into by state agencies, unless specifically exempted under this chapter. It is further the intent to provide for legislative and executive review of all personal service contracts, to centralize the location of information about personal service contracts for ease of public review, and ensure proper accounting of personal services expenditures.

"**Sec. 2.** RCW 39.29.006 and 1993 c 433 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(4) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(5) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(6) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant.

(7) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection (9) of this section. This term does include client services.

(8) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.380.

(9) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

(10) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

~~((11) "Subcontract" means a contract assigning some of the work of a contract to a third party.))~~

**Sec. 3.** RCW 39.29.011 and 1987 c 414 s 3 are each amended to read as follows:

All personal service contracts shall be entered into pursuant to competitive solicitation, except for:

(1) Emergency contracts;

(2) Sole source contracts;

(3) Contract amendments;

(4) Contracts between a consultant and an agency of less than ~~((ten))~~ twenty thousand dollars. However, contracts of ~~((two))~~ five thousand ~~((five hundred))~~ dollars or greater but less than ~~((ten))~~ twenty thousand dollars shall have documented evidence of competition. Agencies shall not structure contracts to evade these requirements; and

(5) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the director of the office of financial management when it has been determined that a competitive solicitation process is not appropriate or cost-effective.

**Sec. 4.** RCW 39.29.016 and 1996 c 288 s 29 are each amended to read as follows:

Emergency contracts shall be filed with the office of financial management ~~((and the joint legislative audit and review committee))~~ and made available for public inspection within three working days following the commencement of work or execution of the contract, whichever occurs first. Documented justification for emergency contracts shall be provided to the office of financial management ~~((and the joint legislative audit and review committee))~~ when the contract is filed.

**Sec. 5.** RCW 39.29.018 and 1996 c 288 s 30 are each amended to read as follows:

(1) Sole source contracts shall be filed with the office of financial management ~~((and the joint legislative audit and review committee))~~ and made available for public inspection at least ten working days prior to the proposed starting date of the contract. Documented justification for sole source contracts shall be provided to the office of financial management ~~((and the joint legislative audit and review committee))~~ when the contract is filed. For sole source contracts of ~~((ten))~~ twenty thousand dollars or more ~~((that are state funded))~~, documented justification shall include evidence that the agency attempted to identify potential consultants by advertising through state-wide or regional newspapers.

(2) The office of financial management shall approve sole source contracts of ~~((ten))~~ twenty thousand dollars or more ~~((that are state funded,))~~ before any such contract becomes binding and before any services may be performed under the contract. These requirements shall also apply to sole source contracts of less than ~~((ten))~~ twenty thousand dollars if the total amount of such contracts between an agency and the same consultant is ~~((ten))~~ twenty thousand dollars or more within a fiscal year. Agencies shall ensure that the costs, fees, or rates negotiated in filed sole source contracts of ~~((ten))~~ twenty thousand dollars or more are reasonable.

**Sec. 6.** RCW 39.29.025 and 1996 c 288 s 31 are each amended to read as follows:

(1) Substantial changes in either the scope of work specified in the contract or in the scope of work specified in the formal solicitation document must generally be awarded as new contracts. Substantial changes executed by contract amendments must be submitted to the office of financial management ~~((and the joint legislative audit and review committee))~~, and are subject to approval by the office of financial management.

(2) An amendment or amendments to personal service contracts, if the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent of the value of the original contract must be provided to the office of financial management ~~((and the joint legislative audit and review committee))~~.

(3) The office of financial management shall approve amendments provided to it under this section before the amendments become binding and before services may be performed under the amendments.

(4) The amendments must be filed with the office of financial management and made available for public inspection at least ten working days prior to the proposed starting date of services under the amendments.

(5) The office of financial management shall approve amendments provided to it under this section only if they meet the criteria for approval of the amendments established by the director of the office of financial management.

**Sec. 7.** RCW 39.29.040 and 1996 c 2 s 19 are each amended to read as follows:

This chapter does not apply to:

- (1) Contracts specifying a fee of less than ~~((two))~~ five thousand ~~((five hundred))~~ dollars if the total of the contracts from that agency with the contractor within a fiscal year does not exceed ~~((two))~~ five thousand ~~((five hundred))~~ dollars;
- (2) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;
- (3) Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;
- (4) Contracts awarded for services to be performed for a standard fee, when the standard fee is established by the contracting agency or any other governmental entity and a like contract is available to all qualified applicants;
- (5) Contracts for services that are necessary to the conduct of collaborative research if prior approval is granted by the funding source;
- (6) Contracts for client services;
- (7) Contracts for architectural and engineering services as defined in RCW 39.80.020, which shall be entered into under chapter 39.80

RCW;

(8) Contracts for the employment of expert witnesses for the purposes of litigation; and

(9) Contracts for bank supervision authorized under RCW 30.38.040.

**Sec. 8.** RCW 39.29.055 and 1996 c 288 s 32 are each amended to read as follows:

(1) ~~((State funded))~~ Personal service contracts subject to competitive solicitation shall be (a) filed with the office of financial management ((and the joint legislative audit and review committee)) and made available for public inspection ((at least ten working days before the proposed starting date of the contract)); and (b) reviewed and approved by the office of financial management when those contracts provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting.

(2) ~~((The office of financial management shall review and approve state funded))~~ Personal service contracts subject to competitive solicitation that provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting shall be made available for public inspection at least ten working days before the proposed starting date of the contract. All other contracts shall be effective no earlier than the date they are filed with the office of financial management.

**Sec. 9.** RCW 39.29.065 and 1987 c 414 s 8 are each amended to read as follows:

To implement this chapter, the director of the office of financial management shall establish procedures for the competitive solicitation and award of personal service contracts, recordkeeping requirements, and procedures for the reporting and filing of contracts. For reporting purposes, the director may establish categories for grouping of contracts. The procedures required under this section shall also include the criteria for amending personal service contracts. At the beginning of each biennium, the director may, by administrative policy, adjust the dollar thresholds prescribed in RCW 39.29.011, 39.29.018, 39.29.040, and 39.29.068 to levels not to exceed the percentage increase in the implicit price deflator. Adjusted dollar thresholds shall be rounded to the nearest five hundred dollar increment.

**Sec. 10.** RCW 39.29.068 and 1993 c 433 s 8 are each amended to read as follows:

The office of financial management shall maintain a publicly available list of all personal service contracts entered into by state agencies during each fiscal year. The list shall identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis. The office of financial management shall also ensure that state accounting definitions and procedures are consistent with RCW 39.29.006 and permit the reporting of personal services expenditures by agency and by type of service. Designations of type of services shall include, but not be limited to, management and organizational services, legal and expert witness services, financial services, computer and information services, social or technical research, marketing, communications, and employee training or recruiting services. The office of financial management shall report annually to the fiscal committees of the senate and house of representatives on sole source contracts filed under this chapter. The report shall describe: (1) The number and aggregate value of contracts for each category established in this section; (2) the number and aggregate value of contracts of ~~((two))~~ five thousand ~~((five hundred))~~ dollars or greater but less than ~~((ten))~~ twenty thousand dollars; (3) the number and aggregate value of contracts of ~~((ten))~~ twenty thousand dollars or greater; (4) the justification provided by agencies for the use of sole source contracts; and (5) any trends in the use of sole source contracts.

NEW SECTION. **Sec. 11.** A new section is added to chapter 39.29 RCW to read as follows:

Personal service contracts awarded by institutions of higher education from nonstate funds do not have to be filed in advance and approved by the office of financial management. Any such contract is subject to all other requirements of this chapter, including the requirements under RCW 39.29.068 for annual reporting of personal service contracts to the office of financial management.

NEW SECTION. **Sec. 12.** RCW 39.29.035 and 1993 c 433 s 4 are each repealed."

MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, line 1 of the title, after "contracts;" strike the remainder of the title and insert "amending RCW 39.29.003, 39.29.006, 39.29.011, 39.29.016, 39.29.018, 39.29.025, 39.29.040, 39.29.055, 39.29.065, and 39.29.068; adding a new section to chapter 39.29 RCW; and repealing RCW 39.29.035."

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 1193, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1193, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1193, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 0; Absent, 0; Excused, 10.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 39. Excused: Senators Bauer, Benton, Finkbeiner, Hargrove, McDonald, Patterson, Rasmussen, Roach, Sellar and West - 10. SUBSTITUTE HOUSE BILL NO. 1193, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1769, by House Committee on Health Care (originally sponsored by Representatives Zellinsky, Sheldon and L. Thomas)

Providing for the electronic transfer of prescriptions.

The bill was read the second time.

#### MOTION

On motion of Senator Deccio, the following Committee on Health and Long-Term Care amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 69.41.010 and 1996 c 178 s 16 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (a) A practitioner; or
- (b) The patient or research subject at the direction of the practitioner.

(2) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

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

(4) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(5) "Dispenser" means a practitioner who dispenses.

(6) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(7) "Distributor" means a person who distributes.

(8) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of man or animals;

and



(d) Substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(9) "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a legend drug between an authorized practitioner and a pharmacy or the transfer of prescription information for a legend drug from one pharmacy to another pharmacy.

(10) "Legend drugs" means any drugs which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

~~((10))~~ (11) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~((11))~~ (12) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, or a pharmacist under chapter 18.64 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

~~((12))~~ (13) "Secretary" means the secretary of health or the secretary's designee.

**NEW SECTION. Sec. 2.** A new section is added to chapter 69.41 RCW to read as follows:

(1) Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the board. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The board shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the board;

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the board.

(2) The board may adopt rules implementing this section.

**Sec. 3.** RCW 69.50.101 and 1996 c 178 s 18 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

- (c) "Board" means the state board of pharmacy.
- (d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or board rules.
- (e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:
- (i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or
  - (ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.
- (2) The term does not include:
- (i) a controlled substance;
  - (ii) a substance for which there is an approved new drug application;
  - (iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or
  - (iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.
- (f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.
- (g) "Department" means the department of health.
- (h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.
- (i) "Dispenser" means a practitioner who dispenses.
- (j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.
- (k) "Distributor" means a person who distributes.
- (l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.
- (m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.
- (n) "Immediate precursor" means a substance:
- (1) that the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;
  - (2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and
  - (3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.
- (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5), 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.
- (p) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:
- (1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or
  - (2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.
- (q) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- (r) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(s) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(t) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(u) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(v) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(w) "Practitioner" means:

(1) A physician under chapter 18.71 RCW, a physician assistant under chapter 18.71A RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(x) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(y) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(z) "Secretary" means the secretary of health or the secretary's designee.

(aa) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(bb) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(cc) "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a Schedule III-V controlled substance between an authorized practitioner and a pharmacy or the transfer of prescription information for a controlled substance from one pharmacy to another pharmacy.

**NEW SECTION. Sec. 4.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Information concerning an original prescription or information concerning a prescription refill for a controlled substance may be electronically communicated to a pharmacy of the patient's choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the board. This subsection does not apply to currently used facsimile

equipment transmitting an exact visual image of the prescription. The board shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the board;

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the board.

(2) The board may adopt rules implementing this section."

## MOTIONS

On motion of Senator Deccio, the following title amendment was adopted:

On page 1, beginning on line 1 of the title, after "information;" strike the remainder of the title and insert "amending RCW 69.41.010 and 69.50.101; adding a new section to chapter 69.41 RCW; and adding a new section to chapter 69.50 RCW."

On motion of Senator Johnson, the rules were suspended, Engrossed Substitute House Bill No. 1769, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 1769, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1769, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 42. Excused: Senators Bauer, Benton, Finkbeiner, Hargrove, McDonald, Patterson and Rasmussen - 7. ENGROSSED SUBSTITUTE HOUSE BILL NO. 1769, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1867, by House Committee on Health Care (originally sponsored by Representatives Backlund, Cody and Sullivan) (by request of Department of Health)

Revising provisions for food sanitation and safety.

The bill was read the second time.

## MOTION

On motion of Senator Deccio, the following Committee on Health and Long-Term Care amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 69.06.010 and 1987 c 223 s 5 are each amended to read as follows:

It shall be unlawful for any person to be employed in the handling of unwrapped or unpackaged food unless he or she shall furnish and place on file with the person in charge of such establishment, a food and beverage service worker's permit, as prescribed by the state board of health. Such permit shall be kept on file by the employer or kept by the employee on his or her person and open for inspection at all reasonable

hours by authorized public health officials. Such permit shall be returned to the employee upon termination of employment. Initial permits, including limited duty permits, shall be valid for two years from the date of issuance. Subsequent renewal permits shall be valid for ~~((five))~~ three years from the date of issuance, except an employee may be granted a renewal permit that is valid for five years from the date of issuance if the employee demonstrates that he or she has obtained additional food safety training prior to renewal of the permit. Rules establishing minimum training requirements must be adopted by the state board of health and developed by the department of health in conjunction with local health jurisdictions and representatives of the food service industry.

**NEW SECTION. Sec. 2.** A new section is added to chapter 69.06 RCW to read as follows:

The local health officer may issue a limited duty permit when necessary to reasonably accommodate a person with a disability. The limited duty permit must specify the activities that the permit holder may perform, and must include only activities having low public health risk.

**Sec. 3.** RCW 69.06.020 and 1987 c 223 s 6 are each amended to read as follows:

The permit provided in RCW 69.06.010 or section 2 of this act shall be valid in every city, town and county in the state, for the period for which it is issued, and no other health certificate shall be required of such employees by any municipal corporation or political subdivision of the state. The cost of the permit shall be uniform throughout the state and shall be in that amount set by the state board of health. The cost of the permit shall reflect actual costs of food worker training and education, administration of the program, and testing of applicants. The state board of health shall periodically review the costs associated with the permit program and adjust the fee accordingly. The board shall also ensure that the fee is not set at an amount that would prohibit low-income persons from obtaining permits.

**Sec. 4.** RCW 69.06.030 and 1957 c 197 s 3 are each amended to read as follows:

It shall be unlawful for any person afflicted with any contagious or infectious disease that may be transmitted by food or beverage to work in or about any place where unwrapped or unpackaged food and/or beverage products are prepared or sold, or offered for sale for human consumption and it shall be unlawful for any person knowingly to employ a person so afflicted. Nothing in this section eliminates any authority or requirement to control or suppress communicable diseases pursuant to chapter 70.05 RCW and RCW 43.20.050(2)(e).

**Sec. 5.** RCW 69.06.050 and 1957 c 197 s 5 are each amended to read as follows:

Individuals under this chapter ~~((shall have thirty days from commencement of employment to secure health permits))~~ must obtain a food and beverage service workers' permit within fourteen days from commencement of employment. Individuals under this chapter may work for up to fourteen calendar days without a food and beverage service workers' permit, provided that they receive information or training regarding safe food handling practices from the employer prior to commencement of employment. Documentation that the information or training has been provided to the individual must be kept on file by the employer.

**NEW SECTION. Sec. 6.** Section 1 of this act takes effect July 1, 1999."

## MOTIONS

On motion of Senator Deccio, the following title amendment was adopted:

On page 1, beginning on line 1 of the title, after "permits;" strike the remainder of the title and insert "amending RCW 69.06.010, 69.06.020, 69.06.030, and 69.06.050; adding a new section to chapter 69.06 RCW; and providing an effective date."

On motion of Senator Johnson, the rules were suspended, Substitute House Bill No. 1867, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1867, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1867, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Excused: Senators Bauer, Benton, Finkbeiner, McDonald and Patterson - 5. SUBSTITUTE HOUSE BILL NO. 1867, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2297, by House Committee on Government Administration (originally sponsored by Representatives Sehlin and Hankins)

Recording documents.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Engrossed Substitute House Bill No. 2297 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2297.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2297 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Bauer, Benton, Finkbeiner and McDonald - 4. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2297, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2144, by Representatives Smith, L. Thomas, Wolfe, Sullivan, Wensman and Anderson

Designating depositaries.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, House Bill No. 2144 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2144.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2144 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Bauer, Benton, Finkbeiner and McDonald - 4. HOUSE BILL NO. 2144, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1065, by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas, Wolfe and Mason) (by request of Insurance Commissioner Senn)

Filing certain insurance related corporate documents.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Second Substitute House Bill No. 1065 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 1065.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1065 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Stevens - 1. Excused: Senators Bauer, Benton and McDonald - 3. SECOND SUBSTITUTE HOUSE BILL NO. 1065, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2295, by House Committee on Law and Justice (originally sponsored by Representatives Sheahan and Costa) (by request of Court of Appeals)

Revising procedures for staggering of terms for new court of appeals positions.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 2295 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2295.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2295 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Stevens - 1. Excused: Senators Bauer, Benton and McDonald - 3. SUBSTITUTE HOUSE BILL NO. 2295, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2321, by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas, Smith and Wolfe)

Allowing consumer loan companies to charge borrowers fees for services provided by third parties.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Substitute House Bill No. 2321 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2321.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2321 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Bauer, Benton and McDonald - 3. SUBSTITUTE HOUSE BILL NO. 2321, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2350, by Representatives McDonald, Mulliken, Thompson, Dunn, Lambert, Mason and Sullivan

Directing the Washington state crime information center to provide law enforcement agencies with access to sex offender central registry information.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, Engrossed House Bill No. 2350 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2350.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2350 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Bauer and McDonald - 2. ENGROSSED HOUSE BILL NO. 2350, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2364, by House Committee on Health Care (originally sponsored by Representatives Dyer, Cody and Backlund) (by request of Department of Health)

Extending the time for the secretary of health to establish administrative procedures and requirements for health professions.



The bill was read the second time.

#### MOTION

On motion of Senator Strannigan, the rules were suspended, Substitute House Bill No. 2364 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2364.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2364 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Bauer and McDonald - 2. SUBSTITUTE HOUSE BILL NO. 2364, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2575, by Representatives Pennington, D. Schmidt, Lisk, Skinner, Honeyford, Carlson, Kessler and Mulliken

Clarifying restrictions on public disclosure commission members' activities.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, House Bill No. 2575 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2575.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2575 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 20; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, Morton, Newhouse, Oke, Patterson, Prince, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 27. Voting nay: Senators Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Prentice, Rasmussen, Roach, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 20. Excused: Senators Bauer and McDonald - 2. HOUSE BILL NO. 2575, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### POINT OF INQUIRY

Senator McCaslin: "Senator Sheldon, in your terminology, what does 'consent' mean?"

Senator Betti Sheldon: "Senator McCaslin, is that rhetorical?"

Senator McCaslin: "No, it isn't."

#### MOTION

At 10:04 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 10:57 a.m. by Vice President Pro Tempore Morton.

. SECOND READING

SUBSTITUTE HOUSE BILL NO. 2931, by House Committee on Commerce and Labor (originally sponsored by Representatives McMorris, Conway and B. Thomas) (by request of Secretary of State Munro)

Refining electronic signature law.

The bill was read the second time.

MOTION

On motion of Senator Finkbeiner, the rules were suspended, Substitute House Bill No. 2931 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2931.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2931 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 45. Voting nay: Senator Zarelli - 1. Absent: Senator Schow - 1. Excused: Senators Bauer and McDonald - 2. SUBSTITUTE HOUSE BILL NO. 2931, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2920, by Representatives Skinner, Cody, Dyer and Wood

Clarifying continuing education requirements for counselors.

The bill was read the second time.

MOTION

On motion of Senator Johnson, the rules were suspended, Engrossed House Bill No. 2920 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

MOTION

On motion of Senator Hale, Senator Schow was excused.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2920.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2920 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton,

Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 44. Voting nay: Senators Sellar and Zarelli - 2. Excused: Senators Bauer, McDonald and Schow - 3. ENGROSSED HOUSE BILL NO. 2920, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2330, by House Committee on Education (originally sponsored by Representatives Hickel, Johnson, Backlund and D. Sommers)

Authorizing church schools.

The bill was read the second time.

#### MOTION

On motion of Senator Hochstatter, the rules were suspended, Engrossed Substitute House Bill No. 2330 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### OBJECTION TO MOTION

Senator McAuliffe objected, because she had amendments to the bill.

#### REPLY BY THE VICE PRESIDENT PRO TEMPORE

Vice President Pro Tempore Morton: "Without objection, we will hold Engrossed Substitute House Bill No. 2330 and we will move on--"

#### POINT OF ORDER

Senator Johnson: "A point of order. There is an objection. We are on third reading and we should proceed now with Engrossed Substitute House Bill No. 2330, Mr. President."

#### MOTION

Senator Snyder moved that the rules be suspended, and Engrossed Substitute House Bill No. 2330 be returned to second reading for the purpose of amendments.

#### POINT OF ORDER

Senator Johnson: "A point of order. By way of clarification, I take it that suspending the rules requires a two-thirds vote."

#### REPLY BY THE VICE PRESIDENT PRO TEMPORE

Vice President Pro Tempore Morton: "That is correct. No? We need a little consulting up here. The President rules that because we are within the ten days preceding adjournment that, therefore, a majority is all that is required on this motion."

Senator Johnson: "Is this not the fiftieth day? Wouldn't tomorrow be within the ten days of the sixty days?"

Vice President Pro Tempore Morton: "The President is going to rule on the following basis--reading from the permanent rules of the Senate, that on or after the tenth day preceding adjournment, Sine Die, of any session--and this has been upheld, it is my understanding, by President Cherberg, previously--and also President Pritchard. On that basis, it would take then a majority vote."

Debate ensued.

Senator Bertti Sheldon demanded a roll call and the demand was sustained.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the motion by Senator Snyder to suspend the rules and return Engrossed Substitute House Bill No. 2330 to second reading.

#### ROLL CALL

The Secretary called the roll and the motion by Senator Snyder failed and the Senate did not return Engrossed Substitute House Bill No. 2330 to second reading by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 22. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Excused: Senator Bauer - 1.

The Vice President Pro Tempore declared that Engrossed Substitute House Bill No. 2330 was still on third reading. Debate ensued.

#### POINT OF INQUIRY

Senator Heavey: "Senator Hochstatter, I am not an expert on certification, but I understand that with certification you get a background check and you get finger-printed and your records are run through. Correct?"

Senator Hochstatter: "Yes."

Senator Heavey: "So, would it be possible, under this bill, at a church school that would fall under this bill, for a recent released sex offender to be a teacher of children?"

Senator Hochstatter: "Senator Heavey, this allows the parents to consider those risks. There are non-affiliated or approved church schools that they could attend--approved private schools--that they could attend that do require all of these things. These non-affiliated schools do not require them and it is the choice that we are offering the parents of those children."

Further debate ensued.

Senators West, McDonald and Johnson demanded the previous question and the demand was sustained.

#### PARLIAMENTARY INQUIRY

Senator Heavey: "Mr. President, a point of parliamentary inquiry. Isn't the demand for the previous question subject to, at least at this point, a majority vote?"

#### REPLY BY THE VICE PRESIDENT PRO TEMPORE

Vice President Pro Tempore Morton: "Senator Heavey, it is my understanding that we needed two members to support the motion that was made. We had more than that. I had asked for one-sixth and we had more than the two. All right? Now it is a simple majority--of those that are present, incidently. All right?"

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator West for the previous question.

The motion by Senator West for the previous question carried on a rising vote.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2330.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2330 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Franklin, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 30. Voting nay: Senators Brown, Fairley, Fraser, Goings, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 18. Excused: Senator Bauer - 1. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2330, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MOTION

At 11:55 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 3:09 p.m. by President Pro Tempore Newhouse.

MOTION

On motion of Senator Johnson, the Senate reverted to the fourth order of business.

MESSAGES FROM THE HOUSE

February 27, 1998

MR. PRESIDENT:

The House has passed HOUSE BILL NO. 2335, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 27, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 1184,  
SUBSTITUTE HOUSE BILL NO. 1447,  
SECOND SUBSTITUTE HOUSE BILL NO. 2180,  
HOUSE BILL NO. 2278,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2417,  
SUBSTITUTE HOUSE BILL NO. 3015, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 27, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1328,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2491,  
ENGROSSED HOUSE BILL NO. 3120, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 27, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE SENATE BILL NO. 6285,  
SENATE BILL NO. 6303,  
SENATE BILL NO. 6483,  
SUBSTITUTE SENATE BILL NO. 6489,  
SUBSTITUTE SENATE BILL NO. 6507,  
SUBSTITUTE SENATE BILL NO. 6575,  
SENATE BILL NO. 6631, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

February 27, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE SENATE BILL NO. 5853,  
SENATE BILL NO. 6118,  
ENGROSSED SENATE BILL NO. 6123,  
SUBSTITUTE SENATE BILL NO. 6129,  
SUBSTITUTE SENATE BILL NO. 6136,  
SENATE BILL NO. 6158,  
SENATE BILL NO. 6159,  
SENATE BILL NO. 6171,  
SENATE BILL NO. 6192,  
SENATE BILL NO. 6202, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

. MOTION

On motion of Senator Johnson, the Senate advanced to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SB 6761 by Senator McDonald

AN ACT Relating to purchasing services by contract; amending RCW 41.06.380 and 41.06.382; and creating a new section.

Referred to Committee on Ways and Means.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1184 by House Committee on Finance (originally sponsored by Representatives Van Luven, Mason, Smith, Dunn, Carrell, Delvin, Cairnes, Sheldon, B. Thomas, Morris, Quall, Koster, Mulliken, Sherstad, Schoesler, D. Schmidt, Hatfield, Wood, Honeyford and Backlund)

Repealing the sales tax on coin-operated laundromats in apartments, rooming houses, and mobile home communities.

Referred to Committee on Ways and Means.

E2SHB 1328 by House Committee on Finance (originally sponsored by Representatives Schoesler, Chandler, Sheahan, Mulliken, Bush, McMorris and Mastin) (by request of Department of Revenue)

Revising the business and occupation tax on the handling of hay, alfalfa, and seed.

Referred to Committee on Ways and Means.

SHB 1447 by House Committee on Finance (originally sponsored by Representatives Robertson, L. Thomas, Clements, Kastama and Cooke)

Providing tax exemptions related to thoroughbred horses.

Referred to Committee on Ways and Means.

2SHB 2180 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives K. Schmidt, Radcliff, Mitchell, O'Brien and Robertson)

Creating partnerships for strategic freight investments.

Referred to Committee on Transportation.

HB 2278 by Representatives Honeyford and Lisk

Exempting electric generating facilities powered by landfill gas from sales and use taxes.

Referred to Committee on Ways and Means.

HB 2335 by Representatives B. Thomas, Mulliken, Thompson, Morris, Gardner, Linville, Backlund, Cooke, Carrell, Kastama, Schoesler, Van Luven, Dunn and Lambert (by request of Department of Revenue)

Consolidating business and occupation tax rates into fewer categories.

Referred to Committee on Ways and Means.

ESHB 2417 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Pennington, Mielke, Hatfield, Doumit, Ogden, Carlson, Alexander and Hankins)

Authorizing local vehicle license fees adopted to fund transportation projects.

Referred to Committee on Transportation.

ESHB 2491 by House Committee on Appropriations (originally sponsored by Representatives Carlson, H. Sommers, Ogden, Conway, Wolfe, Lambert, D. Sommers, O'Brien, Schoesler, Alexander and Gardner) (by request of Joint Committee on Pension Policy)

Sharing extraordinary investment gains.

Referred to Committee on Ways and Means.

SHB 3015 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Huff, Fisher, K. Schmidt, Zellinsky, Talcott, Carrell, Johnson, Kessler, Lantz and Eickmeyer)

Providing tax exemptions for the state route number 16 corridor.

Referred to Committee on Ways and Means.

EHB 3120 by Representatives Hankins, Huff, Sehlin, K. Schmidt, Cooke, Crouse, Ballasiotes, Mitchell, Skinner, Delvin and Kessler

Regarding lottery revenues.

Referred to Committee on Ways and Means.

#### MOTION

At 3:12 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 8:47 p.m. by President Owen.

MOTION

On motion of Senator Johnson, the Senate reverted to the first order of business.

REPORTS OF STANDING COMMITTEES

March 2, 1998

HB 1012 Prime Sponsor, Representative Cairnes: Authorizing highway bonds. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Horn, Morton, Newhouse, Oke and Sellar.

MINORITY Recommendation: Do not pass. Signed by Senators Haugen and Heavey.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 1405 Prime Sponsor, Representative McMorris: Authorizing joint bingo games. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Kohl, Long, Loveland, Roach, Rossi, Schow, Snyder, Spanel, Swecker and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Hochstatter and McDonald.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 1479 Prime Sponsor, House Committee on Transportation Policy and Budget: Clarifying vehicle impound and redemption procedures. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 1692 Prime Sponsor, House Committee on Capital Budget: Describing those lands eligible to be included in a port district aquatic lands management agreement. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended by Committee on Natural Resources and Parks. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 1786 Prime Sponsor, House Committee on Transportation Policy and Budget: Requiring the transportation improvement board to report to the legislative transportation committees. Reported by Committee on Transportation



MAJORITY recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Morton, Oke, Patterson, Prentice and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senator Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 1805 Prime Sponsor, House Committee on Health Care: Requiring the health care authority to offer health care savings accounts to unsubsidized basic health plan enrollees. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended by Committee on Health and Long-Term Care. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Rossi, Schow, Swecker, Winsley and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Fraser and Spanel.

Passed to Committee on Rules for second reading.

March 2, 1998

E2SHB 2339 Prime Sponsor, House Committee on Appropriations: Authorizing wetlands mitigation banking. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended by Committee on Agriculture and Environment. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, Snyder, Spanel, Swecker, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

E2SHB 2345 Prime Sponsor, House Committee on Appropriations: Revising administrative law. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Swecker, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 2349 Prime Sponsor, Representative Ogden: Funding capital projects for local nonprofit art and cultural organizations. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Kohl, Long, McDonald, Roach, Rossi, Snyder, Swecker and Winsley.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Fraser, Loveland, B. Sheldon and Thibaudeau.

Passed to Committee on Rules for second reading.

March 2, 1998

ESHB 2373 Prime Sponsor, House Committee on Higher Education: Creating the border county higher education opportunity pilot project. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 2428 Prime Sponsor, Representative Boldt: Exempting fund-raising activities by nonprofit organizations from sales and use taxation. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 2434 Prime Sponsor, Representative Pennington: Increasing maximum height for motorcycle handlebars. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke, Patterson, Prentice and Rasmussen.

MINORITY Recommendation: Do not pass. Signed by Senator Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

ESHB 2439 Prime Sponsor, House Committee on Transportation Policy and Budget: Providing for traffic safety education. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 2442 Prime Sponsor, House Committee on Transportation Policy and Budget: Strengthening laws on disabled persons' parking permits. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

ESHB 2491 Prime Sponsor, House Committee on Appropriations: Sharing extraordinary investment gains. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

ESHB 2496 Prime Sponsor, House Committee on Appropriations: Recovering salmon. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended by Committee on Natural Resources and Parks. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 2544 Prime Sponsor, House Committee on Appropriations: Funding the state retirement systems. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Long, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 2548 Prime Sponsor, Representative K. Schmidt: Clarifying procedures for environmental protection change orders in public projects. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 2566 Prime Sponsor, Representative Alexander: Extending the retail sales tax exemption for sales of laundry service. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 2582 Prime Sponsor, Representative Mitchell: Updating references to the transportation improvement board bond retirement account. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 2659 Prime Sponsor, House Committee on Transportation Policy and Budget: Regulating collection of special fuel taxes and motor vehicle fuel tax. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 2711 Prime Sponsor, House Committee on Finance: Providing tax exemptions for small irrigation districts. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Swecker, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

ESHB 2730 Prime Sponsor, House Committee on Transportation Policy and Budget: Increasing security of drivers' licenses. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

2SHB 2849 Prime Sponsor, House Committee on Appropriations: Enhancing student achievement accountability. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, Swecker and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Loveland and Thibaudeau.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 2858 Prime Sponsor, House Committee on Transportation Policy and Budget: Reflecting current practice for payment of taxes on rental cars. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

ESHB 2871 Prime Sponsor, House Committee on Finance: Creating a system of classifying land as agricultural land with long-term commercial significance for tax purposes. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Kohl, Long, Loveland, Roach, Rossi, Schow, Snyder, Spanel, Swecker, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

2SHB 2879 Prime Sponsor, House Committee on Appropriations: Facilitating the review and approval of fish habitat enhancement projects. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended by Committee on Natural Resources and Parks. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

E2SHB 2880 Prime Sponsor, House Committee on Appropriations: Creating a task force on agency vendor contracting practices. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended by Committee on Government Operations. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, Roach, Rossi, Schow, Swecker, Winsley and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Brown, Fraser, Loveland, B. Sheldon and Thibaudeau.

Passed to Committee on Rules for second reading.

March 2, 1998

E2SHB 2881 Prime Sponsor, House Committee on Appropriations: Auditing state contractors. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended by Committee on Government Operations. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Rossi, Schow, Swecker, Winsley and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senators Loveland, B. Sheldon and Thibaudeau.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 2890 Prime Sponsor, House Committee on Transportation Policy and Budget: Requiring performance budgeting for transportation agencies. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 2917 Prime Sponsor, House Committee on Transportation Policy and Budget: Regulating fuel tax and international registration plan payments. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 2932 Prime Sponsor, House Committee on Transportation Policy and Budget: Requiring stops at intersections with nonfunctioning signal lights. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 2945 Prime Sponsor, Representative McCune: Notifying the legislature regarding transportation funding and planning. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 2969 Prime Sponsor, Representative Carrell: Providing a sales and use tax exemption for gun safes. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Swecker and Zarelli.

MINORITY Recommendation: Do not pass. Signed by Senator Fraser.

Passed to Committee on Rules for second reading.

March 2, 1998

SHB 2983 Prime Sponsor, House Committee on Appropriations: Encouraging the development of residential living arrangements for persons with developmental disabilities. Reported by Committee on Ways and Means

MAJORITY Recommendation: Without recommendation. Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules without recommendation.

March 2, 1998

HB 2993 Prime Sponsor, Representative Van Luven: Eliminating the business and occupation tax on property managers' compensation. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Swecker and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

2SHB 3070 Prime Sponsor, House Committee on Appropriations: Increasing penalties for drunk driving. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker, Thibaudeau and Zarelli.

Passed to Committee on Rules for second reading.

March 2, 1998

HB 3117 Prime Sponsor, Representative K. Schmidt: Clarifying transportation plans. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Rasmussen and Sellar.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

March 2, 1998

GA 9247 MARSHALL FORREST, appointed April 2, 1997, for a term ending June 30, 2002, as a member of the Gambling Commission.

Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

Passed to Committee on Rules.

March 2, 1998

GA 9332 ANDREW PALMER, appointed January 29, 1998, for a term ending December 26, 1998, as a member of the Board of Pilotage Commissioners.

Reported by Committee on Transportation

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules.

March 2, 1998

GA 9338 DENNIS MARSHALL, reappointed January 29, 1998, for a term ending December 26, 2000, as a member of the Board of Pilotage Commissioners.

Reported by Committee on Transportation

MAJORITY Recommendation: That said reappointment be confirmed. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules.

March 2, 1998

GA 9339 CAPTAIN HARRY DUDLEY, appointed January 30, 1998, for a term ending December 26, 2000, as a member of the Board of Pilotage Commissioners.

Reported by Committee on Transportation

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Prince, Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Passed to Committee on Rules.

#### MOTION

At 8:50 p.m., on motion of Senator Johnson, the Senate adjourned until 8:30 a.m., Tuesday, March 3, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FOURTH DAY, JANUARY 16, 1997

JOURNAL OF THE SENATE

NINTH DAY, JANUARY 21, 1997

FIFTIETH DAY, MARCH 2, 1998

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**NOTICE:** Formatting and page numbering in this document may be different



from that in the original published version.

**FIFTY-FIRST DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Tuesday, March 3, 1998

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Bauer, Brown, McCaslin, Patterson, Roach and Winsley. On motion of Senator Franklin, Senators Bauer, Brown and Patterson were excused. On motion of Senator Hale, Senators McCaslin, Roach and Winsley were excused.

The Sergeant at Arms Color Guard, consisting of Pages Mystie Paulson and Angelique Pierre-Antoine, presented the Colors. Reverend Sandra Lee, pastor of the Unitarian Universalist Church of Olympia, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**MESSAGE FROM THE HOUSE**

February 27, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5873, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

**SIGNED BY THE PRESIDENT**

The President signed:

SUBSTITUTE SENATE BILL NO. 5853,  
SUBSTITUTE SENATE BILL NO. 5873,  
SENATE BILL NO. 6118,  
ENGROSSED SENATE BILL NO. 6123,  
SUBSTITUTE SENATE BILL NO. 6129,  
SUBSTITUTE SENATE BILL NO. 6136,  
SENATE BILL NO. 6158,  
SENATE BILL NO. 6159,  
SENATE BILL NO. 6171,  
SENATE BILL NO. 6192,  
SENATE BILL NO. 6202.

**SIGNED BY THE PRESIDENT**

The President signed:

SUBSTITUTE SENATE BILL NO. 6285,  
SENATE BILL NO. 6303,  
SENATE BILL NO. 6483,  
SUBSTITUTE SENATE BILL NO. 6489,  
SUBSTITUTE SENATE BILL NO. 6507,  
SUBSTITUTE SENATE BILL NO. 6575,  
SENATE BILL NO. 6631.

## MOTION

On motion of Senator Fraser, the following resolution was adopted:

### SENATE RESOLUTION 1998-8709

By Senators Fraser, Deccio, Oke, Prentice, Heavey, Anderson, Wood, Fairley, McAuliffe, Patterson, Brown, Kohl, Kline, Bauer, Franklin, Snyder, T. Sheldon, Rossi, Roach, Swecker, Winsley, Prince, Haugen, Thibaudeau, Loveland, Jacobsen, Spanel, Sellar and Sheldon

WHEREAS, The Washington State Library was established in 1853, and has since become the equivalent of the corporate library for state government; and

WHEREAS, Legislators and their staff rely heavily on the efficient research, vast resources, and quick turnaround of the state library and its staff; and

WHEREAS, The one hundred and three state library employees place quality customer service as their top priority on a daily basis; and

WHEREAS, The primary library services to Washington State Government include reference and research, information access to computer databases, indexes and full-text journals, providing expertise on policy issues, and finding specific (and often hard-to-find) publications and periodicals; and

WHEREAS, The library also provides valuable services to taxpayers, including access to state library collections, federal publications, online information sources, and quick reference; and

WHEREAS, Library staff of public, academic, community college, and school and special libraries are also served by the Washington State Library;

NOW, THEREFORE BE IT RESOLVED, That the Washington State Senate honor and recognize the priceless research assistance, technology, and customer service offered by the employees at the Washington State Library; and

BE IT FURTHER RESOLVED, That the Senate applaud and commend the outstanding employees of the Washington State Library.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Nancy Zussy, State Librarian, and Raphael Colon, a member of the Washington State Library Commission, as well as other state library employees, who were seated in the gallery.

## MOTION

On motion of Senator Johnson, the Senate reverted to the sixth order of business.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2634, by House Committee on Children and Family Services (originally sponsored by Representatives H. Sommers, Cooke, Dickerson, McDonald, Gombosky, Bush, Tokuda, Wolfe, O'Brien, Kessler, Keiser, Anderson, Ogden, B. Thomas and Thompson)

Denying public assistance to fugitives from justice.

The bill was read the second time.

## MOTION

On motion of Senator Johnson, the rules were suspended, Substitute House Bill No. 2634 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2634.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2634 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Wojahn, Wood and Zarelli - 43. Excused: Senators Bauer, Brown, McCaslin, Patterson, Roach and Winsley - 6. SUBSTITUTE HOUSE BILL NO. 2634, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2688, by House Committee on Health Care (originally sponsored by Representatives Skinner, Cody, Backlund, Conway and Anderson)

Modifying the educational requirements for licensure as a hearing instrument fitter/dispenser.

The bill was read the second time.

## MOTION

Senator Johnson moved that the following Committee on Health and Long-Term Care amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.35.010 and 1996 c 200 s 2 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Assistive listening device or system" means an amplification system that is specifically designed to improve the signal to noise ratio for the listener, reduce interference from noise in the background, and enhance hearing levels at a distance by picking up sound from as close to source as possible and sending it directly to the ear of the listener, excluding hearing instruments as defined in this chapter.

(2) "Certified audiologist" means a person who is certified by the department to engage in the practice of audiology and meets the qualifications in this chapter.

(3) "Audiology" means the application of principles, methods, and procedures related to hearing and the disorders of hearing and to related language and speech disorders, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication including, but not limited to, disorders of auditory sensitivity, acuity, function, processing, or vestibular function, the application of aural habilitation, rehabilitation, and appropriate devices including fitting and dispensing of hearing instruments, and cerumen management to treat such disorders.

(4) "Board" means the board of hearing and speech.

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

(6) "Direct supervision" means that the supervisor is physically present and in the same room with the ~~((hearing instrument fitter/dispenser))~~ interim permit holder, observing the nondiagnostic testing, fitting, and dispensing activities ~~((of the hearing instrument fitter/dispenser permit holder))~~ at all times.

(7) "Establishment" means any permanent site housing a person engaging in the practice of fitting and dispensing of hearing instruments by a hearing instrument fitter/dispenser or audiologist; where the client can have personal contact and counsel during the firm's business hours; where business is conducted; and the address of which is given to the state for the purpose of bonding.

(8) "Facility" means any permanent site housing a person engaging in the practice of speech-language pathology and/or audiology, excluding the sale, lease, or rental of hearing instruments.

(9) "Fitting and dispensing of hearing instruments" means the sale, lease, or rental or attempted sale, lease, or rental of hearing instruments together with the selection and modification of hearing instruments and the administration of nondiagnostic tests as specified by RCW 18.35.110 and the use of procedures essential to the performance of these functions; and includes recommending specific hearing instrument systems, specific hearing instruments, or specific hearing instrument characteristics, the taking of impressions for ear molds for these purposes, the use of nondiagnostic procedures and equipment to verify the appropriateness of the hearing instrument fitting, and hearing instrument orientation. The fitting and dispensing of hearing instruments as defined by this chapter may be equally provided by a licensed hearing instrument fitter/dispenser or certified audiologist.

(10) "Good standing" means a licensed hearing instrument fitter/dispenser or certified audiologist or speech-language pathologist whose license or certificate has not been subject to sanctions pursuant to chapter 18.130 RCW or sanctions by other states, territories, or the District of Columbia in the last two years.

(11) "Hearing instrument" means any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords, ear molds, and assistive listening devices.

(12) "Hearing instrument fitter/dispenser" means a person who is licensed to engage in the practice of fitting and dispensing of hearing instruments and meets the qualifications of this chapter.

(13) (~~"Hearing instrument fitter/dispenser"~~) "Interim permit holder" means a person who holds the permit created under RCW 18.35.060 and who practices under the direct supervision of a licensed hearing instrument fitter/dispenser or certified speech-language pathologist or certified audiologist.

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

(15) "Certified speech-language pathologist" means a person who is certified by the department to engage in the practice of speech-language pathology and meets the qualifications of this chapter.

(16) "Speech-language pathology" means the application of principles, methods, and procedures related to the development and disorders, whether of organic or nonorganic origin, that impede oral, pharyngeal, or laryngeal sensorimotor competencies and the normal process of human communication including, but not limited to, disorders and related disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition/communication, and the application of augmentative communication treatment and devices for treatment of such disorders.

**Sec. 2.** RCW 18.35.020 and 1996 c 200 s 3 are each amended to read as follows:

No person shall engage in the fitting and dispensing of hearing instruments or imply or represent that he or she is engaged in the fitting and dispensing of hearing instruments unless he or she is a licensed hearing instrument fitter/dispenser or a certified audiologist or holds (~~a hearing instrument fitter/dispenser permit or audiology~~) an interim permit issued by the department as provided in this chapter and is an owner or employee of an establishment that is bonded as provided by RCW 18.35.240. The owner or manager of an establishment that dispenses hearing instruments is responsible under this chapter for all transactions made in the establishment name or conducted on its premises by agents or persons employed by the establishment engaged in fitting and dispensing of hearing instruments. Every establishment that fits and dispenses shall have in its employ at least one licensed hearing instrument fitter/dispenser or certified audiologist at all times, and shall annually submit proof that all testing equipment at that establishment that is required by the board to be calibrated has been properly calibrated.

**Sec. 3.** RCW 18.35.040 and 1996 c 200 s 5 are each amended to read as follows:

(1) An applicant for licensure as a hearing instrument fitter/dispenser must have the following minimum qualifications and shall pay a fee determined by the secretary as provided in RCW 43.70.250. An applicant shall be issued a license under the provisions of this chapter if the applicant:

(a)(i) Satisfactorily completes the hearing instrument fitter/dispenser examination required by this chapter; or

(ii) Holds a current, unsuspended, unrevoked license from another jurisdiction if the standards for licensing in such other jurisdiction are substantially equivalent to those prevailing in this state;

~~(b) (After December 31, 1996, has at least six months of apprenticeship training that meets requirements established by the board. The board may waive part or all of the apprenticeship training in recognition of formal education in fitting and dispensing of hearing instruments or in recognition of previous licensure in Washington or in another state, territory, or the District of Columbia;~~

~~(c) Is at least twenty-one years of age)~~ Satisfactorily completes a minimum of a two-year degree program in hearing instrument fitter/dispenser instruction. The program must be approved by the board; and

~~((d))~~ (c) Has not committed unprofessional conduct as specified by the uniform disciplinary act.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

(2) An applicant for certification as a speech-language pathologist or audiologist must have the following minimum qualifications:

(a) Has not committed unprofessional conduct as specified by the uniform disciplinary act;

(b) Has a master's degree or the equivalent, or a doctorate degree or the equivalent, from a program at a board-approved institution of higher learning, which includes completion of a supervised clinical practicum experience as defined by rules adopted by the board; and

(c) Has completed postgraduate professional work experience approved by the board.

All qualified applicants must satisfactorily complete the speech-language pathology or audiology examinations required by this chapter.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

**Sec. 4.** RCW 18.35.060 and 1997 c 275 s 3 are each amended to read as follows:

~~((1) The department shall issue a hearing instrument fitting/dispensing permit to any applicant who has shown to the satisfaction of the department that the applicant:~~

~~(a) Is at least twenty-one years of age;~~

~~(b) If issued a hearing instrument fitter/dispenser permit, would be employed and directly supervised in the fitting and dispensing of hearing instruments by a person licensed or certified in good standing as a hearing instrument fitter/dispenser or audiologist for at least two years unless otherwise approved by the board;~~

~~(c) Has complied with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280;~~

~~(d) Has not committed unprofessional conduct as specified by the uniform disciplinary act; and~~

~~(e) Is a high school graduate or the equivalent.~~

~~The provisions of RCW 18.35.030, 18.35.110, and 18.35.120 shall apply to any person issued a hearing instrument fitter/dispenser permit. Pursuant to the provisions of this section, a person issued a hearing instrument fitter/dispenser permit may engage in the fitting and dispensing of hearing instruments without having first passed the hearing instrument fitter/dispenser examination provided under this chapter.~~

~~(2) The hearing instrument fitter/dispenser permit shall contain the names of the employer and the licensed or certified supervisor under this chapter who are employing and supervising the hearing instrument fitter/dispenser permit holder and those persons shall execute an acknowledgment of responsibility for all acts of the hearing instrument fitter/dispenser permit holder in connection with the fitting and dispensing of hearing instruments.~~

~~(3) A hearing instrument fitter/dispenser permit holder may fit and dispense hearing instruments, but only if the hearing instrument fitter/dispenser permit holder is under the direct supervision of a licensed hearing instrument fitter/dispenser or certified audiologist under this chapter in a capacity other than as a hearing instrument fitter/dispenser permit holder. Direct supervision by a licensed hearing instrument fitter/dispenser or certified audiologist shall be required whenever the hearing instrument fitter/dispenser permit holder is engaged in the fitting or dispensing of hearing instruments during the hearing instrument fitter/dispenser permit holder's employment. The board shall develop and adopt guidelines on any additional supervision or training it deems necessary.~~

~~(4) The hearing instrument fitter/dispenser permit expires one year from the date of its issuance except that on recommendation of the board the permit may be reissued for one additional year only.~~

~~(5) No certified audiologist or licensed hearing instrument fitter/dispenser under this chapter may assume the responsibility for more than one hearing instrument fitter/dispenser permit holder at any one time.~~

~~(6)) The department, upon approval by the board, shall issue an interim permit authorizing an applicant for speech-language pathologist certification or audiologist certification who, except for the postgraduate professional experience and the examination requirements, meets the academic and practicum requirements of RCW 18.35.040(2) to practice under ((interim permit)) direct supervision ((by a certified speech language pathologist or certified audiologist)). The interim permit is valid for a period of one year from date of issuance. The board shall determine conditions for the interim permit.~~

**Sec. 5.** RCW 18.35.090 and 1997 c 275 s 5 are each amended to read as follows:

Each person who engages in practice under this chapter shall comply with administrative procedures and administrative requirements established under RCW 43.70.250 and 43.70.280 and shall keep the license, certificate, or interim permit conspicuously posted in the place of business at all times. The secretary may establish mandatory continuing education requirements and/or continued competency standards to be met by licensees or certificate or interim permit holders as a condition for license, certificate, or interim permit renewal.

**Sec. 6.** RCW 18.35.100 and 1996 c 200 s 13 are each amended to read as follows:

(1) Every hearing instrument fitter/dispenser, audiologist, speech-language pathologist, ((hearing instrument fitter/dispenser permit holder,)) or interim permit holder, who is regulated under this chapter, shall notify the department in writing of the regular address of the place or places in the state of Washington where the person practices or intends to practice more than twenty consecutive business days and of any change thereof within ten days of such change. Failure to notify the department in writing shall be grounds for suspension or revocation of the license, certificate, or interim permit.

(2) The department shall keep a record of the places of business of persons who hold licenses, certificates, or interim permits.

(3) Any notice required to be given by the department to a person who holds a license, certificate, or interim permit may be given by mailing it to the address of the last establishment or facility of which the person has notified the department, except that notice to a licensee or certificate or interim permit holder of proceedings to deny, suspend, or revoke the license, certificate, or interim permit shall be by certified or registered mail or by means authorized for service of process.

**Sec. 7.** RCW 18.35.105 and 1996 c 200 s 14 are each amended to read as follows:

Each licensee and certificate and interim permit holder under this chapter shall keep records of all services rendered for a minimum of three years. These records shall contain the names and addresses of all persons to whom services were provided. Hearing instrument fitter/dispensers, audiologists, and interim permit holders shall also record the date the hearing instrument warranty expires, a description of the services and the dates the services were provided, and copies of any contracts and receipts. All records, as required pursuant to this chapter or by rule, shall be owned by the establishment or facility and shall remain with the establishment or facility in the event the licensee or certificate

holder changes employment. If a contract between the establishment or facility and the licensee or certificate holder provides that the records are to remain with the licensee or certificate holder, copies of such records shall be provided to the establishment or facility.

**Sec. 8.** RCW 18.35.110 and 1996 c 200 s 15 and 1996 c 178 s 1 are each reenacted and amended to read as follows:

In addition to causes specified under RCW 18.130.170 and 18.130.180, any person licensed or holding ((a)) an interim permit or certificate under this chapter may be subject to disciplinary action by the board for any of the following causes:

(1) For unethical conduct in dispensing hearing instruments. Unethical conduct shall include, but not be limited to:

(a) Using or causing or promoting the use of, in any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is false, misleading or deceptive;

(b) Failing or refusing to honor or to perform as represented any representation, promise, agreement, or warranty in connection with the promotion, sale, dispensing, or fitting of the hearing instrument;

(c) Advertising a particular model, type, or kind of hearing instrument for sale which purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing and where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type, or kind than that advertised;

(d) Falsifying hearing test or evaluation results;

(e)(i) Whenever any of the following conditions are found or should have been found to exist either from observations by the licensee or certificate or interim permit holder or on the basis of information furnished by the prospective hearing instrument user prior to fitting and dispensing a hearing instrument to any such prospective hearing instrument user, failing to advise that prospective hearing instrument user in writing that the user should first consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to any duly licensed physician:

(A) Visible congenital or traumatic deformity of the ear, including perforation of the eardrum;

(B) History of, or active drainage from the ear within the previous ninety days;

(C) History of sudden or rapidly progressive hearing loss within the previous ninety days;

(D) Acute or chronic dizziness;

(E) Any unilateral hearing loss;

(F) Significant air-bone gap when generally acceptable standards have been established as defined by the food and drug administration;

(G) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal;

(H) Pain or discomfort in the ear; or

(I) Any other conditions that the board may by rule establish. It is a violation of this subsection for any licensee or certificate holder or that licensee's or certificate holder's employees and putative agents upon making such required referral for medical opinion to in any manner whatsoever disparage or discourage a prospective hearing instrument user from seeking such medical opinion prior to the fitting and dispensing of a hearing instrument. No such referral for medical opinion need be made by any licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder in the instance of replacement only of a hearing instrument which has been lost or damaged beyond repair within twelve months of the date of purchase. The licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder or their employees or putative agents shall obtain a signed statement from the hearing instrument user documenting the waiver of medical clearance and the waiver shall inform the prospective user that signing the waiver is not in the user's best health interest: PROVIDED, That the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder shall maintain a copy of either the physician's statement showing that the prospective hearing instrument user has had a medical evaluation within the previous six months or the statement waiving medical evaluation, for a period of three years after the purchaser's receipt of a hearing instrument. Nothing in this section required to be performed by a licensee or certificate or interim permit holder shall mean that the licensee or certificate or interim permit holder is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited under the laws of this state;

(ii) Fitting and dispensing a hearing instrument to any person under eighteen years of age who has not been examined and cleared for hearing instrument use within the previous six months by a physician specializing in otolaryngology except in the case of replacement instruments or except in the case of the parents or guardian of such person refusing, for good cause, to seek medical opinion: PROVIDED, That should the parents or guardian of such person refuse, for good cause, to seek medical opinion, the licensed hearing instrument fitter/dispenser or certified audiologist shall obtain from such parents or guardian a certificate to that effect in a form as prescribed by the department;

(iii) Fitting and dispensing a hearing instrument to any person under eighteen years of age who has not been examined by an audiologist who holds at least a master's degree in audiology for recommendations during the previous six months, without first advising such person or his or her parents or guardian in writing that he or she should first consult an audiologist who holds at least a master's degree in audiology, except in cases of hearing instruments replaced within twelve months of their purchase;

(f) Representing that the services or advice of a person licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathic medicine and surgery under chapter 18.57 RCW or of a clinical audiologist will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing instruments when that is not true, or using the word "doctor," "clinic," or other like words, abbreviations, or symbols which tend to connote a medical or osteopathic medicine and surgery profession when such use is not accurate;

- (g) Permitting another to use his or her license, certificate, or interim permit;
- (h) Stating or implying that the use of any hearing instrument will restore normal hearing, preserve hearing, prevent or retard progression of a hearing impairment, or any other false, misleading, or medically or audiotologically unsupportable claim regarding the efficiency of a hearing instrument;
- (i) Representing or implying that a hearing instrument is or will be "custom-made," "made to order," "prescription made," or in any other sense specially fabricated for an individual when that is not the case; or
- (j) Directly or indirectly offering, giving, permitting, or causing to be given, money or anything of value to any person who advised another in a professional capacity as an inducement to influence that person, or to have that person influence others to purchase or contract to purchase any product sold or offered for sale by the hearing instrument fitter/dispenser, audiologist, or interim permit holder, or to influence any person to refrain from dealing in the products of competitors.

(2) Engaging in any unfair or deceptive practice or unfair method of competition in trade within the meaning of RCW 19.86.020.

(3) Aiding or abetting any violation of the rebating laws as stated in chapter 19.68 RCW.

**Sec. 9.** RCW 18.35.120 and 1996 c 200 s 17 are each amended to read as follows:

A licensee or certificate or interim permit holder under this chapter may also be subject to disciplinary action if the licensee or certificate or interim permit holder:

(1) Is found guilty in any court of any crime involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and ten years have not elapsed since the date of the conviction; or

(2) Has a judgment entered against him or her in any civil action involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and five years have not elapsed since the date of the entry of the final judgment in the action, but a license or certificate shall not be issued unless the judgment debt has been discharged; or

(3) Has a judgment entered against him or her under chapter 19.86 RCW and two years have not elapsed since the entry of the final judgment; but a license or certificate shall not be issued unless there has been full compliance with the terms of such judgment, if any. The judgment shall not be grounds for denial, suspension, nonrenewal, or revocation of a license or certificate unless the judgment arises out of and is based on acts of the applicant, licensee, certificate holder, or employee of the licensee or certificate holder; or

(4) Commits unprofessional conduct as defined in RCW 18.130.180 of the uniform disciplinary act.

**Sec. 10.** RCW 18.35.140 and 1996 c 200 s 18 are each amended to read as follows:

The powers and duties of the department, in addition to the powers and duties provided under other sections of this chapter, are as follows:

(1) To provide space necessary to carry out the examination set forth in RCW 18.35.070 of applicants for hearing instrument fitter/dispenser licenses or audiology certification.

(2) To authorize all disbursements necessary to carry out the provisions of this chapter.

(3) To require the periodic examination of testing equipment, as defined by the board, and to carry out the periodic inspection of facilities or establishments of persons who are licensed or certified under this chapter, as reasonably required within the discretion of the department.

(4) To appoint advisory committees as necessary.

(5) To keep a record of proceedings under this chapter and a register of all persons licensed, certified, or holding interim permits under this chapter. The register shall show the name of every living licensee or interim permit holder for hearing instrument fitting/dispensing, every living certificate or interim permit holder for speech-language pathology, every living certificate or interim permit holder for audiology, with his or her last known place of residence and the date and number of his or her license, interim permit, or certificate.

**Sec. 11.** RCW 18.35.161 and 1996 c 200 s 20 are each amended to read as follows:

The board shall have the following powers and duties:

(1) To establish by rule such minimum standards and procedures in the fitting and dispensing of hearing instruments as deemed appropriate and in the public interest;

~~(2) ((To develop guidelines on the training and supervision of hearing instrument fitter/dispenser permit holders and to establish requirements regarding the extent of apprenticeship training and certification to the department;~~

~~(3))~~ (3) To adopt any other rules necessary to implement this chapter and which are not inconsistent with it;

~~((4))~~ (3) To develop, approve, and administer or supervise the administration of examinations to applicants for licensure and certification under this chapter;

~~((5))~~ (4) To require a licensee or certificate or interim permit holder to make restitution to any individual injured by a violation of this chapter or chapter 18.130 RCW, the uniform disciplinary act. The authority to require restitution does not limit the board's authority to take other action deemed appropriate and provided for in this chapter or chapter 18.130 RCW;

~~((6))~~ (5) To pass upon the qualifications of applicants for licensure, certification, or interim permits and to certify to the secretary;

~~((7))~~ (6) To recommend requirements for continuing education and continuing competency requirements as a prerequisite to renewing a license or certificate under this chapter;

~~((8))~~ (7) To keep an official record of all its proceedings. The record is evidence of all proceedings of the board that are set forth in this record;

~~((9))~~ (8) To adopt rules, if the board finds it appropriate, in response to questions put to it by professional health associations, hearing instrument fitter/dispensers or audiologists, speech-language pathologists, interim permit holders, and consumers in this state; and

~~((10))~~ (9) To adopt rules relating to standards of care relating to hearing instrument fitter/dispensers or audiologists, including the dispensing of hearing instruments, and relating to speech-language pathologists, including dispensing of communication devices.

**Sec. 12.** RCW 18.35.172 and 1996 c 200 s 22 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, certificates, and interim permits, and the discipline of licensees and certificate and permit holders under this chapter.

**Sec. 13.** RCW 18.35.185 and 1996 c 200 s 25 are each amended to read as follows:

(1) In addition to any other rights and remedies a purchaser may have, the purchaser of a hearing instrument shall have the right to rescind the transaction for other than the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder's breach if:

(a) The purchaser, for reasonable cause, returns the hearing instrument or holds it at the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder's disposal, if the hearing instrument is in its original condition less normal wear and tear. "Reasonable cause" shall be defined by the board but shall not include a mere change of mind on the part of the purchaser or a change of mind related to cosmetic concerns of the purchaser about wearing a hearing instrument; and

(b) The purchaser sends notice of the cancellation by certified mail, return receipt requested, to the establishment employing the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder at the time the hearing instrument was originally purchased, and the notice is posted not later than thirty days following the date of delivery, but the purchaser and the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder may extend the deadline for posting of the notice of rescission by mutual, written agreement. In the event the hearing instrument develops a problem which qualifies as a reasonable cause for rescission or which prevents the purchaser from evaluating the hearing instrument, and the purchaser notifies the establishment employing the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder of the problem during the thirty days following the date of delivery and documents such notification, the deadline for posting the notice of rescission shall be extended by an equal number of days as those between the date of the notification of the problem to the date of notification of availability for redeliveries. Where the hearing instrument is returned to the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder for any inspection for modification or repair, and the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder has notified the purchaser that the hearing instrument is available for redelivery, and where the purchaser has not responded by either taking possession of the hearing instrument or instructing the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder to forward it to the purchaser, then the deadline for giving notice of the rescission shall extend no more than seven working days after this notice of availability.

(2) If the transaction is rescinded under this section or as otherwise provided by law and the hearing instrument is returned to the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder, the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder shall refund to the purchaser any payments or deposits for that hearing instrument. However, the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder may retain, for each hearing instrument, fifteen percent of the total purchase price or one hundred twenty-five dollars, whichever is less. After December 31, 1996, the rescission amount shall be determined by the board. The licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder shall also return any goods traded in contemplation of the sale, less any costs incurred by the licensed hearing instrument fitter/dispenser, certified audiologist, or interim permit holder in making those goods ready for resale. The refund shall be made within ten business days after the rescission. The buyer shall incur no additional liability for such rescission.

(3) For the purposes of this section, the purchaser shall have recourse against the bond held by the establishment entering into a purchase agreement with the buyer, as provided by RCW 18.35.240.

**Sec. 14.** RCW 18.35.190 and 1996 c 200 s 26 are each amended to read as follows:

In addition to remedies otherwise provided by law, in any action brought by or on behalf of a person required to be licensed or certified or to hold ~~((a))~~ an interim permit (hereunder) under this chapter, or by any assignee or transferee, it shall be necessary to allege and prove that the licensee or certificate or interim permit holder at the time of the transaction held a valid license, certificate, or interim permit as required by this chapter, and that such license, certificate, or interim permit has not been suspended or revoked pursuant to RCW 18.35.110, 18.35.120, or 18.130.160.

**Sec. 15.** RCW 18.35.195 and 1996 c 200 s 27 are each amended to read as follows:

(1) This chapter shall not apply to military or federal government employees.

(2) This chapter does not prohibit or regulate:

(a) Fitting or dispensing by students enrolled in a board-approved program who are directly supervised by a licensed hearing instrument fitter/dispenser ~~((a))~~, a certified audiologist under the provisions of this chapter, or an instructor at a two-year hearing instrument fitter/dispenser degree program that is approved by the board; and



(b) Hearing instrument fitter/dispensers, speech-language pathologists, or audiologists of other states, territories, or countries, or the District of Columbia while appearing as clinicians of bona fide educational seminars sponsored by speech-language pathology, audiology, hearing instrument fitter/dispenser, medical, or other healing art professional associations so long as such activities do not go beyond the scope of practice defined by this chapter.

**Sec. 16.** RCW 18.35.205 and 1996 c 200 s 28 are each amended to read as follows:

The legislature finds that the public health, safety, and welfare would best be protected by uniform regulation of hearing instrument fitter/dispensers, speech-language pathologists, audiologists, and interim permit holders throughout the state. Therefore, the provisions of this chapter relating to the licensing or certification of hearing instrument fitter/dispensers, speech-language pathologists, and audiologists and regulation of interim permit holders and their respective establishments or facilities is exclusive. No political subdivision of the state of Washington within whose jurisdiction a hearing instrument fitter/dispenser, audiologist, or speech-language pathologist establishment or facility is located may require any registrations, bonds, licenses, certificates, or interim permits of the establishment or facility or its employees or charge any fee for the same or similar purposes: PROVIDED, HOWEVER, That nothing herein shall limit or abridge the authority of any political subdivision to levy and collect a general and nondiscriminatory license fee levied on all businesses, or to levy a tax based upon the gross business conducted by any firm within the political subdivision.

**Sec. 17.** RCW 18.35.230 and 1996 c 200 s 29 are each amended to read as follows:

(1) Each licensee or certificate or interim permit holder shall name a registered agent to accept service of process for any violation of this chapter or rule adopted under this chapter.

(2) The registered agent may be released at the expiration of one year after the license, certificate, or interim permit issued under this chapter has expired or been revoked.

(3) Failure to name a registered agent for service of process for violations of this chapter or rules adopted under this chapter may be grounds for disciplinary action.

**Sec. 18.** RCW 18.35.240 and 1996 c 200 s 30 are each amended to read as follows:

(1) Every establishment engaged in the fitting and dispensing of hearing instruments shall file with the department a surety bond in the sum of ten thousand dollars, running to the state of Washington, for the benefit of any person injured or damaged as a result of any violation by the establishment's employees or agents of any of the provisions of this chapter or rules adopted by the secretary.

(2) In lieu of the surety bond required by this section, the establishment may file with the department a cash deposit or other negotiable security acceptable to the department. All obligations and remedies relating to surety bonds shall apply to deposits and security filed in lieu of surety bonds.

(3) If a cash deposit is filed, the department shall deposit the funds. The cash or other negotiable security deposited with the department shall be returned to the depositor one year after the establishment has discontinued the fitting and dispensing of hearing instruments if no legal action has been instituted against the establishment, its agents or employees, or the cash deposit or other security. The establishment owners shall notify the department if the establishment is sold, changes names, or has discontinued the fitting and dispensing of hearing instruments in order that the cash deposit or other security may be released at the end of one year from that date.

(4) A surety may file with the department notice of withdrawal of the bond of the establishment. Upon filing a new bond, or upon the expiration of sixty days after the filing of notice of withdrawal by the surety, the liability of the former surety for all future acts of the establishment terminates.

(5) Upon the filing with the department notice by a surety of withdrawal of the surety on the bond of an establishment or upon the cancellation by the department of the bond of a surety under this section, the department shall immediately give notice to the establishment by certified or registered mail with return receipt requested addressed to the establishment's last place of business as filed with the department.

(6) The department shall immediately cancel the bond given by a surety company upon being advised that the surety company's license to transact business in this state has been revoked.

(7) Each invoice for the purchase of a hearing instrument provided to a customer must clearly display on the first page the bond number of the establishment or the licensee or certificate or interim permit holder fitting/dispensing the hearing instrument.

**Sec. 19.** RCW 18.35.250 and 1996 c 200 s 31 are each amended to read as follows:

(1) In addition to any other legal remedies, an action may be brought in any court of competent jurisdiction upon the bond, cash deposit, or security in lieu of a surety bond required by this chapter, by any person having a claim against a licensee or certificate or interim permit holder, agent, or establishment for any violation of this chapter or any rule adopted under this chapter. The aggregate liability of the surety to all claimants shall in no event exceed the sum of the bond. Claims shall be satisfied in the order of judgment rendered.

(2) An action upon the bond shall be commenced by serving and filing the complaint within one year from the date of the cancellation of the bond. An action upon a cash deposit or other security shall be commenced by serving and filing the complaint within one year from the date of notification to the department of the change in ownership of the establishment or the discontinuation of the fitting and dispensing of hearing instruments by that establishment. Two copies of the complaint shall be served by registered or certified mail, return receipt requested, upon the department at the time the suit is started. The service constitutes service on the surety. The secretary shall transmit one copy of the complaint to the surety within five business days after the copy has been received.

(3) The secretary shall maintain a record, available for public inspection, of all suits commenced under this chapter under surety bonds, or the cash or other security deposited in lieu of the surety bond. In the event that any final judgment impairs the liability of the surety upon a bond so furnished or the amount of the deposit so that there is not in effect a bond undertaking or deposit in the full amount prescribed in this section, the department shall suspend the license or certificate until the bond undertaking or deposit in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(4) If a judgment is entered against the deposit or security required under this chapter, the department shall, upon receipt of a certified copy of a final judgment, pay the judgment from the amount of the deposit or security.

**Sec. 20.** RCW 18.35.260 and 1996 c 200 s 16 are each amended to read as follows:

(1) A person who is not licensed with the secretary as a hearing instrument fitter/dispenser under the requirements of this chapter may not represent himself or herself as being so licensed and may not use in connection with his or her name the words "licensed hearing instrument fitter/dispenser," "hearing instrument specialist," or "hearing aid fitter/dispenser," or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a licensed hearing instrument fitter/dispenser.

(2) A person who is not certified with the secretary as a speech-language pathologist under the requirements of this chapter may not represent himself or herself as being so certified and may not use in connection with his or her name the words including "certified speech-language pathologist" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions as a certified speech-language pathologist.

(3) A person who is not certified with the secretary as an audiologist under the requirements of this chapter may not represent himself or herself as being so certified and may not use in connection with his or her name the words "certified audiologist" or a variation, synonym, letter, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a certified audiologist.

~~(4) ((A person who does not hold a permit issued by the secretary as a hearing instrument fitter/dispenser permittee under the requirements of this chapter may not represent himself or herself as being so permitted and may not use in connection with his or her name the words "hearing instrument fitter/dispenser permit holder" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a hearing instrument fitter/dispenser permit holder.~~

~~(5))~~ Nothing in this chapter prohibits a person credentialed in this state under another act from engaging in the practice for which he or she is credentialed.

**NEW SECTION. Sec. 21.** Sections 1 through 14 and 16 through 20 of this act take effect January 1, 2003."

Debate ensued.

The President declared the question before the Senate to be the adoption of the Committee on Health and Long-Term Care striking amendment to Substitute House Bill No. 2688.

The motion by Senator Johnson carried and the committee striking amendment was adopted.

## MOTIONS

On motion of Senator Deccio, the following title amendment was adopted:

On page 1, line 1 of the title, after "dispensers;" strike the remainder of the title and insert "amending RCW 18.35.010, 18.35.020, 18.35.040, 18.35.060, 18.35.090, 18.35.100, 18.35.105, 18.35.120, 18.35.140, 18.35.161, 18.35.172, 18.35.185, 18.35.190, 18.35.195, 18.35.205, 18.35.230, 18.35.240, 18.35.250, and 18.35.260; reenacting and amending RCW 18.35.110; and providing an effective date."

On motion of Senator Johnson, the rules were suspended, Substitute House Bill No. 2688, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2688, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2688, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Brown, McCaslin, Patterson and Roach - 4. SUBSTITUTE HOUSE BILL NO. 2688, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2692, by Representatives Clements, H. Sommers, Tokuda and Cooke (by request of Department of Social and Health Services)

Clarifying references to food stamps or food stamp benefits transferred electronically.

The bill was read the second time.

### MOTION

On motion of Senator Johnson, the rules were suspended, House Bill No. 2692 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2692.

### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2692 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Bauer, Benton, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senators Anderson and Finkbeiner - 2. Excused: Senators Brown and Roach - 2. HOUSE BILL NO. 2692, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2698, by Representatives B. Thomas, Dunshee, Wensman, Gardner and Ballasiotes (by request of Governor Locke)

Resolving conflicts in lodging tax statutes enacted in 1997.

The bill was read the second time.

### MOTION

On motion of Senator Sellar, the rules were suspended, House Bill No. 2698 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2698.

### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2698 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Brown and Roach - 2. HOUSE BILL NO. 2698, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2704, by Representatives Skinner, Cody and Anderson

Creating inactive license status for physical therapists.

The bill was read the second time.

#### MOTION

On motion of Senator Deccio, the following Committee on Health and Long-Term Care amendment was adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 18.74 RCW to read as follows:

Any physical therapist licensed under this chapter not practicing physical therapy or providing services may place his or her license in an inactive status. The board shall prescribe requirements for maintaining an inactive status and converting from an inactive or active status. The secretary may establish fees for alterations in license status."

#### MOTION

On motion of Senator Johnson, the rules were suspended, House Bill No. 2704, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2704, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2704, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Brown and Roach - 2. HOUSE BILL NO. 2704, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2788, by Representatives Backlund, Cody, Dyer and Kenney

Training nursing assistants.

The bill was read the second time.

#### MOTION

On motion of Senator Strannigan, the rules were suspended, House Bill No. 2788 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2788.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2788 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Roach - 1. HOUSE BILL NO. 2788, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2797, by Representatives Regala, Buck, Ogden, Tokuda, Hatfield and Kessler

Modifying the membership of the natural heritage advisory council.

The bill was read the second time.

### MOTION

On motion of Senator Oke, the rules were suspended, House Bill No. 2797 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2797.

### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2797 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Roach - 1. HOUSE BILL NO. 2797, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1977, by House Committee on Education (originally sponsored by Representatives Honeyford, Boldt and Dunn)

Allowing arrangements for running start students to attend out-of-state community colleges.

The bill was read the second time.

### MOTION

On motion of Senator Finkbeiner, the rules were suspended, Substitute House Bill No. 1977 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1977.

### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1977 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Fairley, Kohl, Prince and Spanel - 4. Excused: Senator Roach - 1. SUBSTITUTE HOUSE BILL NO. 1977, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1308, by Representatives Mielke, McMorris, Mulliken, Sterk and McDonald

Providing additional exemptions from state law for the handling of hazardous devices.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, House Bill No. 1308 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1308.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1308 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Deccio - 1. Excused: Senator Roach - 1. HOUSE BILL NO. 1308, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2773, by House Committee on Energy and Utilities (originally sponsored by Representatives Poulsen, Crouse, Morris, Cooper and Constantine)

Requiring electric utilities to provide net metering systems to their customer-generators.

The bill was read the second time.

#### MOTION

On motion of Senator Finkbeiner, the following Committee on Energy and Utilities amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that it is in the public interest to:

- (1) Encourage private investment in renewable energy resources;
- (2) Stimulate the economic growth of this state; and
- (3) Enhance the continued diversification of the energy resources used in this state.

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

- (1) "Commission" means the utilities and transportation commission.
- (2) "Customer-generator" means a user of a net metering system.
- (3) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.
- (4) "Electric cooperative" means a cooperative or association organized under chapter 23.86 or 24.06 RCW.
- (5) "Electric utility" means any electrical company, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility that is engaged in the business of distributing electricity to retail electric customers in the state.
- (6) "Irrigation district" means an irrigation district under chapter 87.03 RCW.
- (7) "Municipal electric utility" means a city or town that owns or operates an electric utility authorized by chapter 35.92 RCW.
- (8) "Net metering" means measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator that is fed back to the electric utility over the applicable billing period.
- (9) "Net metering system" means a facility for the production of electrical energy that:
  - (a) Uses as its fuel either solar, wind, or hydropower;
  - (b) Has a generating capacity of not more than twenty-five kilowatts;
  - (c) Is located on the customer-generator's premises;

- (d) Operates in parallel with the electric utility's transmission and distribution facilities; and
- (e) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.
- (10) "Port district" means a port district within which an industrial development district has been established as authorized by Title 53

RCW.

- (11) "Public utility district" means a district authorized by chapter 54.04 RCW.

**NEW SECTION. Sec. 3.** An electric utility:

(1) Shall offer to make net metering available to eligible customers-generators on a first-come, first-served basis until the cumulative generating capacity of net metering systems equals 0.1 percent of the utility's peak demand during 1996;

(2) Shall allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment:

(a) That the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and

(b) How the cost of purchasing and installing an additional meter is to be allocated between the customer-generator and the utility;

(3) Shall charge the customer-generator a minimum monthly fee that is the same as other customers of the electric utility in the same rate class, but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment that:

(a) The electric utility will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits associated with these systems; and

(b) Public policy is best served by imposing these costs on the customer-generator rather than allocating these costs among the utility's entire customer base.

**NEW SECTION. Sec. 4.** Consistent with the other provisions of this chapter, the net energy measurement must be calculated in the following manner:

(1) The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator and fed back to the electric utility during the billing period, the customer-generator shall be billed for the net electricity supplied by the electric utility, in accordance with normal metering practices.

(3) If electricity generated by the customer-generator exceeds the electricity supplied by the electric utility, the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period, in accordance with section 3 of this act; and

(b) Shall be credited for the excess kilowatt-hours generated during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period.

At the beginning of each calendar year, any remaining unused kilowatt-hour credit accumulated during the previous year shall be granted to the electric utility, without any compensation to the customer-generator.

**NEW SECTION. Sec. 5.** (1) A net metering system used by a customer-generator shall include, at the customer-generator's own expense, all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the national electrical code, national electrical safety code, the institute of electrical and electronics engineers, and underwriters laboratories.

(2) The commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, after appropriate notice and opportunity for comment, may adopt by regulation additional safety, power quality, and interconnection requirements for customer-generators that the commission determines are necessary to protect public safety and system reliability.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 80 RCW."

## MOTIONS

On motion of Senator Finkbeiner, the following title amendment was adopted:

On page 1, line 2 of the title, after "systems;" strike the remainder of the title and insert "and adding a new chapter to Title 80 RCW."

On motion of Senator Finkbeiner, the rules were suspended, Substitute House Bill No. 2773, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2773, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2773, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE HOUSE BILL NO. 2773, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2476, by Representatives Schoesler, Sheahan, Honeyford, Sump, Mulliken, Buck, Chandler, McMorris and Zellinsky

Providing a sales tax exemption for parts used for and repairs to farm machinery and implements used outside the state.

The bill was read the second time.

## MOTION

On motion of Senator Morton, the rules were suspended, House Bill No. 2476 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2476.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2476 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. HOUSE BILL NO. 2476, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6758, by Senators Long, Hargrove and West

Repealing the expiration date for the work ethic camp program.

The bill was read the second time.

## MOTION

On motion of Senator Morton, the rules were suspended, Senate Bill No. 6758 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

## MOTION

On motion of Senator Hale, Senator Deccio was excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6758.



## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6758 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Deccio - 1.. SENATE BILL NO. 6758, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act

## MOTION

On motion of Senator Hale, Senator Hochstatter was excused.

## SECOND READING

HOUSE BILL NO. 2577, by Representatives Hankins and Delvin

Using and administering the Hanford area economic investment fund.

The bill was read the second time.

## MOTION

On motion of Senator Finkbeiner, the rules were suspended, House Bill No. 2577 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2577.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2577 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Deccio and Hochstatter - 2. . HOUSE BILL NO. 2577, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1043, by House Committee on Law and Justice (originally sponsored by Representatives Schoesler, Dunn and Smith)

Requiring the state landlord/tenant act to preempt all other local landlord/tenant acts.

The bill was read the second time.

## MOTION

Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. (1) The legislature finds that the important goal of maximizing local control of public policy issues sometimes needs to be balanced with the also important goal of providing predictability and consistency in laws likely to be encountered by citizens as they move or engage in business across the state.

(2) In order to provide a substantial measure of uniformity in the application of state landlord-tenant law while recognizing the importance of the process that has already led some local jurisdictions to adopt local laws, it is the intent of the legislature that:

(a) Local jurisdictions that have not adopted ordinances regulating residential landlord-tenant relationships before January 1, 1999, not adopt ordinances inconsistent with chapter 59.18 RCW, the state residential landlord-tenant act; and

(b) Local laws in existence as of January 1, 1999, not be amended in a manner inconsistent with section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 59.18 RCW to read as follows:

Except as provided in section 3 of this act, the state of Washington hereby fully occupies and preempts the field of landlord-tenant regulation within the boundaries of the state. Local laws not in existence as of January 1, 1999, that are inconsistent with, more or less restrictive than, or exceed or fall below the requirements of state law shall not be enacted regardless of the nature of the code, charter, or home rule status of the city, town, county, or other municipality. Local laws in existence as of January 1, 1999, shall not be amended to create inconsistencies with this section.

Except as provided in section 3 of this act, affirmative defenses to an unlawful detainer action that change the duties of a landlord or tenant that are inconsistent with, more or less restrictive than, or exceed or fall below the requirements of state law shall not be enacted regardless of the nature of the code, charter, or home rule status of the city, town, county, or other municipality.

NEW SECTION. Sec. 3. A new section is added to chapter 59.18 RCW to read as follows:

(1) Section 2 of this act does not apply to local laws that are intended to affect directly the physical safety of a residential tenant. For purposes of this section "physical safety" means the physical health or security of a tenant.

(2) In any proceeding to determine whether a local law directly affects physical safety, a court shall not restrict its consideration to a statement of local legislative intent or finding and shall consider whether voiding a local law as inconsistent with this chapter will result in a direct and significant increase in the risk to the physical safety of residential tenants."

#### MOTION

Senator Fairley moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 2, after line 16, insert the following:

"(3) Section 2 of this act does not apply to local laws that are intended to protect tenants from discrimination on the basis of race, ancestry, gender, national origin, marital status, creed, color, age, parental status, participation in a program under section eight of the United States Housing Act (42 USC 1437 (f)) as now or hereafter amended, political ideology, the presence of any sensory, mental or physical disability, or the use of a trained guide dog or service dog by a disabled person."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

#### POINT OF INQUIRY

Senator Franklin: "Senator Fairley, does this amendment that you have reinstate the Fair Housing Act?"

Senator Fairley: "Yes, it does."

Senator Franklin: "Because without this amendment, then the Fair Housing Act, would have strong implications?"

Senator Fairley: "Yes, it would. That is why we put it in."

Senator Franklin: "Thank you."

#### POINT OF INQUIRY

Senator Anderson: "Senator Fairley, having just seen this and myself--on a lot of the bills dealing with the land use issues--I have been working with the Association of Counties and Cities. Have you been working with the Association of Cities and Counties on this particular issue and would it affect just cities or both cities and counties or--"

Senator Fairley: "It would affect all local government. So, yes, it would."

Senator Anderson: "And have you talked with the cities and counties--that they have seen this amendment and have you worked with them on language?"

Senator Fairley: "I did last year--yes--not this year and having been a city council woman, I am very aware of how AWC would look at this amendment."

Senator Anderson: "So, what is--are they for this or against it?"

Senator Fairley: "Yes, very much so."  
Senator Anderson: "Both the cities and counties are for this amendment?"  
Senator Fairley: "I have not spoken to the counties, specifically, on this amendment."  
Senator Anderson: "Okay."

#### MOTION

On motion of Senator Johnson, and there being no objection, further consideration of Substitute House Bill No. 1043 was deferred.

#### APPOINTMENT OF SPECIAL COMMITTEE

The President announced the presence of the 1998 Washington State Apple Blossom Festival Royalty in the Senate Chamber and appointed Senators Sellar, Prentice and Loveland to escort the honored guests to the rostrum.

The President welcomed and introduced Queen Krista Berechauer and Princesses Maria Gonzalez and Alea Pappé.

With permission of the Senate, business was suspended to permit Queen Krista and Princesses Maria and Alea to address the Senate.

The honored guests were escorted from the Senate Chamber and the committee was discharged.

#### MOTION

At 10:00 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:18 a.m.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced Warren Moon, quarterback for the Seattle Seahawks, who was seated on the rostrum.

#### PERSONAL PRIVILEGE

Senator Kohl: "Mr. President, I rise for a point of personal privilege. As a member of the faculty at the University of Washington, I am very pleased to have Mr. Warren Moon here today with us. I would like to bring up to the body that Mr. Moon did start his football career as a young adult at the University of Washington, playing the position of quarterback for three years--1975 through 1977. During that time, he completed two hundred forty-two out of four hundred ninety-six passes for three thousand two hundred seventy-seven yards with nineteen touchdowns. During his senior year, he took the University of Washington to its first Rose Bowl game in fourteen years and fortunately upset the University of Michigan, twenty-seven to twenty.

"As a result of his prowess at that game, he was named as the most valuable player of the 1977 Rose Bowl, as well as the Pac Eight Player of the Year--for 1977. In 1984, he was introduced and inducted into the Husky Hall of Fame and also into the Rose Bowl Hall of Fame in 1997. He has certainly thrilled many people, young people, as well as adults over the years--in his playing at the University of Washington. Unfortunately, even though I understand, he wanted to stay in the state of Washington, he was not recruited by the Seahawks and instead went to another professional football team outside of our state. I'm very pleased that he is back here with us now as quarterback for the Seattle Seahawks. I would personally like to thank Warren Moon for all his contributions to the state of Washington. Thank you."

. Senators Prentice, McCaslin, Snyder, Deccio, Heavey, McDonald, Hargrove, Prince, Franklin, Oke and Kohl welcomed the Seattle Seahawks quarterback to the Senate.

With permission of the Senate, business was suspended to permit Warren Moon to address the Senate.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2430, by House Committee on Appropriations (originally sponsored by Representatives Huff, Carlson, Kenney, Radcliff and McDonald) (by request of Committee on Advanced College Tuition Payment and Higher Education Coordinating Board)

Changing provisions relating to the advanced college tuition payment program.

The bill was read the second time.

#### MOTION

On motion of Senator Wood, the rules were suspended, Second Substitute House Bill No. 2430 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 2430.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2430 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Hochstatter - 1.. SECOND SUBSTITUTE HOUSE BILL NO. 2430, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Goings, Senator Patterson was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2523, by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Linville, Mulliken, Schoesler, Hatfield, Cooper, Skinner and Clements)

Regarding fire training activities.

The bill was read the second time.

#### MOTION

On motion of Senator Morton, the rules were suspended, Substitute House Bill No. 2523 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2523.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2523 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T.,

Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Patterson - 1.. SUBSTITUTE HOUSE BILL NO. 2523, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1441, by House Committee on Law and Justice (originally sponsored by Representatives McDonald, Pennington, Ballasiotes, Mielke, Hatfield, Lambert, Doumit, Costa, Bush, Dickerson, O'Brien, Keiser, Kastama and Smith)

Penalizing voyeurism.

The bill was read the second time.

## MOTION

Senator Zarelli moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) As used in this section:

(a) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, or any other recording or transmission of the image of a person;

(b) "Place where he or she would have a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed or filmed by another; or

(ii) A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance;

(c) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person;

(d) "Trespass" means to intentionally enter upon and remain unlawfully in and upon the property of another when not then licensed, invited, or otherwise permitted to so enter or remain;

(e) "Views" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

(2) A person commits the crime of voyeurism if:

(a) For the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films another person, without that person's knowledge and consent, while the person being viewed, photographed, or filmed is in a place where he or she would have a reasonable expectation of privacy; or

(b) While trespassing upon the property of another, the person knowingly views, photographs, or films another person, without that person's knowledge and consent while the person being viewed, photographed, or filmed is inside his or her private residence.

(3) Voyeurism is a class C felony.

(4) This section does not apply to:

Viewing, photographing, or filming by personnel of the department of corrections or of a local jail or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the department of corrections or the local jail or correctional facility.

**Sec. 2.** RCW 9A.04.080 and 1997 c 174 s 1 and 1997 c 97 s 1 are each reenacted and amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4)).

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results; or  
(iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission; except that if the victim is under fourteen years of age when the rape is committed and the rape is reported to a law enforcement agency within one year of its commission, the violation may be prosecuted up to three years after the victim's eighteenth birthday or up to ten years after the rape's commission, whichever is later. If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted: (A) More than three years after its commission if the violation was committed against a victim fourteen years of age or older; or (B) more than three years after the victim's eighteenth birthday or more than seven years after the rape's commission, whichever is later, if the violation was committed against a victim under fourteen years of age.

(c) Violations of the following statutes shall not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after their commission, whichever is later: RCW 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080, 9A.44.100(1)(b), or 9A.64.020.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) A violation of RCW 9A.56.030 must not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(h) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under section 1 of this act, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(i) No gross misdemeanor may be prosecuted more than two years after its commission.

(j) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside."

#### MOTION

Senator Fairley moved that the following amendments to the Committee on Law and Justice striking amendment be considered simultaneously and be adopted:

On page 1, line 31 of the amendment, strike "(a)"

On page 1, line 35 of the amendment, after "privacy" strike "; or" and insert "."

On page 2, beginning on line 1 of the amendment, strike all material beginning with "(b)" through "residence." on line 4

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Fairley on page 1, lines 31 and 35, and page 2, beginning on line 1, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1441.

The motion by Senator Fairley failed and the amendments to the committee striking amendment were not adopted.

#### MOTION

Senator Fairley moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 2, line 1 of the amendment, after "another," insert "with intent to intimidate or harass,"

Debate ensued.

#### POINT OF INQUIRY

Senator Fairley: "Senator Zarelli, no where in your language does it say that when you are trespassing--and under this section that you have to have an intent for sexual gratification--did you mean it to be in there?"

Senator Zarelli: "No, the language states, 'While trespassing upon the property of another, the person knowingly views, photographs or films another person without that person's knowledge and consent, while the person is being viewed, photographed or filmed inside his or her private residence.' The courts have proven time and time again that there is an expectation of privacy inside your home. So, if somebody is trespassing on your property, viewing inside your home--"

Senator Fairley: "I asked you if you meant to have intent for sexual gratification?"

Senator Zarelli: "I did not in this section--no."

Further debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 2, line 1, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1441.

The motion by Senator Fairley failed and the amendment to the committee striking amendment was not adopted.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment to Substitute House Bill No. 1441.

The motion by Senator Zarelli carried and the committee striking amendment was adopted on a rising vote.

#### MOTIONS

On motion of Senator Zarelli, the following title amendment was adopted:

On page 1, line 1 of the title, after "voyeurism;" strike the remainder of the title and insert "reenacting and amending RCW 9A.04.080; adding a new section to chapter 9A.44 RCW; and prescribing penalties."

On motion of Senator Zarelli, the rules were suspended, Substitute House Bill No. 1441, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Heavey: "Senator Zarelli, I certainly agree with you on the recording and the using of cameras. My concern is with the viewing. I want to give you three examples that I know about and I think you can give me a yes or no answer. Question, true story--high school in Seattle who will remain nameless, but we have two members here that are graduates and their colors are yellow and green--girls find a brick that can be removed and can look into the boys' shower room. That is the first question; would they be guilty of a crime looking into the boys' shower room? Second question, boys some distance from a girls' dormitory at a university using binoculars--looking at the different rooms to see if any girls are in their rooms. Three, when I was a paper boy, I walked between two houses, looked over and saw a young couple fully clothed, but they were kissing--I stopped for more than a moment and looked. I was between two houses on the property line. I assume, under this bill, that the girls at the high school, the boys at the college and me, the paper boy, are all guilty of a crime. Is that true or not?"

Senator Zarelli: "I couldn't answer that without further information."

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1441, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1441, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 34. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Heavey, Kline, Kohl, Loveland, McAuliffe, Prentice, Sheldon, B., Spanel, Thibaudeau and Wojahn - 14. Absent: Senator Prince - 1... SUBSTITUTE HOUSE BILL NO. 1441, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 12:09 p.m., on motion of Senator Johnson, the Senate recessed until 1:30 p.m.

The Senate was called to order at 1:33 p.m. by President Owen.

## SECOND READING

HOUSE JOINT MEMORIAL NO. 4032, by Representatives Buck, Butler, Chandler, DeBolt, Sehlin, Hatfield, McCune, Doumit, Kessler, Zellinsky and Thompson

Regarding salmon and steelhead under the federal Endangered Species Act.

The joint memorial was read the second time.

## MOTION

On motion of Senator Oke, the rules were suspended, House Joint Memorial No. 4032 was advanced to third reading, the second reading considered the third and the joint memorial was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Joint Memorial No. 4032.

## ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4032 and the joint memorial passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 4; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senators Brown, McCaslin, Sellar and West - 4.. HOUSE JOINT MEMORIAL NO. 4032, having received the constitutional majority, was declared passed.

## SECOND READING

SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4035, by House Committee on Natural Resources (originally sponsored by Representatives Dyer, Butler, Schoesler, Mastin, Linville, Sehlin, Buck, Huff, Mulliken, Chandler and Koster)

Urging legislation facilitating forest land exchange.

The joint memorial was read the second time.

## MOTION

On motion of Senator Oke, the rules were suspended, Substitute House Joint Memorial No. 4035 was advanced to third reading, the second reading considered the third and the joint memorial was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Joint Memorial No. 4035.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Joint Memorial No. 4035 and the joint memorial passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49.. SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4035, having received the constitutional majority, was declared passed.

## SECOND READING



SUBSTITUTE HOUSE BILL NO. 1121, by House Committee on Children and Family Services (originally sponsored by Representatives Veloria, Cooke, Tokuda, Wolfe, Dunn and Costa)

Revising legal custody of children.

The bill was read the second time.

#### MOTION

Senator Long moved that the following Committee on Human Services and Corrections amendment be adopted:

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 13.34.030 and 1995 c 311 s 23 are each amended to read as follows:

For purposes of this chapter:

- (1) "Child" and "juvenile" means any individual under the age of eighteen years.
- (2) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until the child returns home, an adoption decree, a permanent custody order, or guardianship order is entered, or the dependency is dismissed, whichever occurs soonest. If the most recent date of removal occurred prior to the filing of a dependency petition under this chapter or after filing but prior to entry of a disposition order, such time periods shall be included when calculating the length of a child's current placement episode.
- (3) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to RCW 13.34.232 for the limited purpose of assisting the court in the supervision of the dependency.
- (4) "Dependent child" means any child:
  - (a) Who has been abandoned; that is, where the child's parent, guardian, or other custodian has expressed either by statement or conduct, an intent to forego, for an extended period, parental rights or parental responsibilities despite an ability to do so. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon;
  - (b) Who is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;
  - (c) Who has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or
  - (d) Who has a developmental disability, as defined in RCW 71A.10.020 and whose parent, guardian, or legal custodian together with the department determines that services appropriate to the child's needs can not be provided in the home. However, (a), (b), and (c) of this subsection may still be applied if other reasons for removal of the child from the home exist.
- (5) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.
- (6) "Guardian ad litem" means a person, appointed by the court to represent the best interest of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.
- (7) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.
- (8) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.
- (9) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services capable of preventing the need for out-of-home placement while protecting the child.

**Sec. 2.** RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and 1995 c 53 s 1 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030; after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

- (1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is related to the child as defined in RCW 74.15.020(4)(a) and with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

- (i) There is no parent or guardian available to care for such child;
- (ii) The parent, guardian, or legal custodian is not willing to take custody of the child;
- (iii) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or
- (iv) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the court finds it is recommended by the supervising agency, that it is in the best interests of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the child's parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

- (a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;
- (b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;
- (c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;
- (d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;
- (e) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;
- (f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim.

(3) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent living, if appropriate and if the child is age sixteen or older. Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(b) Unless the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

(ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(c) If the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.

(4) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

(5) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration and preference has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

**Sec. 3.** RCW 13.34.145 and 1995 c 311 s 20 and 1995 c 53 s 2 are each reenacted and amended to read as follows:

(1) A permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(a) Whenever a child is placed in out-of-home care pursuant to RCW 13.34.130, the agency that has custody of the child shall provide the court with a written permanency plan of care directed towards securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent living, if appropriate and if the child is age sixteen or older and the provisions of subsection (2) of this section are met.

(b) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(d) For purposes related to permanency planning:

(i) "Guardianship" means a dependency guardianship pursuant to this chapter, a legal guardianship pursuant to chapter 11.88 RCW, or equivalent laws of another state or a federally recognized Indian tribe.

(ii) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or of a federally recognized Indian tribe.

(2) Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(3)(a) For children ten and under, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree ((~~or~~), guardianship order, or permanent custody order) has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) For children over ten, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least fifteen months and an adoption decree ((~~or~~), guardianship order, or permanent custody order) has not previously been entered. The hearing shall take place no later than eighteen months following commencement of the current placement episode.

(4) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve or eighteen months, as provided in subsection (3) of this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree ((~~or~~), guardianship order, or permanent custody order) is entered, or the dependency is dismissed.

(5) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(6) At the permanency planning hearing, the court shall enter findings as required by RCW 13.34.130(5) and shall review the permanency plan prepared by the agency. If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280. If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. In cases where the primary permanency planning goal has not yet been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. In all cases, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists;

or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.130(5), and the court shall determine the need for continued intervention.

(8) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when, (a) the court has ordered implementation of a permanency plan that includes legal guardianship or permanent legal custody, and (b) the party pursuing the legal guardianship or permanent legal custody is the party identified in the permanency plan as the prospective legal guardian or custodian. During the pendency of such proceeding, juvenile court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

~~((9))~~ (10) Except as otherwise provided in RCW 13.34.235, the status of all dependent children shall continue to be reviewed by the court at least once every six months, in accordance with RCW 13.34.130(5), until the dependency is dismissed. Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

~~((10))~~ (11) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

~~((11))~~ (12) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights.

~~((12))~~ (13) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**Sec. 4.** RCW 26.10.030 and 1987 c 460 s 27 are each amended to read as follows:

(1) Except as authorized for proceedings brought under chapter 26.50 RCW in district or municipal courts, a child custody proceeding is commenced in the superior court by a person other than a parent, by filing a petition seeking custody of the child in the county where the child is permanently resident or where the child is found, but only if the child is not in the physical custody of one of its parents or if the petitioner alleges that neither parent is a suitable custodian. Prior to a child custody hearing, the court shall determine if the child is the subject of a pending dependency action.

(2) Notice of a child custody proceeding shall be given to the child's parent, guardian and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties."

Debate ensued.

The President declared the question before the Senate to be the adoption of the Committee on Human Services and Corrections striking amendment to Substitute House Bill No. 1121.

The motion by Senator Long carried and the committee striking amendment was adopted.

## MOTIONS

On motion of Senator Long, the following title amendment was adopted:

On page 1, line 1 of the title, after "children;" strike the remainder of the title and insert "amending RCW 13.34.030 and 26.10.030; and reenacting and amending RCW 13.34.130 and 13.34.145."

On motion of Senator Long, the rules were suspended, Substitute House Bill No.1121, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1121, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1121, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senators Kline and Sheldon, B. - 2.. SUBSTITUTE HOUSE BILL NO. 1121, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2293, by Representatives Sherstad, Sheahan, Costa, Scott, Dunshee, Anderson and Constantine (by request of Administrator for the Courts)

Authorizing Snohomish county to create one additional district court position.

The bill was read the second time.

## MOTION

On motion of Senator Johnson, the rules were suspended, House Bill No. 2293 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2293.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2293 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senators Deccio and Sheldon, B. - 2. HOUSE BILL NO. 2293, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6562, by Senators Schow, Heavey, Rasmussen and Anderson

Providing relief for the equine industry.

## MOTIONS

On motion of Senator Schow, Second Substitute Senate Bill No. 6562 was substituted for Senate Bill No. 6562 and the second substitute bill was placed on second reading and read the second time.

On motion of Senator Schow, the following amendments by Senators Schow, Heavey, McCaslin, Roach, Johnson, Rasmussen and Loveland were considered simultaneously and adopted:

On page 2, line 9, after "this fund" insert "and from RCW 67.16.105(4)"

On page 4, line 38, after "payment." insert "The commission shall transfer funds generated under subsection (2) of this section equal to the difference between funds collected under this subsection (3) in a calendar year and three hundred thousand dollars, and distribute that amount under this subsection (3).

(4) Beginning July 1, 1999, at the conclusion of each authorized race meet, the commission shall calculate the mathematical average daily gross receipts of parimutuel wagering that is conducted only at the physical location of the live race meet at those race meets of licensees with gross receipts of all their in-state parimutuel machines of more than fifty million dollars. Such calculation shall include only the gross parimutuel receipts from wagering occurring on live racing dates, including live racing receipts and receipts derived from one simulcast race card that is conducted only at the physical location of the live racing meet, which, for the purposes of this subsection, is "the handle." If the calculation exceeds eight hundred eighty-six thousand dollars, the licensee shall within ten days of receipt of written notification by the commission forward to the commission a sum equal to the product obtained by multiplying 0.6 percent by the handle. Sums collected by the commission under this subsection shall be forwarded on the next business day following receipt thereof to the state treasurer to be deposited in the fair fund created in section 2 of this act."

## MOTIONS

On motion of Senator Schow, the following amendment by Senators Schow, Heavey, McCaslin, West and Loveland was adopted:

On page 7, beginning on line 31, strike all material down to and including page 8, line 17.

Renumber the sections consecutively and correct any internal references accordingly.

On motion of Senator Schow, the following title amendment was adopted:

On page 1, line 6 of the title, strike "67.16.170, and 9.46.100" and insert "and 67.16.170"

## MOTION

On motion of Senator Schow, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6562 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6562.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6562 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Fairley, Hargrove, Haugen, Oke and Prentice - 5.. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6562, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2529, by House Committee on Trade and Economic Development (originally sponsored by Representatives Van Luven, Veloria, McDonald, Kenney, Tokuda, Dickerson, Mason, Kessler, Constantine, Thompson and Ogdan) (by request of Department of Community, Trade, and Economic Development)

Assisting small business exporters.

The bill was read the second time.

#### MOTIONS

On motion of Senator Schow, the following Committee on Commerce and Labor amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.210.020 and 1990 1st ex.s. c 17 s 66 are each amended to read as follows:

A nonprofit corporation, to be known as the small business export finance assistance center, and branches subject to its authority, may be formed under chapter 24.03 RCW for the following public purposes:

- (1) To assist small and medium-sized businesses in both urban and rural areas in the financing of export transactions.
- (2) To provide, singly or in conjunction with other organizations, information and assistance to these businesses about export opportunities and financing alternatives.

~~((3) To provide information to and assist those businesses interested in exporting products, including the opportunities available to them in organizing export trading companies under the United States export trading company act of 1982, for the purpose of increasing their comparative sales volume and ability to export their products to foreign markets.))~~

**Sec. 2.** RCW 43.210.030 and 1995 c 399 s 106 are each amended to read as follows:

The small business export finance assistance center and its branches shall be governed and managed by a board of ~~((nineteen))~~ seven directors appointed by the governor, with the advice of the board, and confirmed by the senate. The directors shall serve terms of ~~((six years except that two of the original directors shall serve~~

~~for two years and two of the original directors shall serve for))~~ four years following the terms of service established by the initial appointments after the effective date of this section. Three appointees, including directors on the effective date of this section who are reappointed, must serve initial terms of two years and, if a director is reappointed that director may serve a consecutive four-year term. Four appointees, including directors on the effective date of this section who are reappointed, must serve initial terms of four years and, if a director is reappointed that director may serve a consecutive four-year term. After the initial appointments, directors may serve two consecutive terms. The directors may provide for the payment of their expenses. The directors shall include ~~((a))~~ (a) the director of community, trade, and economic development or the director's designee; representatives of ~~((a not-for-profit corporation formed for the purpose of facilitating economic development, at least two representatives of state financial institutions engaged in the financing of export transactions, a representative of a port district, and a representative of organized labor. Of the remaining board members, there shall be one representative of business from the area west of Puget Sound, one representative of business from the area east of Puget Sound and west of the Cascade range, one representative of business from the~~

area east of the Cascade range and west of the Columbia river, one representative of business from the area east of the Columbia river, the director of the department of community, trade, and economic development, and the director of the department of agriculture. One of the directors shall be a representative of the public selected from the area in the state west of the Cascade mountain range and one director shall be a representative of the public selected from that area of the state east of the Cascade mountain range. One director shall be a representative of the public at large. The directors shall be broadly representative of geographic areas of the state, and the representatives of businesses shall represent at least four different industries in different sized businesses as follows: (a) One representative of a company employing fewer than one hundred persons; (b) one representative of a company employing between one hundred and five hundred persons; (c) one representative of a company employing more than five hundred persons; (d) one representative from an export management company; and (e) one representative from an agricultural or food processing company) a large financial institution engaged in financing export transactions in the state of Washington; a small financial institution engaged in financing export transactions in the state of Washington; a large exporting company domiciled in the state of Washington; a small exporting company in the state of Washington; organized labor in a trade involved in international commerce; and a representative at large. To the extent possible, appointments to the board shall reflect geographical balance and the diversity of the state population. Any vacancies on the board due to the expiration of a term or for any other reason shall be filled by appointment by the governor for the unexpired term.

**Sec. 3.** RCW 43.210.040 and 1987 c 505 s 43 are each amended to read as follows:

(1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 shall have the powers granted under chapter 24.03 RCW. In exercising such powers, the center may:

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other sources to carry out its purposes;

(b) ~~((Make loans to Washington businesses with annual sales of twenty-five million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries. Loans by the small business export finance assistance center under this chapter shall not compete with nor be a substitute for available loans by a bank or other financial institution and shall only be considered upon a financial institution's assurance that such loan is not available;~~

~~(c) Provide loan guarantees on loans made by financial institutions to businesses with annual sales of one hundred million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries;~~

~~(d) Establish and regulate the terms and conditions of any such loans and loan guarantees and charges for interest and services connected therewith;~~

~~(e)) Provide assistance to businesses with annual sales of two hundred million dollars or less in obtaining loans and guarantees of loans made by financial institutions for the purpose of financing export of goods or services from the state of Washington;~~

~~(c) Provide export ((financial)) finance and risk mitigation counseling to Washington exporters with annual sales of ((one)) two hundred million dollars or less, provided that such counseling is not practicably available from a Washington for-profit business. For such counseling, the center may charge ((such)) reasonable fees as it determines are necessary((-);~~

~~((f)) (d) Provide assistance in obtaining export credit insurance or alternate forms of foreign risk mitigation to facilitate the export of goods and services from the state of Washington;~~

~~(e) Be available as a teaching resource to both public and private sponsors of workshops and programs relating to the financing and risk mitigation aspects of exporting products and services from the state of Washington;~~

~~(f) Develop a comprehensive inventory of export-financing resources, both public and private, including information on resource applicability to specific countries and payment terms;~~

~~(g) Contract with the federal government and its agencies to become a program administrator for federally provided ((country risk)) loan guarantee and export credit insurance programs ((and for the purposes of this chapter)); and~~

~~((g)) (h) Take whatever action may be necessary to accomplish the purposes set forth in this chapter.~~

(2) The center may not use any Washington state funds or funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(3) The small business export finance assistance center shall make every effort to seek nonstate funds for its continued operation.

(4) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the small business export finance assistance center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments."

On motion of Senator Schow, the following title amendment was adopted:

On line 2 of the title, after "center;" strike the remainder of the title and insert "and amending RCW 43.210.020, 43.210.030, and 43.210.040."



#### MOTION

On motion of Senator Schow, the rules were suspended, Substitute House Bill No. 2529, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2529, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2529, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49 SUBSTITUTE HOUSE BILL NO. 2529, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION TO LIMIT DEBATE

Senator Johnson: "Mr. President, I move that the members of the Senate be allowed to speak only once and be limited to three minutes on each motion or amendment, except that the mover of the motion shall be allowed to open and close debate, and also that members be prohibited from yielding their time. This motion shall be in effect through March 12, 1998."

#### MOTION

Senator Snyder moved that the date for limited debate be amended from March 12, 1998, to March 6, 1998.

There being no objection, the motion by Senator Johnson was amended and debate will be limited through March 6, 1998.

#### SECOND READING

HOUSE BILL NO. 2534, by Representatives Parlette, Carlson, Anderson, Wensman, Alexander and Doumit

Waiving operating fees for students registered for a doctor of pharmacy.

The bill was read the second time.

#### MOTION

On motion of Senator Wood, the rules were suspended, House Bill No. 2534 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2534.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2534 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. HOUSE BILL NO. 2534, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3001, by House Committee on Commerce and Labor (originally sponsored by Representatives Honeyford, Delvin, Lisk and Cole)

Creating an exemption for wineries furnishing wine to nonprofit charitable organizations.

The bill was read the second time.

#### MOTIONS

On motion of Senator Schow, the following amendment by Senators Schow and Heavey was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 66.28.040 and 1997 c 39 s 1 are each amended to read as follows:

Except as permitted by the board under RCW 66.20.010, no brewer, wholesaler, distiller, winery, importer, rectifier, or other manufacturer of liquor shall, within the state, by himself or herself, a clerk, servant, or agent, give to any person any liquor; but nothing in this section nor in RCW 66.28.010 shall prevent a brewer, wholesaler, winery, distiller, or importer from furnishing samples of beer, wine, or spirituous liquor to authorized licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210, and in the case of spirituous liquor, any product used for samples must be purchased at retail from the board; nothing in this section shall prevent the furnishing of samples of liquor to the board for the purpose of negotiating the sale of liquor to the state liquor control board; nothing in this section shall prevent a brewery, winery, distillery, or wholesaler from furnishing beer, wine, or spirituous liquor for instructional purposes under RCW 66.28.150 and 66.28.155; nothing in this section shall prevent a winery or wholesaler from furnishing wine without charge, subject to the taxes imposed by RCW 66.24.210, to a not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and ~~((any)) that uses~~ wine so furnished ~~((shall be used))~~ solely for such educational purposes~~((, provided that the wine furnished shall be subject to the taxes imposed by RCW 66.24.210))~~ or a domestic winery from furnishing wine without charge or a domestic brewery from furnishing beer without charge, subject to the taxes imposed by RCW 66.24.210 or 66.24.290, to a nonprofit charitable corporation or association exempt from taxation under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) or to a nonprofit entity exempt from taxation under section 501(c)(6) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(6)) for use consistent with the purpose or purposes entitling it to such exemption; nothing in this section shall prevent a brewer from serving beer without charge, on the brewery premises; nothing in this section shall prevent donations of wine for the purposes of RCW 66.12.180; and nothing in this section shall prevent a domestic winery from serving wine without charge, on the winery premises."

On motion of Senator Schow, the following title amendment was adopted:

On page 1, line 2 of the title, after "organizations;" strike the remainder of the title and insert "and amending RCW 66.28.040."

#### MOTION

On motion of Senator Schow, the rules were suspended, Substitute House Bill No. 3001, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3001, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3001, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Voting nay: Senator Oke - 1. SUBSTITUTE HOUSE BILL NO. 3001, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6187, by Senators Stevens, Oke, Schow, Benton, Zarelli and Swecker

Adding penalties for alcohol offenders.

#### POINT OF ORDER

Senator Betti Sheldon: "I would like to raise a point of order. I believe that considering Senate Bill No. 6187 is a violation of Senate Concurrent Resolution No. 8423. Tuesday, February 17, the thirty-seventh day of this session, was the cutoff for consideration of bills in their house of origin. This is now the fifty-first day of the session and I would argue that considering Senate Bill No. 6187 is a violation of that cutoff resolution, unless both houses of the Legislature amend Senate Concurrent Resolution No. 8423."

Debate ensued.

#### RULING BY THE PRESIDENT

President Owen: "The President believes that Senate Bill No. 6187 is a matter that is necessary to implement the budget. Therefore, it is appropriate before us and the point of order is not well taken."

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6187 was substituted for Senate Bill No. 6187 and the substitute bill was placed on second reading and read the second time.

Senator Roach moved that the following amendment by Senator Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.117 and 1993 c 452 s 3 are each amended to read as follows:

(1) The department shall issue "identicards," containing a picture, to nondrivers for a fee of four dollars. However, the fee shall be the actual cost of production to recipients of continuing public assistance grants under Title 74 RCW who are referred in writing to the department by the secretary of social and health services. The fee shall be deposited in the highway safety fund. To be eligible, each applicant shall produce evidence as required in RCW 46.20.035 that positively proves identity. The "identicard" shall be distinctly designed so that it will not be confused with the official driver's license. The identicard shall expire on the fifth anniversary of the applicant's birthdate after issuance.

(2) The department may cancel an "identicard" upon a showing by its records or other evidence that the holder of such "identicard" has committed a violation relating to "identicards" defined in RCW 46.20.336.

(3) The department shall cancel an "identicard" upon a showing by its records or other evidence that the holder of the identicard has been convicted of a violation of RCW 46.61.502 or 46.61.504. To obtain an identicard within five years of the conviction, the person must reapply and pay the normal fee.

The department shall clearly mark an identicard issued under this subsection to indicate that the person has been convicted of driving under the influence of alcohol or drugs within the last five years.

**Sec. 2.** RCW 46.20.120 and 1990 c 9 s 1 are each amended to read as follows:

No new driver's license may be issued and no previously issued license may be renewed until the applicant therefor has successfully passed a driver licensing examination. However, the department may waive all or any part of the examination of any person applying for the renewal of a driver's license except when the department determines that an applicant for a driver's license is not qualified to hold a driver's license under this title. The department may also waive the actual demonstration of the ability to operate a motor vehicle by a person who surrenders a valid driver's license issued by the person's previous home state and who is otherwise qualified to be licensed. The department may not waive any part of the examination for a person whose license has been suspended or revoked within the last five years for conviction of a violation of RCW 46.61.502 or 46.61.504, but shall require the person to successfully complete all parts of the examination. For a new license examination a fee of seven dollars shall be paid by each applicant, in addition to the fee charged for issuance of the license. A new license is one issued to a driver who has not been previously licensed in this state or to a driver whose last previous Washington license has been expired for more than four years.

Any person renewing his or her driver's license more than sixty days after the license has expired shall pay a penalty fee of ten dollars in addition to the renewal fee under RCW 46.20.181. The penalty fee shall be deposited in the highway safety fund.

Any person who is outside the state at the time his or her driver's license expires or who is unable to renew the license due to any incapacity may renew the license within sixty days after returning to this state or within sixty days after the termination of any such incapacity without the payment of the penalty fee.

The department shall provide for giving examinations at places and times reasonably available to the people of this state.

**Sec. 3.** RCW 46.20.311 and 1997 c 58 s 807 are each amended to read as follows:

(1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as specifically permitted under RCW 46.20.342 or other provision of law. Except for a suspension under RCW 46.20.289, 46.20.291(5), or 74.20A.320, whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified. Whenever the license or driving privilege of any person is suspended as a result of certification of noncompliance with a child support order under chapter 74.20A RCW or a residential or visitation order, the suspension shall remain in effect until the person provides a release issued by the department of social and health services stating that the person is in compliance with the order. The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of twenty dollars. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, or is the result of administrative action under RCW 46.20.308, the reissue fee shall be ~~((fifty))~~ the normal driver's license fee plus an additional three hundred dollars.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (a) After the expiration of one year from the date the license or privilege to drive was revoked; (b) after the expiration of the applicable revocation period provided by RCW 46.20.3101 or 46.61.5055; (c) after the expiration of two years for persons convicted of vehicular homicide; or (d) after the expiration of the applicable revocation period provided by RCW 46.20.265. After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of twenty dollars, but if the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be ~~((fifty))~~ the normal driver's license fee plus an additional three hundred dollars. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reissuance of a license, permit, or privilege to drive until enrollment and participation in an approved program has been established and the person is otherwise qualified. Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of twenty dollars. If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (a) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (b) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be ~~((fifty))~~ the normal driver's license fee plus an additional three hundred dollars.

(4) The department shall clearly mark a driver's license reissued under this section that had been suspended or revoked for a violation of RCW 46.61.502 or 46.61.504 or an equivalent violation under the laws of another state, province, or other jurisdiction to indicate that the person has been convicted of such a violation within the last five years or has been administratively suspended under RCW 46.20.308. The department shall continue to so mark any driver's license it issues to that person for five years.

**Sec. 4.** RCW 46.20.391 and 1995 c 332 s 12 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide or vehicular assault, may submit to the department an application for an occupational driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is engaged in an occupation or trade that makes it essential that the petitioner operate a motor vehicle, may issue an occupational driver's license and may set definite restrictions as provided in RCW 46.20.394. No person may petition for, and the department shall not issue, an occupational driver's license that is effective during the first thirty days of any suspension or revocation imposed for a violation of RCW 46.61.502 or 46.61.504. A person aggrieved by the decision of the department on the application for an occupational driver's license may request a hearing as provided by rule of the department.

(2) An applicant for an occupational driver's license is eligible to receive such license only if:

(a) Within one year immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not committed any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory; and

(b) Within five years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed any of the following offenses: (i) Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor; (ii) vehicular homicide under RCW 46.61.520; or (iii) vehicular assault under RCW 46.61.522; and

(c) The applicant is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle; and

(d) The applicant files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

(3) The director shall cancel an occupational driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense that pursuant to chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

(4) The department may issue an occupational driver's license to a person convicted of a violation of RCW 46.61.502 or 46.61.504 only if the person has successfully completed all parts of the driver's license examination in accordance with RCW 46.20.120 and has paid a fee of three hundred dollars in addition to any fee required elsewhere.

The department shall clearly mark an occupational driver's license issued under this subsection to indicate that the person's regular license was suspended or revoked for a violation of RCW 46.61.502 or 46.61.504 or an equivalent violation under the laws of another state, province, or other jurisdiction. The department shall continue to so mark any driver's license it issues to that person for five years after a conviction under RCW 46.61.502 or 46.61.504.

**NEW SECTION. Sec. 5.** A new section is added to chapter 46.68 RCW to read as follows:

The impaired driving safety account is created in the custody of the state treasurer. All receipts from fees collected under RCW 46.20.311 (1), (2), and (3) and 46.20.391(4) shall be deposited in the account. Expenditures from this account may be used only to fund projects to reduce impaired driving and to provide funding to local governments for costs associated with enforcing laws relating to driving and boating while under the influence of intoxicating liquor or any drug. The account is subject to allotment procedures under chapter 43.88 RCW. Moneys in the account may be spent only after appropriation.

**Sec. 6.** RCW 46.68.041 and 1995 2nd sp.s. c 3 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the department shall forward all funds accruing under the provisions of chapter 46.20 RCW together with a proper identifying, detailed report to the state treasurer who shall deposit such moneys to the credit of the highway safety fund.

(2) Seventy-five percent of each fee collected by the department under RCW 46.20.311 (1), (2), and (3) and 46.20.391(4) shall be deposited in the impaired driving safety account.

**NEW SECTION. Sec. 7. FOR THE STATE TREASURER--FOR TRANSFER TO THE COUNTY CRIMINAL JUSTICE ASSISTANCE ACCOUNT**

Impaired Driving Account Appropriation \$

1,500,000

This funding is provided during the biennium ending June 30, 1999, to reimburse county governments for the costs of implementing legislation passed during the 1998 legislative session related to driving or boating while under the influence of intoxicating liquor or any drug. The amount appropriated under this section shall be distributed to counties in accordance with RCW 82.14.310.

**NEW SECTION. Sec. 8. FOR THE STATE TREASURER--FOR TRANSFER TO THE MUNICIPAL CRIMINAL JUSTICE ASSISTANCE ACCOUNT**

Impaired Driving Account Appropriation \$

1,000,000

This funding is provided during the biennium ending June 30, 1999, to reimburse city governments for the costs of implementing legislation passed during the 1998 legislative session related to driving or boating while under the influence of intoxicating liquor or any drug. The amount appropriated under this section shall be distributed to cities in accordance with RCW 82.14.320.

**Sec. 9.** 1997 c 454 s 801 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance  
premiums distribution \$

6,617,250

General Fund Appropriation for public utility  
district excise tax distribution \$

35,183,803

General Fund Appropriation for prosecuting  
attorneys salaries \$

2,960,000

General Fund Appropriation for motor vehicle  
excise tax distribution \$

84,721,573

General Fund Appropriation for local mass transit

assistance \$	383,208,166
General Fund Appropriation for camper and travel trailer excise tax distribution \$	3,904,937
General Fund Appropriation for boating safety/education and law enforcement distribution \$	3,616,000
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution \$	142,000
Liquor Excise Tax Account Appropriation for liquor excise tax distribution \$	22,287,746
Liquor Revolving Fund Appropriation for liquor profits distribution \$	36,989,000
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties \$	107,146,000
Municipal Sales and Use Tax Equalization Account Appropriation \$	66,860,014
County Sales and Use Tax Equalization Account Appropriation \$	11,843,224
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies \$	1,266,000
County Criminal Justice Account Appropriation \$	<del>((80,634,471))</del>
	<u>82,134,471</u>
Municipal Criminal Justice Account Appropriation \$	<del>((32,042,450))</del>
	<u>33,042,450</u>
County Public Health Account Appropriation \$	<del>((43,773,588))</del>
	<u>43,854,588</u>
TOTAL APPROPRIATION \$	<del>((923,196,222))</del>

925,777,222

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes."

MOTION

Senator Fairley moved that the following amendments to the striking amendment by Senator Stevens be considered simultaneously and be adopted:

On page 1, line 29 of the amendment, after "shall" strike "clearly" and insert "obliquely"

On page 4, line 26 of the amendment, after "shall" strike "clearly" and insert "obliquely"

On page 6, line 3 of the amendment, after "shall" strike "clearly" and insert "obliquely"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Fairley on page 1, line 29; page 4, line 26; and page 6, line 3, to the striking amendment by Senator Stevens to Substitute Senate Bill No. 6187.

The motion by Senator Fairley carried and the amendments to the striking amendment were adopted.

#### MOTION

On motion of Senator Haugen, the following amendment by Senators Haugen and West to the striking by Senator Stevens to Substitute Senate Bill No. 6187 was adopted:

On page 8, after line 26 of the amendment, insert the following:

"**NEW SECTION. Sec. 7.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Stevens, as amended, to Substitute Senate Bill No. 6187.

The motion by Senator Roach carried and the striking amendment by Senator Stevens, as amended was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On page 1, line 1 of the title, after "alcohol;" strike the remainder of the title and insert "amending RCW 46.20.117, 46.20.120, 46.20.311, 46.20.391, and 46.68.041; adding a new section to chapter 46.68 RCW; prescribing penalties; and making appropriations."

On page 8, line 33 of the title amendment, after "RCW;" insert "creating a new section;"

On motion of Senator Roach, the rules were suspended, Engrossed Substitute Senate Bill No. 6187 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6187.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6187 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 36. Voting nay: Senators Brown, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Newhouse, Prentice, Sheldon, B., Spanel, Thibaudeau and Wojahn - 13. ENGROSSED SUBSTITUTE SENATE BILL NO. 6187, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2907, by Representatives Sheahan, Robertson, Dunshee, Mason and Lantz

Clarifying the process of appealing small claims cases.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 2907 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2907.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2907 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. HOUSE BILL NO. 2907, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3096, by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives Zellinsky and L. Thomas)

Declaring the state's preemption of excise or privilege taxes on health care services.

The bill was read the second time.

#### MOTIONS

On motion of Senator Winsley, the following Committee on Financial Institutions, Insurance and Housing amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.14.0201 and 1997 c 154 s 1 are each amended to read as follows:

(1) As used in this section, "taxpayer" means a health maintenance organization, as defined in RCW 48.46.020, or a health care service contractor, as defined in RCW 48.44.010.

(2) Each taxpayer shall pay a tax on or before the first day of March of each year to the state treasurer through the insurance commissioner's office. The tax shall be equal to the total amount of all premiums and prepayments for health care services received by the taxpayer during the preceding calendar year multiplied by the rate of two percent.

(3) Taxpayers shall prepay their tax obligations under this section. The minimum amount of the prepayments shall be percentages of the taxpayer's tax obligation for the preceding calendar year recomputed using the rate in effect for the current year. For the prepayment of taxes due during the first calendar year, the minimum amount of the prepayments shall be percentages of the taxpayer's tax obligation that would have been due had the tax been in effect during the previous calendar year. The tax prepayments shall be paid to the state treasurer through the commissioner's office by the due dates and in the following amounts:

(a) On or before June 15, forty-five percent;

(b) On or before September 15, twenty-five percent;

(c) On or before December 15, twenty-five percent.

(4) For good cause demonstrated in writing, the commissioner may approve an amount smaller than the preceding calendar year's tax obligation as recomputed for calculating the health maintenance organization's, health care service contractor's, or certified health plan's prepayment obligations for the current tax year.

(5) Moneys collected under this section shall be deposited in the general fund through March 31, 1996, and in the health services account under RCW 43.72.900 after March 31, 1996.

(6) The taxes imposed in this section do not apply to:

(a) Amounts received by any taxpayer from the United States or any instrumentality thereof as prepayments for health care services provided under Title XVIII (medicare) of the federal social security act.

(b) Amounts received by any health care service contractor, as defined in RCW 48.44.010, as prepayments for health care services included within the definition of practice of dentistry under RCW 18.32.020.



(7) Beginning January 1, 2000, the state does hereby preempt the field of imposing excise or privilege taxes upon taxpayers and no county, city, town, or other municipal subdivision shall have the right to impose any such taxes upon such taxpayers. This subsection shall be limited to premiums and payments for health benefit plans offered by health care service contractors under chapter 48.44 RCW and health maintenance organizations under chapter 48.46 RCW. The preemption authorized by this subsection shall not impair the ability of a county, city, town, or other municipal subdivision to impose excise or privilege taxes upon the health care services directly delivered by the employees of a health maintenance organization under chapter 48.46 RCW.

On motion of Senator Winsley, the following title amendment was adopted:

On page 1, line 3 of the title, after "contractors;" strike the remainder of the title and insert "and amending RCW 48.14.0201."

#### MOTION

On motion of Senator Winsley, the rules were suspended, Substitute House Bill No. 3096, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Wojahn: "Senator Winsley, why did the Association of Washington Cities oppose this bill? Do you know?"

Senator Winsley: "Well, this B&O tax is being collected in Seattle, primarily. I suppose because Seattle is a member of the Association of Washington Cities, they are protecting one of their entities."

Senator Wojahn: "Thank you. I think that Tacoma also opposes this bill."

Senator Winsley: "In a very limited manner."

Senator Wojahn: "One more question. By preempting the cities from collecting this tax, doesn't that mean that the state could eventually come by and pick it up? Then, we wouldn't save anything. We would just be the state collecting money that normally went to the cities."

Senator Winsley: "Well, I don't know how the state would pick it up."

Senator Wojahn: "Well, if they preempt the cities--"

Senator Winsley: "This is a B&O tax and, you know, it is a local B&O tax. It is not the state's B&O tax. This is over and above the state B&O tax--the ability that local governments have. Some cities do have a B&O tax and they put it on everything and some have limited entities that they tax. I guess it is whether we want to look at health maintenance organizations as providing the same services that other insurers provide and in one case one is exempt and in another case, the other isn't.

"What this bill does is, it makes them all exempt and treats them like insurers. It is not a lot of money in any case. With our amendment, probably to Group Health, it is probably less than four hundred thousand dollars, I mean to the city of Seattle, if they collect from all in that entity. The one point five that you are looking at in the book is taking Blue Cross, Group Health and all the health maintenance organizations and adding them together. But, I think with my exemption that figure will be much lower, because we clarified that doctors working--salaried doctors--we are not going out--they will still have to pay B&O. The organization, itself, as an entity will not pay the local B&O."

Further debate ensued.

#### POINT OF INQUIRY

Senator Franklin: "Senator Winsley, my question is one in regards to these two entities, a HMO plus the indemnity insurance, which are clearly different. They are two different entities. Since there has been a long years standing of exempting indemnity insurance, why do we now come to HMOs, which is really treated differently and is this then your belief or has it been demonstrated that with this reduction, it really is going to pass on to the consumer into a lower health care cost or lower premium?"

Senator Winsley: "Well, I hope I can remember all the details to your question, but let me just say, because I think I forgot, whether you are an indemnity insurer or a health maintenance organization, you pay the insurance premium tax. So, in that aspect, the playing field is equal. They all pay the insurance premium tax. What is not equal, because of an exemption put in the law several years ago, is the B&O tax. The insurance companies pay this premium tax, but they do not pay a B&O, but local governments--they didn't have an exemption in statute. The local governments, in some entities, have gone after HMOs and are applying the B&O tax, so they have double taxation. In that aspect, because they paid premium and they paid B&O, but the indemnity companies do not. They just paid the premium. As you know, they tax someone and they add whatever the amount is, it is the rate payers, in essence, that are going to pay a higher rate."

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3096, as amended by the Senate..

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3096, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 44. Voting nay: Senators Brown, Franklin, Loveland, Thibaudeau and Wojahn - 5. SUBSTITUTE HOUSE BILL NO. 3096, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1750, by House Committee on Government Administration (originally sponsored by Representatives D. Sommers, Sterk and Sheldon)

Protecting existing functional mobile home park septic systems.

The bill was read the second time.

#### MOTIONS

On motion of Senator Winsley, the following Committee on Financial Institutions, Insurance and Housing amendment was adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 35.67 RCW to read as follows:

Cities, towns, or counties may not require existing mobile home parks to replace existing, functional septic systems with a sewer system within the community unless the local board of health determines that the septic system is failing."

On motion of Senator Winsley, the following title amendment was adopted:

On page 1, line 1 of the title, after "systems;" strike the remainder of the title and insert "and adding a new section to chapter 35.67 RCW."

#### MOTION

On motion of Senator Winsley, the rules were suspended, Substitute House Bill No. 1750, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1750, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1750, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE HOUSE BILL NO. 1750, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2346, by House Committee on Select Vendor Committee (originally sponsored by Representatives Clements, Scott, Dickerson, Gardner, Hatfield, Anderson, Dyer, Thompson, O'Brien, Boldt, Skinner, D. Schmidt, Mulliken and Backlund) (by request of Department of Social and Health Services)

Allowing the department of social and health services to recover revenue from vendors that have been overpaid.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, Engrossed Substitute House Bill No. 2346 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2346.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2346 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Sellar - 1. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2346, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2819, by House Committee on Natural Resources (originally sponsored by Representatives Buck, Regala and Chandler) (by request of Department of Fish and Wildlife)

Requiring display of a vehicle use permit while using department of fish and wildlife improved access facilities.

The bill was read the second time.

#### MOTIONS

On motion of Senator Oke, the following Committee on Natural Resources and Parks amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.32.380 and 1993 sp.s. c 2 s 77 are each amended to read as follows:

(1) Persons ((~~sixteen years of age or older~~)) who enter upon or use clearly identified department ((~~lands and~~)) improved access facilities ((~~are~~)) with a motor vehicle may be required to ((~~possess a conservation license or a hunting, fishing, trapping, or free license on their person while using the facilities~~)) display a current annual fish and wildlife lands vehicle use permit on the motor vehicle while within or while using an improved access facility. An "improved access facility" is a clearly identified area specifically created for motor vehicle parking, and includes any boat launch or boat ramp associated with the parking area, but does not include the department parking facilities at the Gorge Concert Center near George, Washington. The vehicle use permit is issued in the form of a decal. One decal shall be issued at no charge with each annual saltwater, freshwater, combination, small game hunting, big game hunting, and trapping license issued by the department. The annual fee for ((~~this license~~)) a fish and wildlife lands vehicle use permit, if purchased separately, is ten dollars ((~~annually~~)). A person to whom the department has issued a decal or who has purchased a vehicle use permit separately may purchase a decal from the department for each additional vehicle owned by the person at a cost of five dollars per decal upon a showing of proof to the department that the person owns the additional vehicle or vehicles. Revenue derived from the sale of fish and wildlife lands vehicle use permits shall be used solely for the stewardship and maintenance of department improved access facilities. Revenue derived from the sale of fish and wildlife lands vehicle use permits shall be used solely for the stewardship and maintenance of department improved access facilities.

~~((The spouse, all children under eighteen years of age, and guests under eighteen years of age of the holder of a valid conservation license may use department lands and access facilities when accompanied by the license holder.))~~

Youth groups may use department ~~((lands and game))~~ improved access facilities without possessing a ~~((conservation license))~~ vehicle use permit when accompanied by a ~~((license))~~ vehicle use permit holder.

The department may accept contributions into the state wildlife fund for the sound stewardship of fish and wildlife. Contributors shall be known as "conservation patrons" and, for contributions of twenty dollars or more, shall receive a fish and wildlife lands vehicle use permit free of charge.

~~((The conservation license is nontransferable and must be validated by the signature of the holder. Upon request of a wildlife agent or ex-officio wildlife agent a person using clearly identified department lands shall exhibit the required license.))~~

(2) The decal must be affixed in a permanent manner to the motor vehicle before entering upon or using the motor vehicle on a department improved access facility, and must be displayed on the rear window of the motor vehicle, or, if the motor vehicle does not have a rear window, on the rear of the motor vehicle.

(3) Failure to display the fish and wildlife lands vehicle use permit if required by this section is an infraction under chapter 7.84 RCW, and department employees are authorized to issue a notice of infraction to the registered owner of any motor vehicle entering upon or using a department improved access facility without such a decal. The penalty for failure to display or improper display of the decal is sixty-six dollars.

**Sec. 2.** RCW 77.12.170 and 1996 c 101 s 7 are each amended to read as follows:

(1) There is established in the state treasury the state wildlife fund which consists of moneys received from:

- (a) Rentals or concessions of the department;
- (b) The sale of real or personal property held for department purposes;
- (c) The sale of licenses, permits, tags, stamps, and punchcards required by this title;
- (d) Fees for informational materials published by the department;
- (e) Fees for personalized vehicle license plates as provided in chapter 46.16 RCW;
- (f) Articles or wildlife sold by the director under this title;
- (g) Compensation for wildlife losses or contributions, gifts, or grants received under RCW 77.12.320 or 77.32.380;
- (h) Excise tax on anadromous game fish collected under chapter 82.27 RCW;
- (i) The sale of personal property seized by the department for wildlife violations; and
- (j) The department's share of revenues from auctions and raffles authorized by the commission.

(2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the state wildlife fund.

**NEW SECTION. Sec. 3.** This act takes effect January 1, 1999."

On motion of Senator Oke, the following title amendment was adopted:

On page 1, line 2 of the title, after "lands;" strike the remainder of the title and insert "amending RCW 77.32.380 and 77.12.170; prescribing penalties; and providing an effective date."

#### MOTION

On motion of Senator Oke, the rules were suspended, Engrossed Substitute House Bill No. 2819, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senators Wood and Strannigan were excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2819, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2819, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 46. Absent: Senator Sellar - 1. Excused: Senators Strannigan and Wood - 2. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2819, as amended by the Senate, having

received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator McDonald was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1829, by House Committee on Commerce and Labor (originally sponsored by Representative Van Luven)

Requiring a record of transaction for trade-in or exchange of computer hardware.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the following amendments were considered simultaneously and were adopted:

On page 2, line 37, after "of" strike "1997" and insert "1998"

On page 2, after line 37, insert the following:

"**NEW SECTION. Sec. 4.** Sections 1 through 3 of this act do not apply to trade-in or exchange of computers, or computer hardware, between consumers and retailers, or their branch facilities, when the computer or computer hardware was originally purchased from that same retailer."

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 3, line 1, after "through" strike "3" and insert "4"

#### MOTION

On motion of Senator Schow, the rules were suspended, Substitute House Bill No. 1829, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1829, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1829, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 39. Voting nay: Senators Benton, Finkbeiner, Hochstatter, Patterson, Roach, Rossi, Stevens and Zarelli - 8. Excused: Senators McDonald and Strannigan - 2. SUBSTITUTE HOUSE BILL NO. 1829, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2357, by Representatives L. Thomas, Wolfe, Smith, Grant, DeBolt, Keiser and D. Sommers

Setting the rates of interest and other fees charged by pawnbrokers.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, House Bill No. 2357 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2357.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2357 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 14; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fraser, Goings, Hale, Hargrove, Hochstatter, Horn, Johnson, Kline, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Swecker, West, Winsley, Wood and Zarelli - 33. Voting nay: Senators Brown, Fairley, Finkbeiner, Franklin, Haugen, Heavey, Jacobsen, Kohl, Loveland, Patterson, Snyder, Spanel, Thibaudeau and Wojahn - 14. Excused: Senators McDonald and Strannigan - 2. HOUSE BILL NO. 2357, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2576, by House Committee on Commerce and Labor (originally sponsored by Representatives Honeyford, Hatfield, Mulliken, Grant, Conway, O'Brien, Bush, Boldt, Mielke, Delvin, Backlund, Ogden and Koster)

Negotiating land transfers involving manufactured or mobile homes.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, Substitute House Bill No. 2576 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2576.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2576 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 46. Voting nay: Senator Wojahn - 1. Excused: Senators McDonald and Strannigan - 2. SUBSTITUTE HOUSE BILL NO. 2576, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2900, by House Committee on Children and family Services (originally sponsored by Representatives Cooke, Ballasiotes, McDonald, Boldt and Mitchell)

Providing for pro rata calculation of temporary assistance for needy families grants.

The bill was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Engrossed Substitute House Bill No. 2900 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2900.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2900 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McDonald and Strannigan - 2. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2900, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

President Pro Tempore Newhouse assumed the Chair.

#### MOTION

On motion of Senator Goings, Senators Haugen and Patterson were excused.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2901, by House Committee on Children and Family Services (originally sponsored by Representatives Cooke, Tokuda, Ballasiotes, Carrell, O'Brien, McDonald, B. Thomas and Boldt)

Requiring a WorkFirst job search component.

The bill was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Engrossed Substitute House Bill No. 2901 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2901.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2901 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Haugen, McDonald, Patterson and Strannigan - 4. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2901, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2965, by Representatives Ballasiotes, Costa, Hatfield, Linville and McDonald (by request of Department of Labor and Industries)

Revising provisions for crime victims' compensation.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 2965 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 2965.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2965 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Haugen, McDonald, Patterson and Strannigan - 4. HOUSE BILL NO. 2965, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator McCaslin, Senator Deccio was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2998, by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Costa and K. Schmidt)

Regulating privately owned semiautomatic external defibrillators.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 2998 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2998.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2998 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 2; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 42. Absent: Senators Finkbeiner and Kohl - 2. Excused: Senators Deccio, Haugen, McDonald, Patterson and Strannigan - 5. SUBSTITUTE HOUSE BILL NO. 2998, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President Pro Tempore returned the Senate to the fourth order of business.



MESSAGE FROM THE HOUSE

March 3, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED HOUSE BILL NO. 1042,  
ENGROSSED HOUSE BILL NO. 2410,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2947, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

There being no objection, the President Pro Tempore advanced the Senate to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

EHB 1042 by Representatives Dyer, B. Thomas, Dunshee, Robertson, Grant, Thompson, Smith and Mielke

Changing the taxation of dental appliances, devices, restorations, and substitutes.

Referred to Committee on Ways and Means.

EHB 2410 by Representative Dyer

Establishing the department of social and health services as the sole administrator for boarding homes.

Referred to Committee on Health and Long-Term Care.

ESHB 2947 by House Committee on Commerce and Labor (originally sponsored by Representatives McMorris, Conway, Carlson, Kenney, Costa, Wood, Ogden and Gardner) (by request of Employment Security Department)

Revising unemployment compensation for part-time faculty.

Referred to Committee on Commerce and Labor.

MOTION

On motion of Senator Johnson, the Senate advanced to the sixth order of business.

SECOND READING

HOUSE BILL NO. 3103, by Representatives Dickerson, Cooke, Tokuda, Keiser, Ogden, Costa and Boldt

Requiring newborn screening for exposure to harmful drugs.

The bill was read the second time.

MOTION

On motion of Senator Johnson, the rules were suspended, House Bill No. 3103 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 3103.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3103 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Finkbeiner - 1. Excused: Senators Haugen, McDonald and Patterson - 3. HOUSE BILL NO. 3103, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Swecker, Senator Schow was excused.

#### SECOND READING

HOUSE JOINT MEMORIAL NO. 4030, by Representatives Backlund, Cody, Dyer, Lambert, Carrell, Koster, Zellinsky, Sherstad and Anderson

Petitioning for Medicaid flexibility.

The joint memorial was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, House Joint Memorial No. 4030 was advanced to third reading, the second reading considered the third and the joint memorial was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Joint Memorial No. 4030.

#### ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4030 and the joint memorial passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 42. Voting nay: Senators Franklin, Prentice and Wojahn - 3. Excused: Senators Haugen, McDonald, Patterson and Schow - 4. HOUSE JOINT MEMORIAL NO. 4030, having received the constitutional majority, was declared passed.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2611, by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives Keiser, Wolfe, Benson, Gardner and Dickerson)

Regulating mortgage insurance.

The bill was read the second time.

#### MOTIONS

On motion of Senator Winsley, the following Committee on Financial Institutions, Insurance and Housing amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** As used in this chapter:

(1) "Institutional third party" means the federal national mortgage association, the federal home loan mortgage corporation, the government national mortgage association, and other substantially similar institutions, whether public or private, provided the institutions establish and adhere to rules applicable to the right of cancellation of mortgage insurance, which are the same or substantially the same as those utilized by the institutions named in this subsection.

(2) "Mortgage insurance" means insurance, including mortgage guarantee insurance, against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid in a residential mortgage transaction.

(3) "Residential mortgage transaction" means entering into a loan for personal, family, household, or purchase money purposes that is secured by a deed of trust or mortgage on owner-occupied, one-to-four unit, residential real property located in the state of Washington.

**NEW SECTION. Sec. 2.** (1) If a borrower is required to obtain and maintain mortgage insurance as a condition of entering into a residential mortgage transaction, the lender shall disclose to the borrower whether and under what conditions the borrower has the right to cancel the mortgage insurance in the future. This disclosure shall include:

(a) Any identifying loan or insurance information, or other information, necessary to permit the borrower to communicate with the servicer or lender concerning the private mortgage insurance;

(b) The conditions that are required to be satisfied before the mortgage insurance may be canceled; and

(c) The procedures required to be followed by the borrower to cancel the mortgage insurance.

The disclosure required in this subsection shall be made in writing at the time the transaction is entered into.

(2) For residential mortgage transactions with mortgage insurance, the lender, or the person servicing the residential mortgage transaction if it is not the lender, annually shall provide the borrower with:

(a) A notice containing the same information as required to be disclosed under subsection (1) of this section; or

(b) A statement indicating that the borrower may be able to cancel the mortgage insurance and that the borrower may contact the lender or loan servicer at a designated address and phone number to find out whether the insurance can be canceled and the conditions and procedures to effect cancellation.

The notice or statement required by this subsection shall be provided in writing in a clear and conspicuous manner in or with each annual statement of account. (3) The notices and statements required in this section shall be provided without cost to the borrower.

(4) Any borrower in a residential mortgage transaction who is harmed by a violation of this section may obtain injunctive relief, may recover from the party who caused such harm by failure to comply with this section up to three times the amount of mortgage insurance premiums wrongly collected, and may recover reasonable attorneys' fees and costs of such action.

(5) This section does not apply to any mortgage funded with bond proceeds issued under an indenture requiring mortgage insurance for the life of the loan or to loans insured by the federal housing administration or the veterans administration.

(6) Subsection (1) of this section applies to residential mortgage transactions entered into on or after July 1, 1998. Subsection (2) of this section applies to any residential mortgage transaction existing on the effective date of this section or entered into on or after the effective date of this section.

(7) A lender or person servicing a residential mortgage transaction who complies with federal requirements, as now or hereafter enacted, prescribing mortgage insurance disclosures and notifications shall be deemed in compliance with this section.

**NEW SECTION. Sec. 3.** (1) Except when a statute, regulation, rule, or written guideline promulgated by an institutional third party applicable to a residential mortgage transaction purchased in whole or in part by an institutional third party specifically prohibits cancellation during the term of indebtedness, the lender or servicer of a residential mortgage transaction may not charge or collect future payments from a borrower for mortgage insurance, and the borrower is not obligated to make such payments, if all of the following conditions are satisfied:

(a) The borrower makes a written request to terminate the obligation to make future payments for mortgage insurance;

(b) The residential mortgage transaction is at least two years old;

(c) The outstanding principal balance of the residential loan is not greater than eighty percent of the current fair market value of the property and is:

(i) For loans made for the purchase of the property, less than eighty percent of the lesser of the sales price or the appraised value at the time the transaction is entered into; or

(ii) For all other residential mortgage transactions, less than eighty percent of the appraised value at the time the residential loan transaction was entered into.

The lender or servicer may request that a current appraisal be done to verify the outstanding principal balance is less than eighty percent of the current fair market value of the property; unless otherwise agreed to in writing, the lender or servicer selects the appraiser and splits the cost with the borrower;

(d) The borrower's scheduled payment of monthly installments or principal, interest, and any escrow obligations is current at the time the borrower requests termination of his or her obligation to continue to pay for mortgage insurance, those installments have not been more than thirty days late in the last twelve months, and the borrower has not been assessed more than one late penalty over the past twelve months;

(e) A notice of default has not been recorded against the property as the result of a nonmonetary default in the previous twelve months.

(2) This section applies to residential mortgage transactions entered into on or after July 1, 1998.

(3) This section does not apply to:

(a) Any residential mortgage transaction that is funded in whole or in part pursuant to authority granted by statute, regulation, or rule that, as a condition of that funding, prohibits or limits termination of payments for mortgage insurance during the term of the indebtedness; or

(b) Any mortgage funded with bond proceeds issued under an indenture requiring mortgage insurance for the life of the loan.

(4) If the residential mortgage transaction will be or has been sold in whole or in part to an institutional third party, adherence to the institutional third party's standards for termination of future payments for mortgage insurance shall be deemed in compliance with this section.

(5) A lender or person servicing a residential mortgage transaction who complies with federal requirements, as now or hereafter enacted, governing the cancellation of mortgage insurance shall be deemed in compliance with this section.

NEW SECTION. Sec. 4. On or after July 1, 1998, no borrower entering into a residential mortgage transaction in which the principal amount of the loan is less than eighty percent of the fair market value of the property shall be required to obtain mortgage insurance. Fair market value for a purchase money loan is the lesser of the sales price or the appraised value. This section shall not apply to residential mortgage transactions in an amount in excess of the maximum limits established by institutional third parties where the borrower and the lender have agreed in writing to mortgage insurance.

A lender or person servicing a residential mortgage transaction who complies with federal requirements, as now or hereafter enacted, governing the requirement of obtaining mortgage insurance shall be deemed in compliance with this section.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. This act takes effect July 1, 1998.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act constitute a new chapter in Title 61 RCW."

On motion of Senator Winsley, the following title amendment was adopted:

On page 1, line 1 of the title, after "insurance;" strike the remainder of the title and insert "adding a new chapter to Title 61 RCW; and providing an effective date."

#### MOTION

On motion of Senator Winsley, the rules were suspended, Substitute House Bill No. 2611, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2611, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2611, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Haugen, McDonald and Patterson - 3. SUBSTITUTE HOUSE BILL NO. 2611, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

President Owen assumed the Chair.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1221, by House Committee on Law and Justice (originally sponsored by Representatives Ballasiotes, Sheahan, Robertson, Chandler, Cody, Crouse, K. Schmidt, Costa, Scott, Buck, Kessler, Schoesler, Chopp, Johnson, Honeyford, O'Brien, Wensman, Sheldon, McDonald, Zellinsky, Thompson, H. Sommers and Mason)

Impounding vehicles driven by a person with a suspended or revoked license.

The bill was read the second time.

#### MOTION

Senator Roach moved that the following Committee on Law and Justice amendment not be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the license to drive a motor vehicle on the public highways is suspended or revoked in order to protect public safety following a driver's failure to comply with the laws of this state. Over six hundred persons are killed in traffic accidents in Washington annually, and more than eighty-four thousand persons are injured. It is estimated that of the three million four hundred thousand drivers' licenses issued to citizens of Washington, more than two hundred sixty thousand are suspended or revoked at any given time. Suspended drivers are more likely to be involved in causing traffic accidents, including fatal accidents, than properly licensed drivers, and pose a serious threat to the lives and property of Washington residents. Statistics show that suspended drivers are three times more likely to kill or seriously injure others in the commission of traffic felony offenses than are validly licensed drivers. In addition to not having a driver's license, most such drivers also lack required liability insurance, increasing the financial burden upon other citizens through uninsured losses and higher insurance costs for validly licensed drivers. Because of the threat posed by suspended drivers, all registered owners of motor vehicles in Washington have a duty to not allow their vehicles to be driven by a suspended driver.

Despite the existence of criminal penalties for driving with a suspended or revoked license, an estimated seventy-five percent of these drivers continue to drive anyway. Existing sanctions are not sufficient to deter or prevent persons with a suspended or revoked license from driving. It is common for suspended drivers to resume driving immediately after being stopped, cited, and released by a police officer and to continue to drive while a criminal prosecution for suspended driving is pending. More than half of all suspended drivers charged with the crime of driving while suspended or revoked fail to appear for court hearings. Vehicle impoundment will provide an immediate consequence which will increase deterrence and reduce unlawful driving by preventing a suspended driver access to that vehicle. Vehicle impoundment will also provide an appropriate measure of accountability for registered owners who permit suspended drivers to drive their vehicles. Impoundment of vehicles driven by suspended drivers has been shown to reduce future driving while suspended or revoked offenses for up to two years afterwards, and the recidivism rate for drivers whose cars were not impounded was one hundred percent higher than for drivers whose cars were impounded. In order to adequately protect public safety and to enforce the state's driver licensing laws, it is necessary to authorize the impoundment of any vehicle when it is found to be operated by a driver with a suspended or revoked license, and to provide in certain circumstances for the forfeiture of such vehicles where the owner continues to drive despite having been previously convicted of the crime of driving with a suspended or revoked license in violation of RCW 46.20.342 and 46.20.420. The impoundment or forfeiture of a vehicle operated in violation of RCW 46.20.342 or 46.20.420 is intended to be a civil in rem action against the vehicle in order to remove it from the public highways and reduce the risk posed to traffic safety by a vehicle accessible to a driver who is reasonably believed to have violated these laws.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.20 RCW to read as follows:

(1) Notwithstanding RCW 46.55.113, whenever a motor vehicle is found to be operated by a person with a suspended or revoked driver's license or nonresident driving privileges, or while in a suspended or revoked status in violation of RCW 46.20.342 or 46.20.420, the vehicle is subject to impoundment, pursuant to applicable local ordinance or state agency rule, at the direction of a law enforcement officer.

(2) If a vehicle is impounded under this section because the operator is in violation of RCW 46.20.342(1)(c), the vehicle shall not be released until a person eligible to redeem it under RCW 46.55.120(1)(a) satisfies the requirements of RCW 46.55.120(1)(b), including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency. However, if the department's records show that the operator has been convicted of a violation of RCW 46.20.342 or a similar local ordinance within the past five years, the vehicle may be held for up to fifteen days at the written direction of the agency ordering the vehicle impounded.

(3) If a vehicle is impounded under this section because the operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to fifteen days and must not be released until a person eligible to redeem it under RCW 46.55.120(1)(a) satisfies the requirements of RCW 46.55.120(1)(b), including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency. However, if the department's records show that the operator has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a similar local ordinance within the past five years and the operator has a financial interest in the vehicle, the vehicle is subject to forfeiture unless an applicable state agency rule or local ordinance prohibits forfeiture on the basis of economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record. If the vehicle is forfeited, then the forfeiting agency shall pay all the impoundment, towing, and storage fees for the vehicle and shall be entitled to recover those fees from the operator of the forfeited vehicle, including any attorneys' fees, costs of collection, and interest at the statutory rate for judgment interest from the date of payment by the forfeiting agency of such fees.

(4) A forfeiture proceeding is commenced by the law enforcement agency causing notice of the intended forfeiture of the seized vehicle to be served not less than ten days after seizure on the registered tow truck operator which impounded the vehicle, the owner of the vehicle seized, the person in charge of the vehicle when it was seized, and any person having a known right or interest in the vehicle, including a

community property interest. The notice may be served by any method authorized by law or court rule, including, but not limited to, service by certified mail with return receipt requested. Service by mail is complete upon mailing. Notice in the case of a vehicle subject to a security interest that has been perfected on a certificate of title must be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement, the certificate of title, or the transitional ownership record. Once the registered tow truck operator which impounded the vehicle receives notice, the vehicle must not be released except upon written order of the chief law enforcement officer of the agency directing the impoundment or his or her designee, an administrative law judge, or a court.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the vehicle is deemed forfeited.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. At the hearing, if the seizing agency proves by a preponderance of the evidence that the vehicle was operated by a person in violation of RCW 46.61.502 or 46.61.504, and that person has a prior offense as defined by RCW 46.61.5055(8), and has an ownership interest in the vehicle, then the vehicle shall be forfeited. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the vehicle is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the vehicle involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the legal owner or the person claiming to have the lawful right to possession of the vehicle. The seizing law enforcement agency shall promptly return the vehicle to the claimant upon a determination by the administrative law judge or court that the claimant is the present legal owner under this title or is lawfully entitled to possession of the vehicle.

(7) When a vehicle is forfeited under this chapter the seizing law enforcement agency may sell the vehicle, retain it for official use, or upon application by a law enforcement agency of this state release the vehicle to that agency for the exclusive use of enforcing this title; provided, however, that the agency shall first satisfy any bona fide security interest to which the vehicle is subject and provided further that where the ownership interest subject to forfeiture is bona fide community property, the value of the undivided community property interest of the spouse who was not operating the vehicle in violation of RCW 46.61.502 or 46.61.504 shall not be forfeited nor subject to reduction for towing, removal, or storage charges associated with the forfeiture action. The value of the undivided community property interest not subject to forfeiture or reduction is one-half of the value of the vehicle as defined in subsection (14) of this section after deducting the cost of satisfying any bona fide security interest.

(8) When a vehicle is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the vehicle, the disposition of the vehicle, the value of the vehicle at the time of seizure, and the amount of proceeds realized from disposition of the vehicle.

(9) Each seizing agency shall retain records of forfeited vehicles for at least seven years.

(10) Each seizing agency shall file a report including a copy of the records of forfeited vehicles with the state treasurer each calendar quarter.

(11) The quarterly report need not include a record of a forfeited vehicle that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(12) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of vehicles forfeited during the preceding calendar year. Money remitted shall be deposited in the public safety and education account.

(13) The net proceeds of a forfeited vehicle is the value of the forfeitable interest in the vehicle after deducting the cost of satisfying a bona fide community property interest and security interest to which the vehicle is subject at the time of seizure and all towing, removal, and storage fees; and in the case of a sold vehicle, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(14) The value of a sold forfeited vehicle is the sale price. The value of a retained forfeited vehicle is the fair market value of the vehicle at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing. A seizing agency may, but need not, use an independent qualified appraiser to determine the value of retained vehicles. If an appraiser is used, the value of the vehicle appraised is net of the cost of the appraisal.

(15) Notwithstanding RCW 46.52.120(2), in any hearing under RCW 46.55.120 to contest the validity of the impoundment or under this section to contest the validity of the forfeiture, an abstract of the person's driving record may be admitted as and is prima facie evidence of

the status of the person's driving privilege and that the person was convicted of each offense shown by the abstract. In addition, a certified vehicle registration of the vehicle sought to be forfeited shall be admissible without further evidentiary foundation.

(16) No determination of facts made by a person conducting a hearing under this section or RCW 46.55.120 shall have any collateral estoppel effect on a subsequent criminal prosecution and shall not preclude litigation of those same facts in a subsequent criminal prosecution.

**Sec. 3.** RCW 46.55.105 and 1995 c 219 s 4 are each amended to read as follows:

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

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

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.101(1) ((or a vehicle theft report filed with a law enforcement agency)) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under section 13 of this act. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

~~((4))~~ (5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.100, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(5), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

~~((5))~~ (6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction.

**Sec. 4.** RCW 46.55.110 and 1995 c 360 s 6 are each amended to read as follows:

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

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

(3) If the date on which a notice required by subsection (2) of this section is to be mailed falls upon a Saturday, Sunday, or a postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

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

**Sec. 5.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read as follows:

Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504, the arresting officer may take custody of the vehicle and provide for its prompt removal to a place of safety. In addition, a police officer may take custody of a vehicle and provide for its prompt removal to a place of safety under any of the following circumstances:

(1) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(2) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(3) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(4) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(5) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(6) Whenever a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(7) Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of RCW 46.20.005 or with a license that has been expired for ninety days or more(~~(, or with a suspended or revoked license in violation of RCW 46.20.342 or 46.20.420)).~~

Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

**Sec. 6.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read as follows:

(1) Vehicles or other items of personal property registered or titled with the department that are impounded by registered tow truck operators pursuant to RCW 46.55.080, 46.55.085, ~~((or))~~ 46.55.113, or section 2 of this act may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, a person who is determined and verified by the operator to have the permission of the registered owner of the vehicle or other item of personal property registered or titled with the department, or one who has purchased a vehicle or item of personal property registered or titled with the department from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle or items of personal property registered or titled with the department. In addition, a person redeeming a vehicle impounded under section 2 of this act must prior to redemption establish with the agency that ordered the vehicle impounded that he or she has a valid driver's license and is in compliance with RCW 46.30.020. A vehicle impounded under section 2 of this act can only be released pursuant to a written order from the agency that ordered the vehicle impounded or pursuant to a provision of a state agency rule or local ordinance authorizing release on the basis of economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record.

(b) The vehicle or other item of personal property registered or titled with the department shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle. In addition, if a vehicle is impounded under section 2 of this act and was being operated by the registered owner when it was impounded, it must not be released to any person until the registered owner establishes with the agency that ordered the vehicle impounded that any penalties, fines, or forfeitures owed by him or her have been satisfied. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards, or personal checks drawn on in-state banks if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. If the towing firm can determine through the customer's bank or a check verification service that the presented check would not be paid by the bank or guaranteed by the service, the towing firm may refuse to accept the check. Any person who stops payment on a personal check or credit card, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2)(a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle, or item of personal property registered or titled with the department, written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. The municipal court has jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the district or municipal court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section. At the time of the filing of the hearing request, the petitioner shall pay to the court clerk a filing fee in the same amount required for the filing of a suit in the small claims department of a district court. If the hearing request is not received by the district or municipal court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the district or municipal court shall proceed to hear and determine the validity of the impoundment.



(3)(a) The district or municipal court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle or other item of personal property registered or titled with the department, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper. The court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.

(c) At the conclusion of the hearing, the district or municipal court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees. The court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be in violation of this chapter, then the registered and legal owners of the vehicle or other item of personal property registered or titled with the department shall bear no impoundment, towing, or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the registered tow truck operator against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle, or other item of personal property registered or titled with the department, for the amount of the filing fee required by law for the impound hearing petition as well as reasonable damages for loss of the use of the vehicle during the time the same was impounded, for not less than fifty dollars per day, against the person or agency authorizing the impound. However, if an impoundment under section 2 of this act is determined to be in violation of this chapter, then the law enforcement officer directing the impoundment and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the records of the department in ascertaining that the operator of the vehicle had a suspended or revoked driver's license. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:

TO: . . . . .

YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the . . . . . Court located at . . . . . in the sum of \$. . . . ., in an action entitled . . . . ., Case No. . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.

DATED this . . . . day of . . . . ., 19. . .

Signature

Typed name and address  
of party mailing notice

(4) Any impounded abandoned vehicle or item of personal property registered or titled with the department that is not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(2) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle or item of personal property registered or titled with the department may be redeemed at any time before the start of the auction upon payment of the applicable towing and storage fees.

**Sec. 7.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read as follows:

(1) If, after the expiration of fifteen days from the date of mailing of notice of custody and sale required in RCW 46.55.110(2) to the registered and legal owners, the vehicle remains unclaimed and has not been listed as a stolen vehicle, then the registered tow truck operator having custody of the vehicle shall conduct a sale of the vehicle at public auction after having first published a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the vehicle is located not less than three days and no more than ten days before the date of the auction. The notice shall contain a description of the vehicle including the make, model, year, and license number and a notification that a three-hour public viewing period will be available before the auction. The auction shall be held during daylight hours of a normal business day.

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

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

(b) All bidders must be present at the time of auction unless they have submitted to the registered tow truck operator, who may or may not choose to use the preauction bid method, a written bid on a specific vehicle. Written bids may be submitted up to five days before the auction and shall clearly state which vehicle is being bid upon, the amount of the bid, and who is submitting the bid;

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

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

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

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

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

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

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

(3) In no case may an operator hold a vehicle for longer than ninety days without holding an auction on the vehicle, except for vehicles that are under a police or judicial hold.

(4)(a) In no case may the accumulation of storage charges exceed fifteen days from the date of receipt of the information by the operator from the department as provided by RCW 46.55.110(2).

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

**NEW SECTION. Sec. 8.** A new section is added to chapter 46.55 RCW to read as follows:

In any administrative or judicial proceeding involving a forfeiture of a vehicle under section 2 of this act, the chief law enforcement officer or court shall provide for the protection of a bona fide community property interest in the vehicle of a person other than the person whose operation of the vehicle with a suspended or revoked license led to the forfeiture.

**Sec. 9.** RCW 46.55.010 and 1994 c 176 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in the operator's possession for ~~((ninety-six))~~ one hundred twenty consecutive hours.

(2) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(3) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds—public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield, or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

(5) "Master log" means the document or an electronic facsimile prescribed by the department and the Washington state patrol in which an operator records transactions involving impounded vehicles.

(6) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

(7) "Residential property" means property that has no more than four living units located on it.

(8) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the state patrol.

(9) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(10) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(11) "Tow truck service" means the transporting upon the public streets and highways of this state of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(12) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

(a)Public locations:

(i)Constituting an accident or a traffic hazard as defined in RCW 46.55.113

Immediately

(ii)On a highway and tagged as described in RCW 46.55.085

24 hours

(iii)In a publicly owned or controlled parking facility, properly posted under RCW

46.55.070

Immediately

(b)Private locations:

(i)On residential property

Immediately

(ii)On private, nonresidential property, properly posted under RCW 46.55.070

Immediately

(iii)On private, nonresidential property,  
not posted

24 hours

**Sec. 10.** RCW 46.55.100 and 1995 c 360 s 5 are each amended to read as follows:

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

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

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

(4) Within ~~((fifteen))~~ fourteen days of the sale of an abandoned vehicle at public auction, the towing operator shall send a copy of the abandoned vehicle report showing the disposition of the abandoned vehicle and any other items of personal property registered or titled with the department to the crime information center of the Washington state patrol.

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

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

**Sec. 11.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended to read as follows:

A security interest in a vehicle other than one held as inventory by a manufacturer or a dealer and for which a certificate of ownership is required is perfected only by compliance with the requirements of section 13 of this act under the circumstances provided for therein or by compliance with the requirements of this section:

(1) A security interest is perfected (~~(only)~~) by the department's receipt of: (a) The existing certificate, if any, and (b) an application for a certificate of ownership containing the name and address of the secured party, and (c) tender of the required fee.

(2) It is perfected as of the time of its creation: (a) If the papers and fee referred to in (~~the preceding~~) subsection (1) of this section are received by this department within (~~eight department business~~) twenty calendar days (~~exclusive~~) of the day on which the security agreement was created; or (b) if the secured party's name and address appear on the outstanding certificate of ownership; otherwise, as of the date on which the department has received the papers and fee required in subsection (1) of this section.

(3) If a vehicle is subject to a security interest when brought into this state, perfection of the security interest is determined by the law of the jurisdiction where the vehicle was when the security interest was attached, subject to the following:

(a) If the security interest was perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, the following rules apply:

(b) If the name of the secured party is shown on the existing certificate of ownership issued by that jurisdiction, the security interest continues perfected in this state. The name of the secured party shall be shown on the certificate of ownership issued for the vehicle by this state. The security interest continues perfected in this state upon the issuance of such ownership certificate.

(c) If the security interest was not perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, it may be perfected in this state; in that case, perfection dates from the time of perfection in this state.

**Sec. 12.** RCW 46.12.101 and 1991 c 339 s 19 are each amended to read as follows:

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

(1) If an owner transfers his or her interest in a vehicle, other than by the creation, deletion, or change of a security interest, the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and provide an odometer disclosure statement under RCW 46.12.124 on the certificate of ownership or as the department otherwise prescribes, and cause the certificate and assignment to be transmitted to the transferee. (~~Within five days, excluding Saturdays, Sundays, and state and federal holidays,~~) The owner shall notify the department or its agents or subagents, in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, the transferee's driver's license number if available, and such description of the vehicle, including the vehicle identification number, the license plate number, or both, as may be required in the appropriate form provided or approved for that purpose by the department. The report of sale will be deemed properly filed if all information required in this section is provided on the form and includes a department-authorized notation that the document was received by the department, its agents, or subagents on or before the fifth day after the sale of the vehicle, excluding Saturdays, Sundays, and state and federal holidays. Agents and subagents shall immediately electronically transmit the seller's report of sale to the department. Reports of sale processed and recorded by the department's agents or subagents may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b).

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

(3) Except as provided in RCW (~~46.12.120~~) 46.70.122 the transferee shall within fifteen days after delivery to the transferee of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department.

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

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

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

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

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

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

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

**NEW SECTION. Sec. 13.** A new section is added to chapter 46.12 RCW to read as follows:

(1) The purpose of a transitional ownership record is to enable a security interest in a motor vehicle to be perfected in a timely manner when the certificate of ownership is not available at the time the security interest is created, and to provide for timely notification to security interest holders under chapter 46.55 RCW.

(2) A transitional ownership record is only acceptable as an ownership record for vehicles currently stored on the department's computer system and if the certificate of ownership or other authorized proof of ownership for the motor vehicle:

(a) Is not in the possession of the selling vehicle dealer or new security interest holder at the time the transitional ownership record is submitted to the department; and

(b) To the best of the knowledge of the selling dealer or new security interest holder, the certificate of ownership will not be received for submission to the department within twenty calendar days of the date of sale of the vehicle, or if no sale is involved, within twenty calendar days of the date the security agreement or contract is executed.

(3) A person shall submit the transitional ownership record to the department or to any of its agents or subagents. Agents and subagents shall immediately electronically transmit the transitional ownership records to the department. A transitional ownership document processed and recorded by an agent or subagent may be subject to fees as specified in RCW 46.01.140(4)(a) or (5)(b).

(4) "Transitional ownership record" means a record containing all of the following information:

(a) The date of sale;

(b) The name and address of each owner of the vehicle;

(c) The name and address of each security interest holder;

(d) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest;

(e) The vehicle identification number, the license plate number, if any, the year, make, and model of the vehicle;

(f) The name of the selling dealer or security interest holder who is submitting the transitional ownership record; and

(g) The transferee's driver's license number, if available.

(5) The report of sale form prescribed or approved by the department under RCW 46.12.101 may be used by a vehicle dealer as the transitional ownership record.

(6) Notwithstanding RCW 46.12.095 (1) and (2), compliance with the requirements of this section shall result in perfection of a security interest in the vehicle as of the time the security interest was created. Upon receipt of the certificate of ownership for the vehicle, or upon receipt of written confirmation that only an electronic record of ownership exists or that the certificate of ownership has been lost or destroyed, the selling dealer or new security interest holder shall promptly submit the same to the department together with an application for a new certificate of ownership containing the name and address of the secured party and tender the required fee as provided in RCW 46.12.095(1).

**NEW SECTION. Sec. 14.** RCW 46.20.344 and 1965 ex.s. c 121 s 45 are each repealed."

The President declared the question before the Senate to be the motion by Senator Roach, that the Committee on Law and Justice striking amendment not be adopted.

The motion by Senator Roach carried and the committee striking amendment was not adopted.

## MOTION

Senator Roach moved that the following amendment by Senators Roach, Kline, Stevens, Long, Thibaudeau, Hargrove, Johnson, McCaslin, Fairley, Zarelli and Goings be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the license to drive a motor vehicle on the public highways is suspended or revoked in order to protect public safety following a driver's failure to comply with the laws of this state. Over six hundred persons are killed in traffic accidents in Washington annually, and more than eighty-four thousand persons are injured. It is estimated that of the three million four hundred thousand drivers' licenses issued to citizens of Washington, more than two hundred sixty thousand are suspended or revoked at any given time. Suspended drivers are more likely to be involved in causing traffic accidents, including fatal accidents, than properly licensed drivers, and

pose a serious threat to the lives and property of Washington residents. Statistics show that suspended drivers are three times more likely to kill or seriously injure others in the commission of traffic felony offenses than are validly licensed drivers. In addition to not having a driver's license, most such drivers also lack required liability insurance, increasing the financial burden upon other citizens through uninsured losses and higher insurance costs for validly licensed drivers. Because of the threat posed by suspended drivers, all registered owners of motor vehicles in Washington have a duty to not allow their vehicles to be driven by a suspended driver.

Despite the existence of criminal penalties for driving with a suspended or revoked license, an estimated seventy-five percent of these drivers continue to drive anyway. Existing sanctions are not sufficient to deter or prevent persons with a suspended or revoked license from driving. It is common for suspended drivers to resume driving immediately after being stopped, cited, and released by a police officer and to continue to drive while a criminal prosecution for suspended driving is pending. More than half of all suspended drivers charged with the crime of driving while suspended or revoked fail to appear for court hearings. Vehicle impoundment will provide an immediate consequence which will increase deterrence and reduce unlawful driving by preventing a suspended driver access to that vehicle. Vehicle impoundment will also provide an appropriate measure of accountability for registered owners who permit suspended drivers to drive their vehicles. Impoundment of vehicles driven by suspended drivers has been shown to reduce future driving while suspended or revoked offenses for up to two years afterwards, and the recidivism rate for drivers whose cars were not impounded was one hundred percent higher than for drivers whose cars were impounded. In order to adequately protect public safety and to enforce the state's driver licensing laws, it is necessary to authorize the impoundment of any vehicle when it is found to be operated by a driver with a suspended or revoked license in violation of RCW 46.20.342 and 46.20.420. The impoundment of a vehicle operated in violation of RCW 46.20.342 or 46.20.420 is intended to be a civil in rem action against the vehicle in order to remove it from the public highways and reduce the risk posed to traffic safety by a vehicle accessible to a driver who is reasonably believed to have violated these laws.

**Sec. 2.** RCW 46.55.105 and 1995 c 219 s 4 are each amended to read as follows:

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

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

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.101(1) ((or a vehicle theft report filed with a law enforcement agency)) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under section 12 of this act. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

~~((4))~~ (5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.100, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(5), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

~~((5))~~ (6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction.

**Sec. 3.** RCW 46.55.110 and 1995 c 360 s 6 are each amended to read as follows:

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

authority the vehicle was impounded. The notice shall also include the written notice of the right of redemption and opportunity for a hearing to contest the validity of the impoundment pursuant to RCW 46.55.120.

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

(3) If the date on which a notice required by subsection (2) of this section is to be mailed falls upon a Saturday, Sunday, or a postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

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

**Sec. 4.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read as follows:

Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504 ~~or of RCW 46.20.342 or 46.20.420, the (arresting officer may take custody of the vehicle and provide for its prompt removal to a place of safety))~~ vehicle is subject to impoundment, pursuant to applicable local ordinance or state agency rule at the direction of a law enforcement officer. In addition, a police officer may take custody of a vehicle and provide for its prompt removal to a place of safety under any of the following circumstances:

(1) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(2) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(3) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(4) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(5) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(6) Whenever a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(7) Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of RCW 46.20.005 or with a license that has been expired for ninety days or more ~~(, or with a suspended or revoked license in violation of RCW 46.20.342 or 46.20.420)).~~

Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

**Sec. 5.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read as follows:

(1) Vehicles or other items of personal property registered or titled with the department that are impounded by registered tow truck operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, a person who is determined and verified by the operator to have the permission of the registered owner of the vehicle or other item of personal property registered or titled with the department, or one who has purchased a vehicle or item of personal property registered or titled with the department from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle or items of personal property registered or titled with the department. In addition, a vehicle impounded because the operator is in violation of RCW 46.20.342(1)(c) shall not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (b) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency. If the department's records show that the operator has been convicted of a violation of RCW 46.20.342 or a similar local ordinance within the past five years, the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. A vehicle impounded because the operator is arrested for a violation of RCW 46.20.342 may be released only pursuant to a written order from the agency that ordered the vehicle impounded. An agency may issue a written order to release pursuant to a provision of an applicable state agency rule or local ordinance authorizing release on the basis of economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record.

If a vehicle is impounded because the operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. However, if the department's records show that the operator has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a similar local ordinance within the past five years, the vehicle may be held at the written direction of the agency ordering the vehicle impounded for up to sixty days, and for up to ninety days if the operator has two or more such prior offenses. If a vehicle is impounded because the operator is arrested for a violation of RCW 46.20.342, the vehicle may not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (b) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency.

(b) The vehicle or other item of personal property registered or titled with the department shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle. In addition, if a vehicle is impounded because the operator was arrested for a violation of RCW 46.20.342 or 46.20.420 and was being operated by the registered owner when it was impounded, it must not be released to any person until the registered owner establishes with the agency that ordered the vehicle impounded that any penalties, fines, or forfeitures owed by him or her have been satisfied. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards, or personal checks drawn on in-state banks if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. If the towing firm can determine through the customer's bank or a check verification service that the presented check would not be paid by the bank or guaranteed by the service, the towing firm may refuse to accept the check. Any person who stops payment on a personal check or credit card, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2)(a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle, or item of personal property registered or titled with the department, written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. The municipal court has jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the ~~((district))~~ appropriate court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section. At the time of the filing of the hearing request, the petitioner shall pay to the court clerk a filing fee in the same amount required for the filing of a suit in district court. If the hearing request is not received by the ~~((district))~~ court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the ~~((district))~~ court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The ~~((district))~~ court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle or other item of personal property registered or titled with the department, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper. The court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.

(c) At the conclusion of the hearing, the ~~((district))~~ court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees. The court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be in violation of this chapter, then the registered and legal owners of the vehicle or other item of personal property registered or titled with the department shall bear no impoundment, towing, or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the registered tow truck operator against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle, or other item of personal property registered or titled with the department, for the amount of the filing fee required by law for the impound hearing petition as well as reasonable damages for loss of the use of the vehicle during the time the same was impounded, for not less than fifty dollars per day, against the person or agency authorizing the impound. However, if an impoundment arising from an alleged violation of RCW 46.20.342 or 46.20.420 is determined to be in violation of this chapter, then the law enforcement officer directing the impoundment and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the records of the department in ascertaining that the operator of the vehicle had a suspended or revoked driver's license. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:



TO: . . . . .

YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the . . . . . Court located at . . . . . in the sum of \$ . . . . ., in an action entitled . . . . ., Case No. . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.

DATED this . . . . . day of . . . . ., ((49)) (year) . . . . .

Signature

Typed name and address  
of party mailing notice

(4) Any impounded abandoned vehicle or item of personal property registered or titled with the department that is not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(2) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle or item of personal property registered or titled with the department may be redeemed at any time before the start of the auction upon payment of the applicable towing and storage fees.

**Sec. 6.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read as follows:

(1) If, after the expiration of fifteen days from the date of mailing of notice of custody and sale required in RCW 46.55.110(2) to the registered and legal owners, the vehicle remains unclaimed and has not been listed as a stolen vehicle, then the registered tow truck operator having custody of the vehicle shall conduct a sale of the vehicle at public auction after having first published a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the vehicle is located not less than three days and no more than ten days before the date of the auction. The notice shall contain a description of the vehicle including the make, model, year, and license number and a notification that a three-hour public viewing period will be available before the auction. The auction shall be held during daylight hours of a normal business day.

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

(a) The auction shall be held in such a manner that all persons present are given an equal time and opportunity to bid;  
(b) All bidders must be present at the time of auction unless they have submitted to the registered tow truck operator, who may or may not choose to use the preauction bid method, a written bid on a specific vehicle. Written bids may be submitted up to five days before the auction and shall clearly state which vehicle is being bid upon, the amount of the bid, and who is submitting the bid;

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

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

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

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

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

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

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

(3) In no case may an operator hold a vehicle for longer than ninety days without holding an auction on the vehicle, except for vehicles that are under a police or judicial hold.

(4)(a) In no case may the accumulation of storage charges exceed fifteen days from the date of receipt of the information by the operator from the department as provided by RCW 46.55.110(2).

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

**NEW SECTION. Sec. 7.** A new section is added to chapter 46.55 RCW to read as follows:

(1) This section applies to any impoundment of a vehicle when a driver is arrested for a violation of RCW 46.61.502 or 46.61.504, or of RCW 46.61.520 or 46.61.522 if committed while under the influence, as provided for in RCW 46.55.113 and 46.55.120.

(2) Any local government ordinance or state agency rule that provides for impoundment and redemption of vehicles may allow for alternative home impoundment of vehicles for all or part of the impoundment periods authorized in RCW 46.55.120. Home impoundment is an alternative to impoundment by a registered tow truck operator. Home impoundment consists of removing a vehicle to the registered owner's

residence or other property, or to another place authorized by the ordinance or rule, and placing a boot or other device on the vehicle to render it immobile. The jurisdiction authorizing home impoundment may charge a reasonable rental fee for the use of the boot or other device during the period of home impoundment. The local government ordinance or state agency rule may provide that the owner or driver of the vehicle may elect whether to be subject to impoundment under RCW 46.55.120 or home impoundment under this section.

(3) Before any home impoundment is begun, the vehicle must be redeemed as provided for in RCW 46.55.120 if any impoundment has occurred under that section, and any towing fee incurred in getting the vehicle to the place of home impoundment must be paid.

(4) At the end of the period of home impoundment, the vehicle may be released only after all rental fees have been paid and only to a person who would qualify to redeem an impounded vehicle under RCW 46.55.120.

(5) A local ordinance or state agency rule may provide for impoundment by a registered tow truck operator if at the end of the period of home impoundment there is no qualified person to whom the vehicle may be released.

(6) A local ordinance or state agency rule may provide that if the boot or other device on a vehicle in home impoundment is tampered with, damaged, removed, or rendered inoperative, the vehicle may be released only upon payment of all applicable rental fees plus payment of a fee equal to the impoundment costs that would have been incurred had the vehicle been impounded under RCW 46.55.120 during the period of home impoundment.

**Sec. 8.** RCW 46.55.010 and 1994 c 176 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in the operator's possession for ~~((ninety-six))~~ one hundred twenty consecutive hours.

(2) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(3) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds—public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield, or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

(5) "Master log" means the document or an electronic facsimile prescribed by the department and the Washington state patrol in which an operator records transactions involving impounded vehicles.

(6) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

(7) "Residential property" means property that has no more than four living units located on it.

(8) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the state patrol.

(9) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(10) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(11) "Tow truck service" means the transporting upon the public streets and highways of this state of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(12) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

(a)Public locations:

(i)Constituting an accident or a traffic hazard as defined in RCW 46.55.113

Immediately

(ii)On a highway and tagged as described in RCW 46.55.085

24 hours

(iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070

Immediately

(b) Private locations:  
(i) On residential property

Immediately

(ii) On private, nonresidential property, properly posted under RCW 46.55.070

Immediately

(iii) On private, nonresidential property, not posted

24 hours

**Sec. 9.** RCW 46.55.100 and 1995 c 360 s 5 are each amended to read as follows:

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

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

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

(4) Within ~~((fifteen))~~ fourteen days of the sale of an abandoned vehicle at public auction, the towing operator shall send a copy of the abandoned vehicle report showing the disposition of the abandoned vehicle and any other items of personal property registered or titled with the department to the crime information center of the Washington state patrol.

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

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

**Sec. 10.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended to read as follows:

A security interest in a vehicle other than one held as inventory by a manufacturer or a dealer and for which a certificate of ownership is required is perfected only by compliance with the requirements of section 12 of this act under the circumstances provided for therein or by compliance with the requirements of this section:

(1) A security interest is perfected ~~((only))~~ by the department's receipt of: (a) The existing certificate, if any, and (b) an application for a certificate of ownership containing the name and address of the secured party, and (c) tender of the required fee.

(2) It is perfected as of the time of its creation: (a) If the papers and fee referred to in ~~((the preceding))~~ subsection (1) of this section are received by this department within ~~((eight department business))~~ twenty calendar days ~~((exclusive))~~ of the day on which the security agreement was created; or (b) if the secured party's name and address appear on the outstanding certificate of ownership; otherwise, as of the date on which the department has received the papers and fee required in subsection (1) of this section.

(3) If a vehicle is subject to a security interest when brought into this state, perfection of the security interest is determined by the law of the jurisdiction where the vehicle was when the security interest was attached, subject to the following:

(a) If the security interest was perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, the following rules apply:

(b) If the name of the secured party is shown on the existing certificate of ownership issued by that jurisdiction, the security interest continues perfected in this state. The name of the secured party shall be shown on the certificate of ownership issued for the vehicle by this state. The security interest continues perfected in this state upon the issuance of such ownership certificate.

(c) If the security interest was not perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, it may be perfected in this state; in that case, perfection dates from the time of perfection in this state.

**Sec. 11.** RCW 46.12.101 and 1991 c 339 s 19 are each amended to read as follows:

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

(1) If an owner transfers his or her interest in a vehicle, other than by the creation, deletion, or change of a security interest, the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and provide an odometer disclosure statement under RCW 46.12.124 on the certificate of ownership or as the department otherwise prescribes, and cause the certificate and assignment to be transmitted to the transferee. ~~((Within five days, excluding Saturdays, Sundays, and state and federal holidays,))~~ The owner shall notify the department or its agents or subagents, in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, the transferee's driver's license number if available, and such description of the vehicle, including the vehicle identification number, the license plate number, or both, as may be required in the appropriate form provided or approved for that purpose by the department. The report of sale will be deemed properly filed if all information required in this section is provided on the form and includes a department-authorized notation that the document was received by the department, its agents, or subagents on or before the fifth day after the sale of the vehicle, excluding Saturdays, Sundays, and state and federal holidays. Agents and subagents shall immediately electronically transmit the seller's report of sale to the department. Reports of sale processed and recorded by the department's agents or subagents may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b).

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

(3) Except as provided in RCW ~~((46.12.120))~~ 46.70.122 the transferee shall within fifteen days after delivery to the transferee of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department.

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

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

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

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

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

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

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

**NEW SECTION. Sec. 12.** A new section is added to chapter 46.12 RCW to read as follows:

(1) The purpose of a transitional ownership record is to enable a security interest in a motor vehicle to be perfected in a timely manner when the certificate of ownership is not available at the time the security interest is created, and to provide for timely notification to security interest holders under chapter 46.55 RCW.

(2) A transitional ownership record is only acceptable as an ownership record for vehicles currently stored on the department's computer system and if the certificate of ownership or other authorized proof of ownership for the motor vehicle:

(a) Is not in the possession of the selling vehicle dealer or new security interest holder at the time the transitional ownership record is submitted to the department; and

(b) To the best of the knowledge of the selling dealer or new security interest holder, the certificate of ownership will not be received for submission to the department within twenty calendar days of the date of sale of the vehicle, or if no sale is involved, within twenty calendar days of the date the security agreement or contract is executed.

(3) A person shall submit the transitional ownership record to the department or to any of its agents or subagents. Agents and subagents shall immediately electronically transmit the transitional ownership records to the department. A transitional ownership document processed and recorded by an agent or subagent may be subject to fees as specified in RCW 46.01.140(4)(a) or (5)(b).

(4) "Transitional ownership record" means a record containing all of the following information:

(a) The date of sale;

(b) The name and address of each owner of the vehicle;

(c) The name and address of each security interest holder;

(d) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest;

(e) The vehicle identification number, the license plate number, if any, the year, make, and model of the vehicle;

(f) The name of the selling dealer or security interest holder who is submitting the transitional ownership record; and

(g) The transferee's driver's license number, if available.

(5) The report of sale form prescribed or approved by the department under RCW 46.12.101 may be used by a vehicle dealer as the transitional ownership record.

(6) Notwithstanding RCW 46.12.095 (1) and (2), compliance with the requirements of this section shall result in perfection of a security interest in the vehicle as of the time the security interest was created. Upon receipt of the certificate of ownership for the vehicle, or upon receipt of written confirmation that only an electronic record of ownership exists or that the certificate of ownership has been lost or destroyed, the selling dealer or new security interest holder shall promptly submit the same to the department together with an application for a new certificate of ownership containing the name and address of the secured party and tender the required fee as provided in RCW 46.12.095(1).

NEW SECTION. **Sec. 13.** RCW 46.20.344 and 1965 ex.s. c 121 s 45 are each repealed."

Debate ensued.

#### MOTION

Senator Loveland moved that the following amendment to the striking amendment by Senators Roach, Kline, Stevens, Long, Thibaudeau, Hargrove, Johnson, McCaslin, Fairley, Zarelli and Goings be adopted:

On page 20, after line 31, insert the following:

"NEW SECTION. **Sec. 13.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

Renumber the remaining section consecutively and correct any internal cross-references.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Loveland on page 20, after line 31, to the striking amendment by Senators Roach, Kline, Stevens, Long, Thibaudeau, Hargrove, Johnson, McCaslin, Fairley, Zarelli and Goings to Engrossed Substitute Senate Bill No. 1221.

The motion by Senator Loveland carried and the amendment to the striking amendment was adopted.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Roach, Kline, Stevens, Long, Thibaudeau, Hargrove, Johnson, McCaslin, Fairley, Zarelli and Goings, as amended, to Engrossed Substitute Senate Bill No. 1221.

The motion by Senator Roach carried and the committee striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On page 1, line 2 of the title, after "license;" strike the remainder of the title and insert "amending RCW 46.55.105, 46.55.110, 46.55.113, 46.55.120, 46.55.130, 46.55.010, 46.55.100, 46.12.095, and 46.12.101; adding a new section to chapter 46.55 RCW; adding a new section to chapter 46.12 RCW; creating a new section; and repealing RCW 46.20.344."

On page 21, line 8 of the title amendment, after "creating" strike "a new section" and insert "new sections"

On motion of Senator Roach, the rules were suspended, Engrossed Substitute House Bill No. 1221, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Deccio: "Senator Roach, does this bill protect local governments of increased costs such as some of the other bills that we dealt with on DWI?"

Senator Roach: "Well, Senator Deccio, we just, as a body, adopted--I believe unanimously--the same amendment that we have attached to all our other bills."

Senator Deccio: "May I have a response to my question? Does this bill protect local governments--"

Senator Roach: "I would say, 'yes.'"

Senator Deccio: "Well, that is what I wanted you to say, because--"

Senator Roach: "I was just going to say that we have adopted the same amendment that has protection in it, so I would say the answer is 'yes.'"

Senator Deccio: "I don't want a sermon; I just want an answer. This bill does protect local governments from any increased costs because of this bill? Correct?"

Senator Roach: "Sir, I have answered your question. The answer is 'yes.' You know, what can I do--walk over there and whisper in your ear--'yes?'"

Senator Deccio: "I didn't want a smart remark; I just wanted an answer. Thank you."

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 1221, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1221, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 43. Voting nay: Senators Deccio, Finkbeiner, Prince and Wood - 4. Excused: Senators Haugen and Patterson - 2. ENGROSSED SUBSTITUTE HOUSE BILL NO. 1221, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Franklin, Senator Loveland was excused.

#### SECOND READING

HOUSE BILL NO. 1252, by Representatives Wensman, Costa, Sheahan, Sterk, Lantz, Skinner, Kenney and Lambert (by request of Secretary of State Munro)

Regulating the dissolution of limited partnerships.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the following amendments were considered simultaneously and were adopted:

On page 1, line 13, strike "1997" and insert "1998".

On page 2, line 13, strike "1998" and insert "1999".

On page 4, line 25, strike "2005" and insert "2006".

Renumber the sections consecutively and correct any internal references accordingly.

## MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 1252, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1252, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1252, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 2; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 42. Voting nay: Senators Brown, Fraser and Wojahn - 3. Absent: Senators Prentice and Schow - 2. Excused: Senators Haugen and Loveland - 2. HOUSE BILL NO. 1252, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2960, by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Mastin and Linville)

Authorizing permits-by-rule for certain solid waste recycling facilities.

The bill was read the second time.

## MOTION

Senator Rasmussen moved that the following amendment by Senators Rasmussen and Morton be adopted:

On page 3, line 18, after "poses" strike "an imminent" and insert "a very probable"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Rasmussen and Morton on page 3, line 18, to Substitute House Bill No. 2960.

The motion by Senator Rasmussen carried and the amendment was adopted.

## MOTION

On motion of Senator Morton, the rules were suspended, Substitute House Bill No. 2960, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2960, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2960, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE HOUSE BILL NO. 2960, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2836, by House Committee on Natural Resources (originally sponsored by Representatives Pennington, Mielke, Hatfield, Doumit, Buck, Boldt, Dunn, Alexander, Carlson, Kessler, McCune, Thompson and Conway)

Creating a pilot program for the recovery of fish runs.

The bill was read the second time.

## MOTIONS

On motion of Senator Oke, the following Committee on Natural Resources and Parks amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes the need to address listings that are made under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.) in a way that will make the most efficient use of existing efforts. The legislature finds that the principle of adaptive management requires that different models should be tried so that the lessons learned from these models can be put to use throughout the state. It is the intent of the legislature to create a pilot program for southwestern Washington to address the recent steelhead listings and which takes full advantage of all state and local efforts at habitat restoration in that area to date.

**NEW SECTION. Sec. 2.** (1) A pilot program for steelhead recovery is established in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum counties within the habitat area classified as evolutionarily significant unit 4 by the federal national marine fisheries service. The management board created under subsection (2) of this section is responsible for implementing the habitat portion of the approved steelhead recovery initiative and is empowered to receive and disburse funds for the approved steelhead recovery initiative. The management board created pursuant to this section shall constitute the regional council for this area responsible for fulfilling the requirements and exercising the powers of a regional council under chapter . . . , Laws of 1998 (Substitute House Bill No. 2496).

(2) A management board consisting of fifteen voting members is created within evolutionarily significant unit 4. The members shall consist of one county commissioner or designee from each of the five participating counties selected by each county legislative authority; one member representing the cities contained within evolutionarily significant unit 4 as a voting member selected by the cities in evolutionarily significant unit 4; a representative of the Cowlitz Tribe appointed by the tribe; one state legislator elected from one of the legislative districts contained within evolutionarily significant unit 4 selected by that group of state legislators representing the area; five representatives to include at least one member who represents private property interests appointed by the five county commissioners or designees; one hydro utility representative nominated by hydro utilities and appointed by the five county commissioners or designees; and one representative nominated from the environmental community who resides in evolutionarily significant unit 4 appointed by the five county commissioners or designees. The board shall appoint and consult a technical advisory committee, which shall include four representatives of state agencies one each appointed by the directors of the departments of ecology, fish and wildlife, and transportation, and the commissioner of public lands. The board may also appoint additional persons to the technical advisory committee as needed. The chair of the board shall be selected from among the five county commissioners or designees and the legislator on the board. In making appointments under this subsection, the county commissioners shall consider recommendations of interested parties. Vacancies shall be filled in the same manner as the original appointments were selected. No action may be brought or maintained against any management board member, the management board, or any of its agents, officers, or employees for any noncontractual acts or omissions in carrying out the purposes of this section.

(3)(a) The management board shall participate in the development of a recovery plan to implement its responsibilities under (b) of this subsection. The management board shall consider local watershed efforts and activities as well as habitat conservation plans in the implementation of the recovery plan. Any of the participating counties may continue its own efforts for restoring steelhead habitat. Nothing in this section limits the authority of units of local government to enter into interlocal agreements under chapter 39.34 RCW or any other provision of law.

(b) The management board is responsible for implementing the habitat portions of the local government responsibilities of the lower Columbia steelhead conservation initiative approved by the state and the national marine fisheries service. The management board may work in cooperation with the state and the national marine fisheries service to modify the initiative, or to address habitat for other aquatic species that may be subsequently listed under the federal endangered species act. The management board may not exercise authority over land or water within the individual counties or otherwise preempt the authority of any units of local government.

(c) The management board shall prioritize as appropriate and approve projects and programs related to the recovery of lower Columbia river steelhead runs, including the funding of those projects and programs, and coordinate local government efforts as prescribed in the recovery plan. The management board shall establish criteria for funding projects and programs based upon their likely value in steelhead



recovery. The management board may consider local economic impact among the criteria, but jurisdictional boundaries and factors related to jurisdictional population may not be considered as part of the criteria.

(d) The management board shall assess the factors for decline along each prioritized stream as listed in the lower Columbia steelhead conservation initiative. The management board is encouraged to take a stream-by-stream approach in conducting the assessment which utilizes state and local expertise, including volunteer groups, interest groups, and affected units of local government.

(4) The management board has the authority to hire and fire staff, including an executive director, enter into contracts, accept grants and other moneys, disburse funds, make recommendations to cities and counties about potential code changes and the development of programs and incentives upon request, pay all necessary expenses, and may choose a fiduciary agent. The management board shall report on its progress on a quarterly basis to the legislative bodies of the five participating counties and the state natural resource-related agencies.

(5) The pilot program terminates on July 1, 2002.

(6) For purposes of this section, "evolutionarily significant unit" means the habitat area identified for an evolutionarily significant unit of an aquatic species listed or proposed for listing as a threatened or endangered species under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.).

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On motion of Senator Oke, the following title amendment was adopted:

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "creating new sections; and declaring an emergency."

#### MOTION

On motion of Senator Oke, the rules were suspended, Engrossed Substitute House Bill No. 2836, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2836, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2836, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2836, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act

#### SECOND READING

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354, by House Committee on Appropriations (originally sponsored by Representatives Pennington, Mielke, Dunn and Boldt)

Changing air pollution control provisions.

The bill was read the second time.

#### MOTION

Senator Morton moved that the following Committee on Agriculture and Environment amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.94.130 and 1991 c 199 s 705 are each amended to read as follows:

The board shall exercise all powers of the authority except as otherwise provided. The board shall conduct its first meeting within thirty days after all of its members have been appointed or designated as provided in RCW 70.94.100. The board shall meet at least ten times per

year. All meetings shall be publicly announced prior to their occurrence. All meetings shall be open to the public. A majority of the board shall constitute a quorum for the transaction of business and shall be necessary for any action taken by the board. The board shall elect from its members a chair and such other officers as may be necessary. Any member of the board may designate a regular alternate to serve on the board in his or her place with the same authority as the member when he or she is unable to attend. In no event may a regular alternate serve as the permanent chair. Each member of the board, or his or her representative, shall receive from the authority compensation consistent with such authority's rates (but not to exceed one thousand dollars per year) for time spent in the performance of duties under this chapter, plus the actual and necessary expenses incurred by the member in such performance. The board may appoint a control officer, and any other personnel, and shall determine their salaries, and pay same, together with any other proper indebtedness, from authority funds.

**Sec. 2.** RCW 70.120.070 and 1991 c 199 s 203 are each amended to read as follows:

(1) Any person:

(a) Whose motor vehicle is tested pursuant to this chapter and fails to comply with the emission standards established for the vehicle;  
and

(b) Who, following such a test, expends more than one hundred dollars on a 1980 or earlier model year motor vehicle or expends more than one hundred fifty dollars on a 1981 or later model year motor vehicle for repairs solely devoted to meeting the emission standards and that are performed by a certified emission specialist authorized by RCW 70.120.020(2)(a); and

(c) Whose vehicle fails a retest, may be issued a certificate of acceptance if (i) the vehicle has been in use for more than five years or fifty thousand miles, and (ii) any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative.

To receive the certificate, the person must document compliance with (b) and (c) of this subsection to the satisfaction of the department.

Should any provision of (b) of this subsection be disapproved by the administrator of the United States environmental protection agency, all vehicles shall be required to expend at least four hundred fifty dollars to qualify for a certificate of acceptance.

(2) Persons who fail the initial tests shall be provided with:

(a) Information regarding the availability of federal warranties and certified emission specialists;

(b) Information on the availability and procedure for acquiring license trip-permits;

(c) Information on the availability and procedure for receiving a certificate of acceptance; and

(d) The local phone number of the department's local vehicle specialist.

**Sec. 3.** RCW 70.120.100 and 1979 ex.s. c 163 s 10 are each amended to read as follows:

The department shall investigate complaints received regarding the operation of emission testing stations and shall require corrections or modifications in those operations when deemed necessary.

The department shall also review complaints received regarding the maintenance or repairs secured by owners of motor vehicles for the purpose of complying with the requirements of this chapter. When possible, the department shall assist such owners in determining the merits of the complaints.

The department shall keep a copy of all complaints received, and on request, make copies available to the public. This is not intended to require disclosure of any information that is exempt from public disclosure under chapter 42.17 RCW.

**Sec. 4.** RCW 70.120.170 and 1991 c 199 s 208 are each amended to read as follows:

(1) The department shall administer a system for emission inspections of all motor vehicles, except those described in RCW 46.16.015(2), that are registered within the boundaries of each emission contributing area. Under such system a motor vehicle shall be inspected biennially except where an annual program would be required to meet federal law and prevent federal sanctions. In addition, motor vehicles shall be inspected at each change of registered owner of a licensed vehicle as provided under RCW 46.16.015.

(2) The director shall:

(a) Adopt procedures for conducting emission inspections of motor vehicles. The inspections may include idle and high revolution per minute emission tests. The emission test for diesel vehicles shall consist solely of a smoke opacity test.

(b) Adopt criteria for calibrating emission testing equipment. Electronic equipment used to test for emissions standards provided for in this chapter shall be properly calibrated. The department shall examine frequently the calibration of the emission testing equipment used at the stations.

(c) Authorize, through contracts, the establishment and operation of inspection stations for conducting vehicle emission inspections authorized in this chapter. No person contracted to inspect motor vehicles may perform for compensation repairs on any vehicles. No public body may establish or operate contracted inspection stations. Any contracts must be let in accordance with the procedures established for competitive bids in chapter 43.19 RCW.

(3) Subsection (2)(c) of this section does not apply to volunteer motor vehicle inspections under RCW 70.120.020(1) if the inspections are conducted for the following purposes:

(a) Auditing;

(b) Contractor evaluation;

- (c) Collection of data for establishing calibration and performance standards; or
- (d) Public information and education.

(4)(a) The director shall establish by rule the fee to be charged for emission inspections. The inspection fee shall be a standard fee applicable state-wide or throughout an emission contributing area and shall be no greater than ~~((eighteen))~~ fifteen dollars. Surplus moneys collected from fees over the amount due the contractor shall be paid to the state and deposited in the general fund. Fees shall be set at the minimum whole dollar amount required to (i) compensate the contractor or inspection facility owner, and (ii) offset the general fund appropriation to the department to cover the administrative costs of the motor vehicle emission inspection program.

(b) Before each inspection, a person whose motor vehicle is to be inspected shall pay to the inspection station the fee established under this section. The person whose motor vehicle is inspected shall receive the results of the inspection. If the inspected vehicle complies with the standards established by the director, the person shall receive a dated certificate of compliance. If the inspected vehicle does not comply with those standards, one reinspection of the vehicle shall be afforded without charge.

(5) All units of local government and agencies of the state with motor vehicles garaged or regularly operated in an emissions contributing area shall test the emissions of those vehicles annually to ensure that the vehicle's emissions comply with the emission standards established by the director. All state agencies outside of emission contributing areas with more than twenty motor vehicles housed at a single facility or contiguous facilities shall test the emissions of those vehicles annually to ensure that the vehicles' emissions comply with standards established by the director. A report of the results of the tests shall be submitted to the department.

**NEW SECTION. Sec. 5.** A new section is added to chapter 70.120 RCW to read as follows:

The department shall establish a scientific advisory board to review plans to expand the geographic area where an inspection and maintenance system for motor vehicle emissions is required. The board shall consist of three to five members. All members shall have at least a master's degree in physics, chemistry, or engineering, or a closely related field. No member may be a current employee of a local air pollution control authority, the department, the United States environmental protection agency, or a company that may benefit from a review by the board.

The board shall review an inspection and maintenance plan at the request of a local air pollution control authority, the department, or by a petition of at least fifty people living within the proposed boundaries of a vehicle emission inspection and maintenance system. The entity or entities requesting a scientific review may include specific issues for the board to consider in its review. The board shall limit its review to matters of science and shall not provide advice on penalties or issues that are strictly legal in nature.

The board shall provide a complete written review to the department. If the board members are not in agreement as to the scientific merit of any issue under review, the board may include a dissenting opinion in its report to the department. The department shall immediately make copies available to the local air pollution control authority and to the public.

The department shall conduct a public hearing, within the area affected by the proposed rule, if any significant aspect of the rule is in conflict with a majority opinion of the board. The department shall include in its responsiveness summary the rationale for including a rule that is not consistent with the review of the board, including a response to the issues raised at the public hearing.

Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

**Sec. 6.** RCW 46.16.015 and 1991 c 199 s 209 are each amended to read as follows:

(1) Neither the department of licensing nor its agents may issue or renew a motor vehicle license for any vehicle or change the registered owner of a licensed vehicle, for any vehicle that is required to be inspected under chapter 70.120 RCW, unless the application for issuance or renewal is: (a) Accompanied by a valid certificate of compliance or a valid certificate of acceptance issued pursuant to chapter 70.120 RCW; or (b) exempted from this requirement pursuant to subsection (2) of this section. The certificates must have a date of validation which is within six months of the date of application for the vehicle license or license renewal. Certificates for fleet or owner tested diesel vehicles may have a date of validation which is within twelve months of the assigned license renewal date.

(2) Subsection (1) of this section does not apply to the following vehicles:

(a) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale;

(b) Motor vehicles with a model year of 1967 or earlier;

(c) Motor vehicles that use propulsion units powered exclusively by electricity;

(d) Motor vehicles fueled by propane, compressed natural gas, or liquid petroleum gas, unless it is determined that federal sanctions will be imposed as a result of this exemption;

(e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;

(f) Farm vehicles as defined in RCW 46.04.181;

(g) Used vehicles which are offered for sale by a motor vehicle dealer licensed under chapter 46.70 RCW; ~~((or))~~

(h) Classes of motor vehicles exempted by the director of the department of ecology;

(i) Collector cars as identified by the department of licensing under RCW 46.16.305(1); or

(j) Beginning January 1, 2000, vehicles that are less than five years old or more than twenty-five years old.

The provisions of ~~((subparagraph))~~ (a) of this subsection may not be construed as exempting from the provisions of subsection (1) of this section applications for the renewal of licenses for motor vehicles that are or have been leased.

(3) The department of ecology shall provide information to motor vehicle owners regarding the boundaries of emission contributing areas and restrictions established under this section that apply to vehicles registered in such areas. In addition the department of ecology shall provide information to motor vehicle owners on the relationship between motor vehicles and air pollution and steps motor vehicle owners should take to reduce motor vehicle related air pollution. The department of licensing shall send to all registered motor vehicle owners affected by the emission testing program notice that they must have an emission test to renew their registration.

**NEW SECTION. Sec. 7.** (1) The department of ecology shall evaluate changes to the motor vehicle emission inspection program made in RCW 46.16.015(2)(j) and other options that meet air quality objectives and lessen the effect of the program on the motorist. The department shall consider air quality, program costs, and motorist convenience in its evaluation and make recommendations for changes to the program to the appropriate standing committees of the legislature by January 1, 1999.

(2) This section expires June 30, 1999."

#### MOTION

Senator Brown moved that the following amendment by Senators Brown and West to the Committee on Agriculture and Environment striking amendment be adopted:

On page 1, after line 29 of the amendment, insert the following:

"**Sec. 2.** RCW 70.94.100 and 1991 c 199 s 704 are each amended to read as follows:

(1) The governing body of each authority shall be known as the board of directors.

(2) In the case of an authority comprised of one county the board shall be comprised of ~~((two appointees))~~ one appointee of the city selection committee, ~~((at least))~~ one ~~((of whom))~~ appointee who shall be appointed by the legislative authority of and represent the city having the most population in the county, and two representatives to be designated by the ~~((board of))~~ county ~~((commissioners))~~ legislative authority. In the case of an authority comprised of two, three, four, or five counties, the board shall be comprised of one appointee from each county, who shall represent the city having the most population in such county, to be designated by the mayor and ~~((city council))~~ legislative authority of such city, and one representative from each county to be designated by the ~~((board of))~~ county ~~((commissioners))~~ legislative authority of each county making up the authority. In the case of an authority comprised of six or more counties, the board shall be comprised of one representative from each county to be designated by the ~~((board of))~~ county ~~((commissioners))~~ legislative authority of each county making up the authority, and three appointees, one each from the three largest cities within the local authority's jurisdiction to be appointed by the mayor and ~~((city council))~~ legislative authority of such city.

(3) If the board of an authority otherwise would consist of an even number, the members selected as above provided shall agree upon and elect an additional member who shall be either a member of the ~~((governing body))~~ legislative authority of one of the towns, cities, or counties comprising the authority, or a private citizen residing in the authority.

(4) The terms of office of board members shall be four years.

(5) Wherever a member of a board has a potential conflict of interest in an action before the board, the member shall declare to the board the nature of the potential conflict prior to participating in the action review. The board shall, if the potential conflict of interest, in the judgment of a majority of the board, may prevent the member from a fair and objective review of the case, remove the member from participation in the action."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Brown and West on page 1, after line 29, to the Committee on Agriculture and Environment striking amendment to Second Engrossed Second Substitute House Bill No. 1354.

The motion by Senator Brown carried and the amendment to the committee striking amendment was adopted.

#### MOTION

Senator Fraser moved that the following amendment by Senators Wood and Fraser to the Committee on Agriculture and Environment striking amendment be adopted:

On page 4, line 5 of the amendment, after "than" strike all material through "fifteen" and insert "eighteen"

#### PARLIAMENTARY INQUIRY

Senator Morton: "A parliamentary inquiry, Mr. President. We have here an amendment to the amendment. Both of these address a dollar figure and I would like to have a clarification here as to which one would supercede the other? The committee amendment was for fourteen to fifteen dollars and this amendment would raise the cap to eighteen dollars. So, a clarification would be helpful, Mr. President, if you please."

## REPLY BY THE PRESIDENT

President Owen: "Senator Morton, the amendment by Senators Wood and Fraser is a perfecting amendment to the committee striking amendment. Therefore, if it passes, it would be the level."

Further debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Wood and Fraser on page 4, line 5, to the Committee on Agriculture and Environment striking amendment to Second Engrossed Second Substitute House Bill No. 1354.

The motion by Senator Fraser failed and the amendment to the committee striking amendment was not adopted on a rising vote.

## MOTION

Senator Swecker moved that the following amendment by Senators Swecker and Fraser to the Committee on Agriculture and Environment striking amendment be adopted:

On page 7, after line 6 of the amendment, insert the following:

"Sec. 8. RCW 70.94.473 and 1995 c 205 s 1 are each amended to read as follows:

(1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(a) Not burn wood in any solid fuel burning device whenever the department has determined under RCW 70.94.715 that any air pollution episode exists in that area;

(b) Not burn wood in any solid fuel burning device except those which are either Oregon department of environmental quality phase II or United States environmental protection agency certified or certified by the department under RCW 70.94.457(1) or a pellet stove either certified or issued an exemption by the United States environmental protection agency in accordance with Title 40, Part 60 of the code of federal regulations, in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by the department or any authority, for that area. A first stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of ((seventy five)) sixty micrograms per cubic meter measured on a twenty-four hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight-hour average; and

(c) Not burn wood in any solid fuel burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of one hundred five micrograms per cubic meter measured on a twenty-four hour average.

(2) Actions of the department and local air pollution control authorities under this section shall preempt actions of other state agencies and local governments for the purposes of controlling air pollution from solid fuel burning devices, except where authorized by chapter 199, Laws of 1991."

The President declared the question before the Senate to be the adoption of the amendment by Senators Swecker and Fraser on page 7, after line 6, to the Committee on Agriculture and Environment striking amendment to Second Engrossed Second Substitute House Bill No. 1354.

The motion by Senator Swecker carried and the amendment to the committee striking amendment was adopted.

The President declared the question before the Senate to be the adoption of the Committee on Agriculture and Environment striking amendment, as amended, to Second Engrossed Substitute House Bill No. 1354.

The motion by Senator Morton carried and the committee striking amendment, as amended, was adopted.

## MOTIONS

On motion of Senator Morton, the following title amendments were considered simultaneously and were adopted:

On page 1, line 1 of the title, after "control;" strike the remainder of the title and insert "amending RCW 70.94.130, 70.120.070, 70.120.100, 70.120.170, and 46.16.015; adding a new section to chapter 70.120 RCW; creating a new section; and providing an expiration date."

On page 7, line 11 of the title amendment, after "70.94.130," insert "70.94.100,"

On page 7, line 12 of the title amendment, after "70.120.170," strike "and 46.16.015" and insert "46.16.015, and 70.94.473"

On motion of Senator Morton, the rules were suspended, Second Engrossed Second Substitute House Bill No. 1354, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Second Engrossed Second Substitute House Bill No. 1354, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Second Substitute House Bill No. 1354, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Rossi, Schow, Sellar, Spanel, Swecker, Thibaudeau, West and Zarelli - 32. Voting nay: Senators Franklin, Hargrove, Haugen, Hochstatter, Long, Loveland, McCaslin, Prentice, Roach, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Winsley, Wojahn and Wood - 17.. SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

At 5:42 p.m., on motion of Senator Johnson, the Senate adjourned until 9:00 a.m., Wednesday, March 4, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

## JOURNAL OF THE SENATE

FIFTY-FIRST DAY, MARCH 3, 1998

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**FIFTY-SECOND DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Wednesday, March 4, 1998

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Benton, Finkbeiner and Sellar. On motion of Senator Hale, Senators Benton, Finkbeiner and Sellar were excused.

The Sergeant at Arms Color Guard, consisting of Pages Ben Roeder and Adam Kirschenmann, presented the Colors. Reverend Sandra Lee, pastor of the Unitarian Universalist Church of Olympia, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**PRESENTATION OF AMERICAN AND WASHINGTON STATE FLAGS**

The members of the American Legion presented four American Flags and four Washington State Flags to the Washington State Senate in a special and impressive ceremony. These flags will be displayed in the Senate Hearing Rooms in the John Cherberg Building.

**INTRODUCTION OF SPECIAL GUEST**

The President welcomed and introduced Anthony G. Jordan, National Commander of the American Legion, who was seated on the rostrum.

With permission of the Senate, business was suspended to permit Commander Jordan to address the Senate.

**INTRODUCTION OF SPECIAL GUEST**

The President welcomed and introduced Roy Taylor, Commander of the Washington State American Legion, who was seated on the rostrum.

The President thanked both Commanders for the flags and for the good work they are doing in our state, as well as nationally.

**REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS**

March 3, 1998

GA 9257 ANN DALEY, appointed August 25, 1997, for a term ending June 30, 2002, as a member of the Pollution Control/Shorelines Hearings Board.

Reported by Committee on Agriculture and Environment

**MAJORITY Recommendation:** That said appointment be confirmed. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules.

March 3, 1998

GA 9303 JAMES E. SIMS, reappointed December 1, 1997, for a term ending at the pleasure of the Governor, as Director of the Pollution Liability Insurance Program.

Reported by Committee on Agriculture and Environment

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Passed to Committee on Rules.

#### MOTION

On motion of Senator Brown, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8713

By Senators Brown, Franklin, Prince, Jacobsen, Heavey, Kline, Snyder, B. Sheldon and Kohl

WHEREAS, Carl Maxey was a man of great character, compassion, and intelligence who fought discrimination and became a giant in civil rights; and

WHEREAS, His life symbolized the pursuit of justice and human rights for all people; and

WHEREAS, He beat the odds of a troubled childhood, became an impressive boxer, and later successful trial lawyer, defending the underdog and the underclass; and

WHEREAS, His life's goal was to have all people, regardless of age, race, creed, sex, or economic circumstance, enjoy life, liberty, and the pursuit of happiness; and

WHEREAS, While serving his country as a medic during World War II, Carl Maxey encountered segregation in the Army; and

WHEREAS, Carl Maxey graduated from Gonzaga Law School in 1951, and began representing poor defendants for ten dollars a day; and

WHEREAS, Throughout his legal career, Carl Maxey continued to donate free legal services to the poor, regardless of age, race, creed, or sex; and

WHEREAS, In the 1960's, he joined the heart of the civil rights movement in Mississippi; and

WHEREAS, He returned to his native Spokane where he became a champion for the African-American community; and

WHEREAS, Carl Maxey was instrumental in abolishing state laws that allowed bars, taverns, and social clubs to refuse to serve blacks; and

WHEREAS, He continued fighting for civil rights until his tragic death on July 17, 1997;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Senate of the state of Washington recognize, honor, and remember Carl Maxey for his compassion and tireless efforts on behalf of civil rights in the state of Washington and nationwide; and

BE IT FURTHER RESOLVED, That we respect the great achievements of Carl Maxey and others like him, and carry on where they left off to stand up against injustice and oppression.

Senators Brown, Franklin, Prentice, Kline and Prince spoke to Senate Resolution 1998-8713.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the family of Carl Maxey, who were seated in the gallery.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the sixth order of business.



## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1083, by House Committee on Law and Justice (originally sponsored by Representatives McDonald, Sheahan and Mielke)

Authorizing use of department of licensing records in criminal prosecutions.

The bill was read the second time.

### MOTION

On motion of Senator Roach, the following Committee on Law and Justice amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.52.120 and 1993 c 501 s 12 are each amended to read as follows:

(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents.

(2) The records shall be for the confidential use of the director, the chief of the Washington state patrol, the director of the Washington traffic safety commission, and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be ~~((offered as))~~ admitted into evidence in any court, except where relevant to the prosecution or defense of a criminal charge, or in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license.

(3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law."

### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 2 of the title, after "prosecutions;" strike the remainder of the title and insert "and amending RCW 46.52.120."

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 1083, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

### MOTIONS

On motion of Senator Goings, Senator Patterson was excused.

On motion of Senator Hale, Senators Johnson and Winsley were excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1083, as amended by the Senate.

### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1083, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Wojahn, Wood and Zarelli - 43. Excused: Senators Benton, Finkbeiner, Johnson, Patterson, Sellar and Winsley - 6. SUBSTITUTE HOUSE BILL NO. 1083, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1172, by Representatives D. Sommers, Sterk, O'Brien, Koster, Thompson, Delvin, Sherstad, Schoesler, Hatfield and Conway

Concerning the failure to register as a sex offender.

The bill was read the second time.

#### MOTION

Senator Long moved that the following Committee on Human Services and Corrections amendment not be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.44.130 and 1997 c 340 s 3 and 1997 c 113 s 3 are each reenacted and amended to read as follows:

(1) Any adult or juvenile residing, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, school, or place of employment or vocation. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(2) The person shall provide (~~the county sheriff with~~) the following information when registering: (a) Name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; (~~and~~) (h) social security number; (i) photograph; and (j) fingerprints.

(3)(a) Offenders shall register within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after

February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (7) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(4)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff ((at least fourteen days before)) within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. If any person required to register pursuant to this section moves out of Washington state, the person must also send written notice within ten days of moving to the new state or a foreign country to the county sheriff with whom the person last registered in Washington state. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

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

(6) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means any offense defined as a sex offense by RCW 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a minor), 9.68A.050 (dealing in depictions of minor engaged in sexually explicit conduct), 9.68A.060 (sending, bringing into state depictions of minor engaged in sexually explicit conduct), 9.68A.090 (communication with minor for immoral purposes), 9.68A.100 (patronizing juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in the second degree), as well as any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

(b) "Kidnapping offense" means the crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent.

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(7) A person who knowingly fails to register or who moves without notifying the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony. If the crime was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

**Sec. 2.** RCW 9A.44.135 and 1995 c 248 s 3 are each amended to read as follows:

(1) When ~~((a-sex))~~ an offender registers with the county sheriff pursuant to RCW 9A.44.130, the county sheriff shall make reasonable attempts to verify that the ~~((sex))~~ offender is residing at the registered address. Reasonable attempts at verifying an address shall include at a minimum ~~((sending certified mail, with return receipt requested, to the sex offender at the registered address, and if the return receipt is not signed by the sex offender, talking in person with the residents living at the address))~~:

(a) Each year the county sheriff shall send by certified mail, with return receipt requested, a nonforwardable verification form to the offender at the offender's last registered address.

(b) The offender must sign the verification form, state on the form whether he or she still resides at the last registered address, and return the form to the county sheriff within ten days after receipt of the form.

(2) The sheriff shall make reasonable attempts to locate any sex offender who fails to return the verification form or who cannot be located at the registered address. If the offender fails to return the verification form or the offender is not at the last registered address, the county sheriff shall promptly forward this information to the Washington state patrol for inclusion in the central registry of sex offenders.

**Sec. 3.** RCW 9A.44.140 and 1997 c 113 s 4 are each amended to read as follows:

(1) The duty to register under RCW 9A.44.130 shall end:

(a) For a person convicted of a class A felony, or a person convicted of any sex offense or kidnapping offense who has one or more prior conviction for a sex offense or kidnapping offense: Such person may only be relieved of the duty to register under subsection (3) or (4) of this section.

(b) For a person convicted of a class B felony, and the person does not have one or more prior conviction for a sex offense or kidnapping offense: Fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of any new offenses.

(c) For a person convicted of a class C felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony, and the person does not have one or more prior conviction for a sex offense or kidnapping offense: Ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of any new offenses.

(2) The provisions of subsection (1) of this section shall apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense.

(3) Any person having a duty to register under RCW 9A.44.130 may petition the superior court to be relieved of that duty, if the person has spent ten consecutive years in the community without being convicted of any new offenses. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register, or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in Thurston county. The prosecuting attorney of the county shall be named and served

as the respondent in any such petition. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. Except as provided in subsection (4) of this section, the court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(4) An offender having a duty to register under RCW 9A.44.130 for a sex offense or kidnapping offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after adjudication, and may consider other factors. The court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was fifteen years of age or older only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was under the age of fifteen if the petitioner (a) has not been adjudicated of any additional sex offenses or kidnapping offenses during the twenty-four months following the adjudication for the offense giving rise to the duty to register, and (b) the petitioner proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

This subsection shall not apply to juveniles prosecuted as adults.

(5) Unless relieved of the duty to register pursuant to this section, a violation of RCW 9A.44.130 is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

(6) Nothing in RCW 9.94A.220 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130.

**Sec. 4.** RCW 43.43.540 and 1997 c 113 s 6 are each amended to read as follows:

The county sheriff shall forward the information, photographs, and fingerprints obtained pursuant to RCW 9A.44.130, including any notice of change of address, to the Washington state patrol within five working days. The state patrol shall maintain a central registry of sex offenders and kidnapping offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the offender registration, including taking the fingerprints and the photographs.

**Sec. 5.** RCW 4.24.550 and 1997 c 364 s 1 and 1997 c 113 s 2 are each reenacted and amended to read as follows:

(1) Public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW ~~((9.94A.030))~~ 9A.44.130 or a kidnapping offense as defined by RCW 9A.44.130; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) The extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; and (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large.

(4) Local law enforcement agencies that disseminate information pursuant to this section shall: (a) Review available risk level classifications made by the department of corrections, the department of social and health services, and the indeterminate sentence review board; (b) assign risk level classifications to all ~~((sex))~~ offenders about whom information will be disseminated; and (c) make a good faith effort to notify the public and residents at least fourteen days before the offender is released from confinement or, where an offender moves from another jurisdiction, as soon as possible after the agency learns of the offender's move, except that in no case may this notification provision be construed to require an extension of an offender's release date. The juvenile court shall provide local law enforcement officials with all relevant information on offenders allowed to remain in the community in a timely manner.

(5) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a local law enforcement agency or official to classify ~~((a-sex))~~ an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(6) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(7) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(8) When a local law enforcement agency or official classifies ~~((a-sex))~~ an offender differently than the offender is classified by the department of corrections, the department of social and health services, or the indeterminate sentence review board, the law enforcement agency or official shall notify the appropriate department or the board and submit its reasons supporting the change in classification.

**NEW SECTION. Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

The President declared the question before the Senate to be the motion by Senator Long that the Committee on Human Services and Corrections striking amendment to House Bill No. 1172 not be adopted.

The motion by Senator Long carried and the committee striking amendment was not adopted.

## MOTION

Senator Long moved that the following amendment by Senators Long, Hargrove and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 9A.44.130 and 1997 c 340 s 3 and 1997 c 113 s 3 are each reenacted and amended to read as follows:

(1) Any adult or juvenile residing, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(2) The person shall provide ~~((the county sheriff with))~~ the following information when registering: (a) Name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; ~~((and))~~ (h) social security number; (i) photograph; and (j) fingerprints.

(3)(a) Offenders shall register within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection ~~((7))~~ (8) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released.

The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection ((7)) (8) of this section.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection ~~((7))~~ (8) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (3)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(4)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff ~~((at least fourteen days before))~~ within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. If any person required to register pursuant to this section moves out of Washington state, the person must also send written notice within ten days of moving to the new state or a foreign country to the county sheriff with whom the person last registered in Washington state. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(5) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

~~(6)~~ The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

~~((6))~~ (7) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means any offense defined as a sex offense by RCW 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a minor), 9.68A.050 (dealing in depictions of minor engaged in sexually explicit conduct), 9.68A.060 (sending, bringing into state depictions of minor engaged in sexually explicit conduct), 9.68A.090 (communication with minor for immoral purposes), 9.68A.100 (patronizing juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in the second degree), as well as any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

(b) "Kidnapping offense" means the crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent.

~~((7))~~ (c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(8) A person who knowingly fails to register or who moves without notifying the county sheriff, or who changes his or her name without notifying the county sheriff and the state patrol, as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony. If the crime was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.



**Sec. 2.** RCW 9A.44.135 and 1995 c 248 s 3 are each amended to read as follows:

(1) When ~~((a-sex))~~ an offender registers with the county sheriff pursuant to RCW 9A.44.130, the county sheriff shall make reasonable attempts to verify that the ~~((sex))~~ offender is residing at the registered address. Reasonable attempts at verifying an address shall include at a minimum ~~((sending certified mail, with return receipt requested, to the sex offender at the registered address, and if the return receipt is not signed by the sex offender, talking in person with the residents living at the address))~~:

(a) Each year the county sheriff shall send by certified mail, with return receipt requested, a nonforwardable verification form to the offender at the offender's last registered address.

(b) The offender must sign the verification form, state on the form whether he or she still resides at the last registered address, and return the form to the county sheriff within ten days after receipt of the form.

(2) The sheriff shall make reasonable attempts to locate any sex offender who fails to return the verification form or who cannot be located at the registered address. If the offender fails to return the verification form or the offender is not at the last registered address, the county sheriff shall promptly forward this information to the Washington state patrol for inclusion in the central registry of sex offenders.

**Sec. 3.** RCW 9A.44.140 and 1997 c 113 s 4 are each amended to read as follows:

(1) The duty to register under RCW 9A.44.130 shall end:

(a) For a person convicted of a class A felony, or a person convicted of any sex offense or kidnapping offense who has one or more prior conviction for a sex offense or kidnapping offense: Such person may only be relieved of the duty to register under subsection (3) or (4) of this section.

(b) For a person convicted of a class B felony, and the person does not have one or more prior conviction for a sex offense or kidnapping offense: Fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of any new offenses.

(c) For a person convicted of a class C felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony, and the person does not have one or more prior conviction for a sex offense or kidnapping offense: Ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of any new offenses.

(2) The provisions of subsection (1) of this section shall apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense.

(3) Any person having a duty to register under RCW 9A.44.130 may petition the superior court to be relieved of that duty, if the person has spent ten consecutive years in the community without being convicted of any new offenses. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register, or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. Except as provided in subsection (4) of this section, the court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(4) An offender having a duty to register under RCW 9A.44.130 for a sex offense or kidnapping offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after adjudication, and may consider other factors. The court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was fifteen years of age or older only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was under the age of fifteen if the petitioner (a) has not been adjudicated of any additional sex offenses or kidnapping offenses during the twenty-four months following the adjudication for the offense giving rise to the duty to register, and (b) the petitioner proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

This subsection shall not apply to juveniles prosecuted as adults.

(5) Unless relieved of the duty to register pursuant to this section, a violation of RCW 9A.44.130 is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

(6) Nothing in RCW 9.94A.220 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130.

**Sec. 4.** RCW 43.43.540 and 1997 c 113 s 6 are each amended to read as follows:

The county sheriff shall forward the information, photographs, and fingerprints obtained pursuant to RCW 9A.44.130, including any notice of change of address, to the Washington state patrol within five working days. The state patrol shall maintain a central registry of sex offenders and kidnapping offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and

43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the offender registration, including taking the fingerprints and the photographs.

**Sec. 5.** RCW 4.24.130 and 1995 1st sp.s. c 19 s 14 are each amended to read as follows:

(1) Any person desiring a change of his or her name or that of his or her child or ward, may apply therefor to the district court of the judicial district in which he or she resides, by petition setting forth the reasons for such change; thereupon such court in its discretion may order a change of the name and thenceforth the new name shall be in place of the former.

(2) An offender under the jurisdiction of the department of corrections who applies to change his or her name under subsection (1) of this section shall submit a copy of the application to the department of corrections not fewer than five days before the entry of an order granting the name change. No offender under the jurisdiction of the department of corrections at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate penological interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. An offender under the jurisdiction of the department of corrections who receives an order changing his or her name shall submit a copy of the order to the department of corrections within five days of the entry of the order. Violation of this subsection is a misdemeanor.

(3) A sex offender subject to registration under RCW 9A.44.130 who applies to change his or her name under subsection (1) of this section shall follow the procedures set forth in RCW 9A.44.130(5).

(4) The district court shall collect the fees authorized by RCW 36.18.010 for filing and recording a name change order, and transmit the fee and the order to the county auditor. The court may collect a reasonable fee to cover the cost of transmitting the order to the county auditor.

~~((4))~~ (5) Name change petitions may be filed and shall be heard in superior court when the person desiring a change of his or her name or that of his or her child or ward is a victim of domestic violence as defined in RCW 26.50.010(1) and the person seeks to have the name change file sealed due to reasonable fear for his or her safety or that of his or her child or ward. Upon granting the name change, the superior court shall seal the file if the court finds that the safety of the person seeking the name change or his or her child or ward warrants sealing the file. In all cases filed under this subsection, whether or not the name change petition is granted, there shall be no public access to any court record of the name change filing, proceeding, or order, unless the name change is granted but the file is not sealed.

**Sec. 6.** RCW 4.24.550 and 1997 c 364 s 1 and 1997 c 113 s 2 are each reenacted and amended to read as follows:

(1) Public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW ~~((9.94A.030))~~ 9A.44.130 or a kidnapping offense as defined by RCW 9A.44.130; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) The extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; and (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large.

(4) Local law enforcement agencies that disseminate information pursuant to this section shall: (a) Review available risk level classifications made by the department of corrections, the department of social and health services, and the indeterminate sentence review board; (b) assign risk level classifications to all ~~((sex))~~ offenders about whom information will be disseminated; and (c) make a good faith effort to notify the public and residents at least fourteen days before the offender is released from confinement or, where an offender moves from another jurisdiction, as soon as possible after the agency learns of the offender's move, except that in no case may this notification provision be construed to require an extension of an offender's release date. The juvenile court shall provide local law enforcement officials with all relevant information on offenders allowed to remain in the community in a timely manner.

(5) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a local law enforcement agency or official to classify ~~((a-sex))~~ an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(6) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(7) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(8) When a local law enforcement agency or official classifies ~~((a-sex))~~ an offender differently than the offender is classified by the department of corrections, the department of social and health services, or the indeterminate sentence review board, the law enforcement agency or official shall notify the appropriate department or the board and submit its reasons supporting the change in classification.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Long, Hargrove and Zarelli to House Bill No. 1172.

The motion by Senator Long carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Long, the following title amendment was adopted:

On page 1, line 1 of the title, after "registration;" strike the remainder of the title and insert "amending RCW 9A.44.135, 9A.44.140, 43.43.540, and 4.24.130; and reenacting and amending RCW 9A.44.130 and 4.24.550."

On motion of Senator Long, the rules were suspended, House Bill No. 1172, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1172, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1172, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Wojahn, Wood and Zarelli - 46. Excused: Senators Johnson, Patterson and Winsley - 3. HOUSE BILL NO. 1172, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

Vice President Pro Tempore Morton assumed the Chair.

#### MOTION

On motion of Senator Betti Sheldon, Senator Fairley was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1211, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives DeBolt, Fisher, K. Schmidt, Blalock, Johnson, Mielke, O'Brien and Costa) (by request of Washington Traffic Safety Commission)

Making accident reports available to the traffic safety commission.

The bill was read the second time.

#### MOTION

On motion of Senator Prince, the rules were suspended, Substitute House Bill No. 1211 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1211.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1211 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Wojahn, Wood and Zarelli - 45. Excused: Senators Fairley, Johnson, Patterson and Winsley - 4. SUBSTITUTE HOUSE BILL NO. 1211, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1248, by Representatives Sump, Costa, Sheahan, Sterk, Sherstad, Skinner, Lantz, Lambert, D. Schmidt, D. Sommers, Backlund, Ogden, Wensman and Constantine (by request of Secretary of State Munro)

Allowing facsimile filings with the secretary of state's office.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 1248 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Sellar, Senator Hale was excused.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 1248.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1248 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senators Horn and Prince - 2. Excused: Senators Hale, Johnson and Patterson - 3. HOUSE BILL NO. 1248, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1253, by House Committee on Government Administration (originally sponsored by Representatives Parlette, Costa, Sheahan, Sterk, Lantz, Skinner, Sherstad, Lambert, Gardner, D. Schmidt, Kenney and Wensman) ( by request of Secretary of State Munro)

Regulating naming of businesses.

The bill was read the second time.

### MOTION

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 1253 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

### MOTION

On motion of Senator Swecker, Senators Hochstatter, Horn and Prince were excused.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1253.

### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1253 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 43. Excused: Senators Hale, Hochstatter, Horn, Johnson, Patterson and Prince - 6. SUBSTITUTE HOUSE BILL NO. 1253, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1309, by Representatives Mielke, Mulliken, Sterk, McMorris, Pennington, Bush, Doumit, McDonald, Boldt, Thompson, Costa and Dunn

Creating the crime of disarming a law enforcement officer.

The bill was read the second time.

### MOTION

On motion of Senator Roach, the following Committee on Law and Justice amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) A person is guilty of disarming a law enforcement officer if with intent to interfere with the performance of the officer's duties the person knowingly removes a firearm or weapon from the person of a law enforcement officer or corrections officer or deprives a law enforcement officer or corrections officer of the use of a firearm or weapon, when the officer is acting within the scope of the officer's duties, does not consent to the removal, and the person has reasonable cause to know or knows that the individual is a law enforcement or corrections officer.

(2) Disarming a law enforcement or corrections officer is a class C felony unless the firearm involved is discharged when the person removes the firearm, in which case the offense is a class B felony.

**NEW SECTION. Sec. 2.** A person who commits another crime during the commission of the crime of disarming a law enforcement or corrections officer may be punished for the other crime as well as for disarming a law enforcement officer and may be prosecuted separately for each crime.

NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act do not apply when the law enforcement officer or corrections officer is engaged in criminal conduct.

NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act are added to chapter 9A.76 RCW."

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 1 of the title, after "officer;" strike the remainder of the title and insert "adding new sections to chapter 9A.76 RCW; and prescribing penalties."

On motion of Senator Roach, the rules were suspended, House Bill No. 1309, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Swecker, Senator Sellar was excused.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 1309, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1309, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Excused: Senators Hochstatter, Horn, Patterson, Prince and Sellar - 5. HOUSE BILL NO. 1309, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1501, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Robertson, Scott and Mielke) (by request of Department of Licensing)

Clarifying and making technical corrections to driver's license statutes.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, Second Substitute House Bill No. 1501 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Prentice, Senator Franklin was excused.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 1501.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1501 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Excused: Senators Franklin, Hochstatter, Horn, Prince and Sellar - 5. SECOND SUBSTITUTE HOUSE BILL NO. 1501, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senators McDonald and West were excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1504, by House Committee on Government Administration (originally sponsored by Representatives McMorris, Boldt, Honeyford and Dunn)

Protecting records of strategy discussions.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the following Committee on Government Operations amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 42.17.310 and 1997 c 310 s 2, 1997 c 274 s 8, 1997 c 250 s 7, 1997 c 239 s 4, 1997 c 220 s 120 (Referendum Bill No. 48), and 1997 c 58 s 900 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.



(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(nn) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110.

(oo) Records that would reveal the strategy or position of an agency before or during the course of any collective bargaining, labor negotiations, or grievance or mediation proceedings. After the conclusion of the bargaining, negotiations, or grievance or mediation proceedings, the records will be open to public inspection and copying as otherwise provided by this chapter.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld."

## MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On line 1 of the title, after "protection;" strike the remainder of the title and insert "and reenacting and amending RCW 42.17.310."

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 1504, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1504, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1504, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 43. Excused: Senators Franklin, Hochstatter, Horn, McDonald, Sellar and West - 6. SUBSTITUTE HOUSE BILL NO. 1504, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

President Owen assumed the Chair.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced guests from Canada, the Providence of Alberta, who were seated on the rostrum: The Honorable Dave Hancock, Queen's Council and Minister of Intergovernmental and Aboriginal Affairs; Betty Ann Hicks, Executive Assistant to the Minister; Wayne Clifford, Assistant Deputy Minister of International Relations; Robert W. Poetschke, Consul of the Canadian Consulate General in Seattle; and Melanie McCallum, Director of United States Affairs from Alberta.

With permission of the Senate, business was suspended to permit Minister Dave Hancock to address the Senate.

## WELCOME TO GUESTS

Senator Prentice offered a warm welcome to the guests from the Providence of Alberta.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1618, by House Committee on Health Care (originally sponsored by Representatives Skinner, Dyer, Conway, Zellinsky, Cody, Backlund, Parlette and Clements)

Modifying certain aspects of programs that treat impaired physicians.

The bill was read the second time.

## MOTION

On motion of Senator Johnson, the following Committee on Health and Long-Term Care amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the self-imposed license surcharge on physician licenses to fund a program to help physicians with chemical dependency or mental illness is not being fully spent on that program. It is the intent of the legislature that the program be fully funded and that funds collected into the impaired physician account be spent only on the program.

**Sec. 2.** RCW 18.71.0195 and 1994 sp.s. c 9 s 328 are each amended to read as follows:

(1) The contents of any report (~~(file)~~ filed) under RCW 18.130.070 shall be confidential and exempt from public disclosure pursuant to chapter 42.17 RCW, except that it may be reviewed (a) by the licensee involved or his or her counsel or authorized representative who may submit any additional exculpatory or explanatory statements or other information, which statements or other information shall be included in the file, or (b) by a representative of the commission, or investigator thereof, who has been assigned to review the activities of a licensed physician.

Upon a determination that a report is without merit, the commission's records may be purged of information relating to the report.

(2) Every individual, medical association, medical society, hospital, medical service bureau, health insurance carrier or agent, professional liability insurance carrier, professional standards review organization, (~~(and)~~) agency of the federal, state, or local government (~~(shall be)~~), or the entity established by RCW 18.71.300 and its officers, agents, and employees are immune from civil liability, whether direct or derivative, for providing information to the commission under RCW 18.130.070, or for which an individual health care provider has immunity under the provisions of RCW 4.24.240, 4.24.250, or 4.24.260.

**Sec. 3.** RCW 18.71.300 and 1994 sp.s. c 9 s 329 are each amended to read as follows:

~~(Unless the context clearly requires otherwise,)~~ The definitions in this section apply throughout RCW 18.71.310 through 18.71.340 unless the context clearly requires otherwise.

(1) (~~"Committee"~~) "Entity" means a nonprofit corporation formed by physicians who have expertise in the areas of (~~(alcoholism)~~) alcohol abuse, drug abuse, (~~(or)~~) alcoholism, other drug addictions, and mental illness and who broadly represent the physicians of the state and that has been designated to perform any or all of the activities set forth in RCW 18.71.310(1) (~~(pursuant to rules adopted)~~) by the commission (~~(under chapter 34.05 RCW)~~).

(2) "Impaired" or "impairment" means the (~~(presence of the diseases of alcoholism, drug abuse, mental illness)~~) inability to practice medicine with reasonable skill and safety to patients by reason of physical or mental illness including alcohol abuse, drug abuse, alcoholism, other drug addictions, or other debilitating conditions.

(3) "Impaired physician program" means the program for the prevention, detection, intervention, (~~(and)~~) monitoring, and treatment of impaired physicians established by the commission pursuant to RCW 18.71.310(1).

(4) "Physician" or "practitioner" means a person licensed under this chapter, chapter 18.71A RCW, or a professional licensed under another chapter of Title 18 RCW whose disciplining authority has a contract with the entity for an impaired practitioner program for its license holders.

(5) "Treatment program" means a plan of care and rehabilitation services provided by those organizations or persons authorized to provide such services to be approved by the commission or entity for impaired physicians taking part in the impaired physician program created by RCW 18.71.310.

**Sec. 4.** RCW 18.71.310 and 1997 c 79 s 2 are each amended to read as follows:

(1) The commission shall enter into a contract with the ~~((committee))~~ entity to implement an impaired physician program. The commission may enter into a contract with the entity for up to six years in length. The impaired physician program may include any or all of the following:

(a) ~~((Contracting))~~ Entering into relationships supportive of the impaired physician program with ~~((providers of))~~ professionals who provide either evaluation or treatment ~~((programs))~~ services, or both;

(b) Receiving and ~~((evaluating))~~ assessing reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment, or in cases where there is reasonable cause to suspect impairment;

(d) Upon reasonable cause, referring suspected or verified impaired physicians ~~((to))~~ for evaluation or treatment ~~((programs));~~

(e) Monitoring the treatment and rehabilitation of impaired physicians including those ordered by the commission;

(f) Providing ~~((post-treatment))~~ monitoring and continuing treatment and rehabilitative support of ~~((rehabilitative-impaired))~~ physicians;

(g) Performing such other activities as agreed upon by the commission and the ~~((committee))~~ entity; and

(h) Providing prevention and education services.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of ~~((up to))~~ twenty-five dollars per year on each license renewal or issuance of a new license to be collected by the department of health from every physician and surgeon licensed under this chapter in addition to other license fees. These moneys shall be placed in the ~~((health-professions))~~ impaired physician account to be used solely for the implementation of the impaired physician program.

**Sec. 5.** RCW 18.71.320 and 1994 sp.s. c 9 s 331 are each amended to read as follows:

The ~~((committee))~~ entity shall develop procedures in consultation with the commission for:

(1) Periodic reporting of statistical information regarding impaired physician activity;

(2) Periodic disclosure and joint review of such information as the commission may deem appropriate regarding reports received, contacts or investigations made, and the disposition of each report~~((: PROVIDED, That)).~~ However, the ~~((committee))~~ entity shall not disclose any personally identifiable information except as provided in subsections (3) and (4) of this section;

(3) Immediate reporting to the commission of the name and results of any contact or investigation regarding any suspected or verified impaired physician who is reasonably believed probably to constitute an imminent danger to himself or herself or to the public;

(4) Reporting to the commission, in a timely fashion, any suspected or verified impaired physician who ~~((refuses))~~ fails to cooperate with the ~~((committee, refuses))~~ entity, fails to submit to evaluation or treatment, or whose impairment is not substantially alleviated through treatment, ~~((and))~~ or who, in the opinion of the ~~((committee))~~ entity, is probably unable to practice medicine with reasonable skill and safety~~((: However, impairment, in and of itself, shall not give rise to a presumption of the inability to practice medicine with reasonable skill and safety));~~

(5) Informing each participant of the impaired physician program of the program procedures, the responsibilities of program participants, and the possible consequences of noncompliance with the program.

**Sec. 6.** RCW 18.71.330 and 1994 sp.s. c 9 s 332 are each amended to read as follows:

If the commission has reasonable cause to believe that a physician is impaired, the commission shall cause an evaluation of such physician to be conducted by the ~~((committee))~~ entity or the ~~((committee's))~~ entity's designee or the commission's designee for the purpose of determining if there is an impairment. The ~~((committee))~~ entity or appropriate designee shall report the findings of its evaluation to the commission.

**Sec. 7.** RCW 18.71.340 and 1987 c 416 s 6 are each amended to read as follows:

All ~~((committee))~~ entity records are not subject to disclosure pursuant to chapter 42.17 RCW.

**Sec. 8.** RCW 18.130.070 and 1989 c 373 s 19 are each amended to read as follows:

(1) The disciplining authority may adopt rules requiring any person, including, but not limited to, licensees, corporations, organizations, health care facilities, impaired practitioner programs, or voluntary substance abuse monitoring programs approved by the disciplining authority and state or local governmental agencies, to report to the disciplining authority any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct, or to report information to the disciplining authority, an impaired practitioner program, or voluntary substance abuse monitoring program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the disciplinary authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the disciplinary authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order is a contempt of court as provided in chapter 7.21 RCW.

(3) A person is immune from civil liability, whether direct or derivative, for providing information to the disciplining authority pursuant to the rules adopted under subsection (1) of this section.

(4) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority any conviction, determination, or finding that the licensee has committed unprofessional conduct or is unable to practice with reasonable skill or safety. Failure to report within thirty days of notice of the conviction, determination, or finding constitutes grounds for disciplinary action.

**Sec. 9.** RCW 18.130.080 and 1986 c 259 s 5 are each amended to read as follows:

A person, including but not limited to consumers, licensees, corporations, organizations, health care facilities, impaired practitioner programs, or voluntary substance abuse monitoring programs approved by disciplining authorities, and state and local governmental agencies, may submit a written complaint to the disciplining authority charging a license holder or applicant with unprofessional conduct and specifying the grounds therefor or to report information to the disciplining authority, or voluntary substance abuse monitoring program, or an impaired practitioner program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition. If the disciplining authority determines that the complaint merits investigation, or if the disciplining authority has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the disciplining authority shall investigate to determine whether there has been unprofessional conduct. A person who files a complaint or reports information under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint.

**Sec. 10.** RCW 18.130.175 and 1993 c 367 s 3 are each amended to read as follows:

(1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of substance abuse, the disciplining authority may refer the license holder to a voluntary substance abuse monitoring program approved by the disciplining authority.

The cost of the treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Primary alcoholism or other drug addiction treatment shall be provided by approved treatment programs under RCW 70.96A.020(~~(= PROVIDED, That))~~ or by any other provider approved by the entity or the commission. However, nothing shall prohibit the disciplining authority from approving additional services and programs as an adjunct to primary alcoholism or other drug addiction treatment. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the program shall be done only with the consent of the license holder. Referral to the program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160. The secretary shall adopt uniform rules for the evaluation by the disciplinary authority of a relapse or program violation on the part of a license holder in the substance abuse monitoring program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplinary authority determines that the license holder is able to continue to practice with reasonable skill and safety.

(2) In addition to approving substance abuse monitoring programs that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority for substance abuse. License holders voluntarily participating in the approved programs without being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The substance abuse program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

(4) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

(5) "Substance abuse," as used in this section, means the impairment, as determined by the disciplining authority, of a license holder's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(6) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(7) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section and the persons entitled to immunity shall include:

- (i) An approved monitoring treatment program;
- (ii) The professional association operating the program;
- (iii) Members, employees, or agents of the program or association;
- (iv) Persons reporting a license holder as being possibly impaired or providing information about the license holder's impairment; and
- (v) Professionals supervising or monitoring the course of the impaired license holder's treatment or rehabilitation.

(b) The courts are strongly encouraged to impose sanctions on clients and their attorneys whose allegations under this subsection are not made in good faith and are without either reasonable objective, substantive grounds, or both.

(c) The immunity provided in this section is in addition to any other immunity provided by law.

**Sec. 11.** RCW 18.130.300 and 1994 sp.s. c 9 s 605 are each amended to read as follows:

(1) The secretary, members of the boards or commissions, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary proceedings or other official acts performed in the course of their duties.

(2) A voluntary substance abuse monitoring program or an impaired practitioner program approved by a disciplining authority, or individuals acting on their behalf, are immune from suit in a civil action based on any disciplinary proceedings or other official acts performed in the course of their duties.

**NEW SECTION. Sec. 12.** A new section is added to chapter 18.71 RCW to read as follows:

The impaired physician account is created in the custody of the state treasurer. All receipts from RCW 18.71.310 from license surcharges on physicians and physician assistants shall be deposited into the account. Expenditures from the account may only be used for the impaired physician program under this chapter. Only the secretary of health or the secretary's designee may authorize expenditures from the account. No appropriation is required for expenditures from this account.

**Sec. 13.** RCW 18.57A.020 and 1996 c 191 s 39 are each amended to read as follows:

(1) The board shall adopt rules fixing the qualifications and the educational and training requirements for licensure as an osteopathic physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the board and eligibility to take an examination approved by the board, providing such examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program.

(2)(a) The board shall adopt rules governing the extent to which:

- (i) Physician assistant students may practice medicine during training; and
- (ii) Physician assistants may practice after successful completion of a training course.

(b) Such rules shall provide:

(i) That the practice of an osteopathic physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each osteopathic physician assistant shall practice osteopathic medicine only under the supervision and control of an osteopathic physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physicians at the place where services are rendered. The board may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

(3) Applicants for licensure shall file an application with the board on a form prepared by the secretary with the approval of the board, detailing the education, training, and experience of the physician assistant and such other information as the board may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of twenty-five dollars per year may be charged on each license renewal or issuance of a new license to be collected by the department of health for physician assistant participation in an impaired practitioner program. Each applicant shall furnish proof satisfactory to the board of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the board and is eligible to take the examination approved by the board;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing osteopathic medicine as an osteopathic physician assistant with reasonable skill and safety. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice as an osteopathic physician assistant.

(4) The board may approve, deny, or take other disciplinary action upon the application for a license as provided in the uniform disciplinary act, chapter 18.130 RCW. The license shall be renewed as determined under RCW 43.70.250 and 43.70.280.

**Sec. 14.** RCW 18.71A.020 and 1996 c 191 s 57 are each amended to read as follows:

(1) The commission shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the commission and eligibility to take an examination approved by the commission, if the examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. Physician assistants licensed by the board of medical examiners as of June 7, 1990, shall continue to be licensed.

(2)(a) The commission shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician or physicians at the place where services are rendered.

(3) Applicants for licensure shall file an application with the commission on a form prepared by the secretary with the approval of the commission, detailing the education, training, and experience of the physician assistant and such other information as the commission may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of twenty-five dollars per year shall be charged on each license renewal or issuance of a new license to be collected by the department and deposited into the impaired physician account for physician assistant participation in the impaired physician program. Each applicant shall furnish proof satisfactory to the commission of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the commission and is eligible to take the examination approved by the commission;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The commission may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4) The commission may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW. The license shall be renewed as determined under RCW 43.70.250 and 43.70.280. The commission may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

**NEW SECTION. Sec. 15.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

## MOTIONS

On motion of Senator Johnson, the following title amendment was adopted:

On page 1, line 1 of the title, after "physicians;" strike the remainder of the title and insert "amending RCW 18.71.0195, 18.71.300, 18.71.310, 18.71.320, 18.71.330, 18.71.340, 18.130.070, 18.130.080, 18.130.175, 18.130.300, 18.57A.020, and 18.71A.020; adding a new section to chapter 18.71 RCW; and creating a new section."

On motion of Senator Johnson, the rules were suspended, Second Substitute House Bill No. 1618, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 1618, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1618, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 43. Absent: Senator Finkbeiner - 1. Excused: Senators Hochstatter, Horn,

McDonald, Sellar and West - 5. SECOND SUBSTITUTE HOUSE BILL NO. 1618, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Anderson was excused.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2465, by Representatives Dyer, Cody, Backlund, L. Thomas and Cooke

Expanding the privileged communication from physician-patient to the health care provider and patient privilege.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, Engrossed House Bill No. 2465 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2465.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2465 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 44. Excused: Senators Anderson, Hochstatter, McDonald, Sellar and West - 5. ENGROSSED HOUSE BILL NO. 2465, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2537, by Representatives Butler, Romero, Buck, Hatfield and Kessler (by request of Department of Health)

Regulating sanitary control of shellfish.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, House Bill No. 2537 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2537.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2537 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Oke, Patterson, Prentice, Prince, Rasmussen,

Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 44.

Absent: Senator Newhouse - 1. Excused: Senators Anderson, McDonald, Sellar and West - 4. HOUSE BILL NO. 2537, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Swecker, Senator Stevens was excused.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2782, by House Committee on Appropriations (originally sponsored by Representatives McMorris and Wood)

Authorizing special event endorsements to full service private club licenses.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the following amendments by Senators Schow and Heavey were considered simultaneously and were adopted:

On page 2, line 8, after "up to" strike "fifty" and insert "forty"

On page 2, after line 17, insert the following:

**"NEW SECTION. Sec. 2.** The board shall report to the senate and house of representatives by January 1, 2001, on whether it has found in the ordinary course of its business since the effective date of this act that compliance by private clubs with restrictions on service of nonmembers has improved as a result of the changes in RCW 66.24.450 by section 1 of this act, and whether any amendments are needed to enhance compliance."

Renumber the remaining section consecutively.

#### MOTIONS

On motion of Senator Schow, the following title amendment was adopted:

On page 1, line 2 of the title, after "66.24.450;" insert "creating a new section;"

On motion of Senator Schow, the rules were suspended, Second Substitute House Bill No. 2782, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Franklin, Senator Haugen was excused.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 2782, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2782, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 3; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 40. Voting nay: Senators Hargrove, Long and Oke - 3. Absent: Senator Prince - 1. Excused: Senators Haugen, McDonald, Sellar, Stevens and West - 5. SECOND SUBSTITUTE HOUSE BILL NO. 2782, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.



SECOND READING

SUBSTITUTE HOUSE BILL NO. 1992, by House Committee on Commerce and Labor (originally sponsored by Representatives McMorris, Honeyford, Clements and Thompson)

Implementing workplace safety rules.

The bill was read the second time.

MOTION

On motion of Senator Schow, the rules were suspended, Substitute House Bill No. 1992 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

On motion of Senator Johnson, further consideration of Substitute House Bill No. 1992 was deferred.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2941, by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Kessler, Crouse, Lantz and Bush)

Limiting liability for utilities in protecting their facilities.

The bill was read the second time.

MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove, Brown and Finkbeiner be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds:

(a) Utilities that provide service for the public necessity and convenience, particularly electric, water, and sewer utilities, maintain facilities in rights of way and where easements, both acquired and implied, exist;

(b) Vegetation growth on state lands and private properties adjacent to utility facilities can cause damage to utility facilities and pose public safety concerns where such vegetation grows or falls into these facilities; and

(c) When vegetation from adjacent land or property causes damage to utility facilities, utility service to customers might be disrupted, collateral damage might occur to other properties, and the general public might be placed in imminent danger.

(2) The legislature declares:

(a) Utilities have a dual interest in protecting their facilities from potential damages caused by vegetation on adjacent lands or properties and preserving service continuity and reliability for the customer;

(b) The cutting or removal of trees, timber, and shrubs by a utility from adjacent lands or properties is often done to protect the utility's facilities, to maintain service continuity and reliability, and to protect the general public, not for commercial or profit-motivated purposes; and

(c) Utilities should be immune from liability, including special damages for emotional distress, when a utility cuts or removes from adjacent lands or properties vegetation that has damaged, poses an imminent threat to, or encroached upon utility facilities and the utility has given appropriate notice and opportunity to the land or property owner or resident.

NEW SECTION. Sec. 2. A new section is added to chapter 64.12 RCW to read as follows:

(1) A utility is immune from liability under RCW 64.12.030 and 64.12.040, when it cuts or removes any trees, timber, or shrubs that:

(a) Have damaged utility facilities or pose a hazard to the general public health, safety, or welfare and the utility makes a reasonable effort as soon as practical to notify and secure agreement from an adjacent land or property owner of record, or the resident of the property, regarding the disposal of any trees, timber, or shrubs that have been cut or removed by the utility;

(b) Pose an imminent threat to damage utility facilities and the utility makes a reasonable effort to notify and secure agreement from an adjacent land or property owner of record, or the resident of the property, regarding the cutting or removal and disposal of any trees, timber, or shrubs located on land or property adjacent to utility facilities; or

(c) Encroached upon utility facilities and the utility secures an agreement from an adjacent land or property owner of record, or the resident of the property, regarding the cutting or removal and disposal of any trees, timber, or shrubs located on land or property adjacent to utility facilities.

(2) Damages under RCW 64.12.030 or 64.12.040 for cutting or removal of natural vegetation by a utility shall be limited to stumpage value.

(3) In no event shall a utility be liable for damages for emotional distress for cutting or removing any trees, timber, or shrubs located on land or property adjacent to utility facilities.

(4) For the purposes of this section:

(a) "Utility facility" means lines, conduits, ducts, poles, wires, pipes, conductors, cables, cross-arms, receivers, transmitters, transformers, instruments, machines, appliances, instrumentalities, and all devices, real estate, easements, apparatus, property, and routes used, operated, owned, or controlled by an electric, water, or sewer utility, natural gas, or telecommunications company, for the purposes of manufacturing, transmitting, distributing, selling, or furnishing electricity, water, sewer, natural gas, or telecommunications services; and

(b) "Natural vegetation" means a tree indigenous to the area in which it has grown and is of such age and condition that it can be reasonably determined to have grown naturally in its present location and it was not planted for the purposes of residential aesthetics, or commercial, production, or retail sale."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove, Brown and Finkbeiner to Substitute House Bill No. 2941.

The motion by Senator Hargrove carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Finkbeiner, the following title amendment was adopted:

On page 1, line 2 of the title, after "vegetation;" strike the remainder of the title and insert "adding a new section to chapter 64.12 RCW; and creating a new section."

On motion of Senator Finkbeiner, the rules were suspended, Substitute House Bill No. 2941, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2941, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2941, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Haugen - 1. SUBSTITUTE HOUSE BILL NO. 2941, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1781, by House Committee on Appropriations (originally sponsored by Representatives Lambert, Ballasiotes, Clements, McMorris, Talcott, Costa, Backlund, Cooke, Huff, Delvin and Thompson)

Expanding the supervision management and recidivist tracking program.

The bill was read the second time.

#### MOTION

Senator Long moved that the following Committee on Human Services and Corrections amendment not be adopted:  
Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that increased communications between local law enforcement officers and the state department of corrections' community corrections officers improves public safety through shared monitoring and supervision of offenders living in the community under the jurisdiction of the department of corrections.

Participating local law enforcement agencies and the local offices of the department of corrections have implemented the supervision management and recidivist tracking program, whereby each entity provides mutual assistance in supervising offenders living within the boundaries of local law enforcement agencies. The supervision management and recidivist tracking program has helped local law enforcement solve crimes faster or prevented future criminal activity by reporting offender's sentence violations in a more timely manner to community corrections officers by rapid and comprehensive electronic sharing of information regarding supervised offenders. The expansion of the supervision management and recidivist tracking program will improve public safety throughout the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.10 RCW to read as follows:

There is created, as a component of the homicide investigative tracking system, a supervision management and recidivist tracking system called the SMART system. The office of the attorney general may contract with any state, local, or private agency necessary for implementation of and training for supervision management and recidivist tracking program partnerships for development and operation of a state-wide computer linkage between the attorney general's homicide investigative tracking system, local police departments, and the state department of corrections. Dormant information in the system shall be automatically archived after seven years. The department of corrections shall notify the attorney general when each person is no longer under its supervision."

The President declared the question before the Senate to be the motion by Senator Long that the Committee on Human Services and Corrections striking amendment to Substitute House Bill No. 1781 not be adopted.

The motion by Senator Long carried and the committee striking amendment was not adopted.

#### MOTION

Senator Long moved that the following amendment by Senators Long, Hargrove and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that increased communications between local law enforcement officers and the state department of corrections' community corrections officers improves public safety through shared monitoring and supervision of offenders living in the community under the jurisdiction of the department of corrections.

Participating local law enforcement agencies and the local offices of the department of corrections have implemented the supervision management and recidivist tracking program, whereby each entity provides mutual assistance in supervising offenders living within the boundaries of local law enforcement agencies. The supervision management and recidivist tracking program has helped local law enforcement solve crimes faster or prevented future criminal activity by reporting offender's sentence violations in a more timely manner to community corrections officers by rapid and comprehensive electronic sharing of information regarding supervised offenders. The expansion of the supervision management and recidivist tracking program will improve public safety throughout the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.10 RCW to read as follows:

(1) There is created, as a component of the homicide investigative tracking system, a supervision management and recidivist tracking system called the SMART system. The office of the attorney general may contract with any state, local, or private agency necessary for implementation of and training for supervision management and recidivist tracking program partnerships for development and operation of a state-wide computer linkage between the attorney general's homicide investigative tracking system, local police departments, and the state department of corrections. Dormant information in the supervision management and recidivist tracking system shall be automatically archived after seven years. The department of corrections shall notify the attorney general when each person is no longer under its supervision.

(2) As used in this section, unless the context requires otherwise:

(a) "Dormant" means there have been no inquiries by the department of corrections or law enforcement with regard to an active supervision case or an active criminal investigation in the past seven years.

(b) "Archived" means information which is not in the active data base and can only be retrieved for use in an active criminal investigation.

**NEW SECTION. Sec. 3.** The homicide investigative tracking system and the supervision management and recidivist tracking system are tools for the administration of criminal justice and these systems may not be used for any other purpose."

Debate ensued.

#### POINT OF INQUIRY

Senator Loveland: "Senator Long, I notice that this adds a new responsibility, a new system--a supervision management and recidivist tracking system called the SMART system. Is there any--I read the quick striker as it was laying here--the cost that would be associated with this didn't go to a fiscal committee. I wonder how we are going to pay for this?"

Senator Long: "Senator Loveland, as I recall, this is not funded by the state and it is in existence now. We are merely changing what they can collect and who has access to it."

Senator Loveland: "Well, it does say that we are doing--requiring something new--I do appreciate the definition, but I do still question. We are asking to do something new and I don't see any dollars attached to it."

Senator Long: "There is no fiscal note on the bill. I would be happy to get back to you and get you more information, but this is the SMART program that is currently in place that is a communication link between the Department of Corrections, the local community corrections officers and participating law enforcement agencies and just provides a link to the homicide investigation tracking system."

Senator Loveland: "Thank you."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Long, Hargrove and Zarelli to Substitute House Bill No. 1781.

The motion by Senator Long carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Long, the following title amendment was adopted:

On page 1, line 2 of the title, after "corrections;" strike the remainder of the title and insert "adding a new section to chapter 43.10 RCW; and creating new sections."

On motion of Senator Long, the rules were suspended, Substitute House Bill No. 1781, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1781, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1781, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Voting nay: Senator Fairley - 1. SUBSTITUTE HOUSE BILL NO. 1781, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2302, by Representatives Honeyford, Lisk, Wolfe, Scott, Gardner and Hankins

Authorizing counties that hold money in trust for school purposes to distribute the money to school districts.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Engrossed House Bill No. 2302 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2302.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2302 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin,

McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED HOUSE BILL NO. 2302, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator McDonald was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2351, by House Committee on Government Administration (originally sponsored by Representatives McDonald, Costa, L. Thomas, Scott, Gardner, Linville, Hatfield, Benson, Keiser, Romero, Butler, Dunshee, Kessler, Kenney, Cooke, Mitchell, Cooper, Kastama, Dunn, Lambert, Constantine, Sullivan, Conway and Lantz) (by request of Secretary of State Munro)

Allowing victims of sexual assault into the address confidentiality program.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the following Committee on Government Operations amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 40.24.010 and 1991 c 23 s 1 are each amended to read as follows:

The legislature finds that persons attempting to escape from actual or threatened domestic violence or sexual assault frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence or sexual assault, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence or sexual assault, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address.

**Sec. 2.** RCW 40.24.030 and 1991 c 23 s 3 are each amended to read as follows:

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe (i) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence or sexual assault; and (ii) that the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(b) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(c) The mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence or sexual assault;

(e) The signature of the applicant and of any individual or representative of any office designated in writing under RCW 40.24.080 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under RCW 40.16.030 or other applicable statutes.

**Sec. 3.** RCW 40.24.070 and 1991 c 23 s 7 are each amended to read as follows:

The secretary of state may not make any records in a program participant's ~~((address, other than the address designated by the secretary of state,))~~ file available for inspection or copying, other than the address designated by the secretary of state, except under the following circumstances:

(1) If requested by a law enforcement agency, to the law enforcement agency;

(2) If directed by a court order, to a person identified in the order; ~~((and))~~

(3) If certification has been canceled; or

(4) To verify the participation of a specific program participant, in which case the secretary may only confirm information supplied by the requester.

**Sec. 4.** RCW 40.24.080 and 1991 c 23 s 8 are each amended to read as follows:

The secretary of state shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to either victims of domestic violence or sexual assault to assist persons applying to be program participants. Any assistance and counseling rendered by the office of the secretary of state or its designees to applicants shall in no way be construed as legal advice.

NEW SECTION. **Sec. 5.** RCW 40.24.900 and 1991 c 23 s 16 are each repealed."

#### MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 40.24.010, 40.24.030, 0.24.070, and 40.24.080; and repealing RCW 40.24.900."

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 2351, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Loveland, Senator Fairley was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2351, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2351, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Horn - 1. Excused: Senators Fairley and McDonald - 2. SUBSTITUTE HOUSE BILL NO. 2351, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senators Horn and Schow were excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2411, by House Committee on Government Administration (originally sponsored by Representatives Alexander, Wolfe, D. Schmidt, DeBolt, Gardner, D. Sommers and Thompson)

Refining statutes related to county treasurers.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the following Committee on Government Operations amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 35.13.270 and 1965 c 7 s 35.13.270 are each amended to read as follows:

Whenever any territory is annexed to a city or town which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the city or town and by the city or town placed in the city or town street fund: PROVIDED, That this section shall not apply to any special assessments due in behalf of such property. The city or town is required to provide notification, by certified mail, that includes a list of annexed parcel numbers, to the county treasurer and assessor at least thirty days before the effective date of the annexation. The county treasurer is only required to remit to the city or town those road taxes collected thirty days or more after receipt of the notification.

**Sec. 2.** RCW 35A.14.801 and 1971 ex.s. c 251 s 14 are each amended to read as follows:

Whenever any territory is annexed to a code city which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the code city and by the city placed in the city street fund: PROVIDED, That this section shall not apply to any special assessments due in behalf of such property. The code city is required to provide notification, by certified mail, that includes a list of annexed parcel numbers, to the county treasurer and assessor at least thirty days before the effective date of the annexation. The county treasurer is only required to remit to the code city those road taxes collected thirty or more days after receipt of the notification.

**Sec. 3.** RCW 36.29.010 and 1995 c 38 s 4 are each amended to read as follows:

The county treasurer:

(1) Shall receive all money due the county and disburse it on warrants issued and attested by the county auditor and electronic funds transfer under RCW 39.58.750 as attested by the county auditor;

(2) Shall issue a receipt in duplicate for all money received other than taxes; the treasurer shall deliver immediately to the person making the payment the original receipt and the duplicate shall be retained by the treasurer;

(3) Shall affix on the face of all paid warrants the date of redemption or, in the case of proper contract between the treasurer and a qualified public depository, the treasurer may consider the date affixed by the financial institution as the date of redemption;

(4) Shall indorse, before the date of issue by the county or by any taxing district for whom the county treasurer acts as treasurer, on the face of all warrants for which there are not sufficient funds for payment, "interest bearing warrant." When there are funds to redeem outstanding warrants, the county treasurer shall give notice:

(a) By publication in a legal newspaper published or circulated in the county; or

(b) By posting at three public places in the county if there is no such newspaper; or

(c) By notification to the financial institution holding the warrant;

(5) Shall pay interest on all interest-bearing warrants from the date of issue to the date of notification;

(6) Shall maintain financial records reflecting receipts and disbursement by fund in accordance with generally accepted accounting principles;

(7) Shall account for and pay all bonded indebtedness for the county and all special districts for which the county treasurer acts as treasurer;

(8) Shall invest all funds of the county or any special district in the treasurer's custody, not needed for immediate expenditure, in a manner consistent with appropriate statutes. If cash is needed to redeem warrants issued from any fund in the custody of the treasurer, the treasurer shall liquidate investments in an amount sufficient to cover such warrant redemptions; and

(9) May provide certain collection services for county departments.

The treasurer, at the expiration of the term of office, shall make a complete settlement with the county legislative authority, and shall deliver to the successor all public money, books, and papers in the treasurer's possession.

**Sec. 4.** RCW 36.29.160 and 1996 c 230 s 1607 are each amended to read as follows:

The county treasurer shall make segregation, collect, and receive from any owner or owners of any subdivision or portion of any lot, tract or parcel of land upon which assessments or charges have been made or may be made (~~hereafter in~~) by public utility districts, water-sewer districts, or the county ((road improvement districts)), under the terms of Title 54 RCW, Title 57 RCW, or chapter 36.88, ~~36.89,~~ or 36.94 RCW, such portion of the assessments or charges levied or to be levied against such lot, tract or parcel of land in payment of such assessment or charges as the board of commissioners of the public utility district, the water-sewer district commissioners or the board of county commissioners, respectively, shall certify to be chargeable to such subdivision, which certificate shall state that such property as segregated is sufficient security for the assessment or charges. Upon making collection upon any such subdivision the county treasurer shall note such payment upon his records and give receipt therefor. When a segregation is required, a certified copy of the resolution shall be delivered to the treasurer of the county in which the real property is located who shall proceed to make the segregation ordered upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made.

**Sec. 5.** RCW 57.16.110 and 1996 c 230 s 610 are each amended to read as follows:

Whenever any land against which there has been levied any special assessment by any district shall have been sold in part or subdivided, the board of commissioners of the district shall have the power to order a segregation of the assessment.

Any person desiring to have a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the board of commissioners of the district that levied the assessment. If the commissioners determine that a segregation should be made, they shall by resolution order the treasurer of the county in which the real property is located to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract and the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the treasurer of the county in which the real property is located who shall proceed to make the segregation ~~((ordered upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made. In addition to the charge))~~. The board of commissioners may require as a condition to the order of segregation that the person seeking it pay the district the reasonable engineering and clerical costs incident to making the segregation.

**Sec. 6.** RCW 36.48.010 and 1984 c 177 s 8 are each amended to read as follows:

Each county treasurer shall annually at the end of each fiscal year or at such other times as may be deemed necessary, designate one or more financial institutions in the state which are qualified public depositories as set forth by the public deposit protection commission as depository or depositories for all public funds held and required to be kept by ~~((him as such))~~ the treasurer, and no county treasurer shall deposit any public money in financial institutions, except as herein provided. Public funds of the county or a special district for which the county treasurer acts as its treasurer may only be deposited in bank accounts authorized by the treasurer or authorized in statute. All bank card depository service contracts for the county and special districts for which the county treasurer acts as its treasurer must be authorized by the county treasurer.

**Sec. 7.** RCW 39.46.110 and 1995 c 38 s 8 are each amended to read as follows:

(1) General obligation bonds of local governments shall be subject to this section. Unless otherwise stated in law, the maximum term of any general obligation bond issue shall be forty years.

(2) General obligation bonds constitute an indebtedness of the local government issuing the bonds that are subject to the indebtedness limitations provided in Article VIII, section 6 of the state Constitution and are payable from tax revenues of the local government and such other money lawfully available and pledged or provided by the governing body of the local government for that purpose. Such governing body may pledge the full faith, credit and resources of the local government for the payment of general obligation bonds. The payment of such bonds shall be enforceable in mandamus against the local government and its officials. The officials now or hereafter charged by law with the duty of levying taxes pledged for the payment of general obligation bonds and interest thereon shall, in the manner provided by law, make an annual levy of such taxes sufficient together with other moneys lawfully available and pledge therefor to meet the payments of principal and interest on ~~((said))~~ the bonds as they come due.

(3) General obligation bonds, whether or not issued as physical instruments, shall be executed in the manner determined by the governing body or legislative body of the issuer. If the issuer is the county or a special district for which the county treasurer is the treasurer, the issuer shall notify the county treasurer at least thirty days in advance of authorizing the issuance of bonds or the incurrence of other certificates of indebtedness.

(4) Unless another statute specifically provides otherwise, the owner of a general obligation bond, or the owner of an interest coupon, issued by a local government shall not have any claim against the state arising from the general obligation bond or interest coupon.

(5) As used in this section, the term "local government" means every unit of local government, including municipal corporations, quasi municipal corporations, and political subdivisions, where property ownership is not a prerequisite to vote in the local government's elections.

**Sec. 8.** RCW 39.50.010 and 1985 c 332 s 8 are each amended to read as follows:

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

(1) "Governing body" means the legislative authority of a municipal corporation by whatever name designated;

(2) "Local improvement district" includes local improvement districts, utility local improvement districts, road improvement districts, and other improvement districts that a municipal corporation is authorized by law to establish;

(3) "Municipal corporation" means any city, town, county, water district, sewer district, school district, port district, public utility district, metropolitan municipal corporation, public transportation benefit area, park and recreation district, irrigation district, ~~((or))~~ fire protection district or any other municipal or quasi municipal corporation described as such by statute, or regional transit authority, except joint operating agencies under chapter 43.52 RCW;

(4) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the municipal corporation exercising any power under this chapter takes formal action and adopts legislative provisions and matters of some permanency; and

(5) "Short-term obligations" are warrants, notes, or other evidences of indebtedness, except bonds.

**Sec. 9.** RCW 57.08.081 and 1997 c 447 s 19 are each amended to read as follows:

The commissioners of any district shall provide for revenues by fixing rates and charges for furnishing sewer and drainage service and facilities to those to whom service is available or for providing water, such rates and charges to be fixed as deemed necessary by the commissioners, so that uniform charges will be made for the same class of customer or service and facility. Rates and charges may be combined



for the furnishing of more than one type of sewer or drainage service and ~~((facility such as but not limited to storm or surface water and sanitary))~~ facilities.

In classifying customers of such water, sewer, or drainage system, the board of commissioners may in its discretion consider any or all of the following factors: The difference in cost to various customers; the location of the various customers within and without the district; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the service and facility furnished; the time of its use; the achievement of water conservation goals and the discouragement of wasteful practices; capital contributions made to the system including but not limited to assessments; and any other matters which present a reasonable difference as a ground for distinction. Rates shall be established as deemed proper by the commissioners and as fixed by resolution and shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for efficient and proper operation of the system.

The commissioners shall enforce collection of connection charges, and rates and charges for water supplied against property owners connecting with the system or receiving such water, and for sewer and drainage services charged against property to which and its owners to whom the service is available, such charges being deemed charges against the property served, by addition of penalties of not more than ten percent thereof in case of failure to pay the charges at times fixed by resolution. The commissioners may provide by resolution that where either connection charges or rates and charges for services supplied are delinquent for any specified period of time, the district shall certify the delinquencies to the ~~((treasurer))~~ auditor of the county in which the real property is located, and the charges and any penalties added thereto and interest thereon at the rate of not more than the prime lending rate of the district's bank plus four percentage points per year shall be a lien against the property upon which the service was received, subject only to the lien for general taxes.

The district may, at any time after the connection charges or rates and charges for services supplied or available and penalties are delinquent for a period of sixty days, bring suit in foreclosure by civil action in the superior court of the county in which the real property is located. The court may allow, in addition to the costs and disbursements provided by statute, attorneys' fees, title search and report costs, and expenses as it adjudges reasonable. The action shall be in rem, and may be brought in the name of the district against an individual or against all of those who are delinquent in one action. The laws and rules of the court shall control as in other civil actions.

In addition to the right to foreclose provided in this section, the district may also cut off all or part of the service after charges for water or sewer service supplied or available are delinquent for a period of sixty days.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.46 RCW to read as follows:

A county, city, or town that imposes an excise tax under this chapter must provide the county treasurer with a copy of the ordinance or other action initially authorizing the tax or altering the rate of the tax that is imposed at least sixty days before change becomes effective.

**Sec. 11.** RCW 82.45.180 and 1993 sp.s. c 25 s 510 are each amended to read as follows:

(1) For taxes collected by the county under this chapter, the county treasurer shall collect a two-dollar fee on all transactions required by this chapter where the transaction does not require the payment of tax. A total of two dollars shall be collected in the form of a tax and fee, where the calculated tax payment is less than two dollars. The county treasurer shall place one percent of the proceeds of the tax imposed by this chapter and the treasurer's fee in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department of revenue for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. The state treasurer shall deposit the proceeds in the general fund for the support of the common schools.

(2) For taxes collected by the department of revenue under this chapter, the department shall remit the tax to the state treasurer who shall deposit the proceeds of any state tax in the general fund for the support of the common schools. The state treasurer shall deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account hereby created in the state treasury. Moneys in the local real estate excise tax account may be spent only for distribution to counties, cities, and towns imposing a tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local real estate excise tax account shall be credited to the local real estate excise tax account and distributed to the counties, cities, and towns monthly. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority. The state treasurer shall make the distribution under this subsection without appropriation.

**Sec. 12.** RCW 84.04.060 and 1961 c 15 s 84.04.060 are each amended to read as follows:

"Money" or "moneys" shall be held to mean ~~((gold and silver coin, gold and silver certificates, treasury notes, United States notes, and bank notes))~~ coin or paper money issued by the United States government.

**Sec. 13.** RCW 84.64.220 and 1961 c 15 s 84.64.220 are each amended to read as follows:

All property deeded to the county under the provisions of this chapter shall be stricken from the tax rolls as county property and exempt from taxation and shall not be again assessed or taxed while the property of the county. The sale, management, and leasing of tax title property shall be handled as under chapter 36.35 RCW.

**Sec. 14.** RCW 84.64.300 and 1961 c 15 s 84.64.300 are each amended to read as follows:

The county treasurer shall upon payment to ~~((him))~~ the county treasurer of the purchase price for ~~((said))~~ the property and any interest due, make and execute under ~~((his))~~ the county treasurer's hand and seal, and issue to the purchaser, a deed in the following form for any lots or parcels of real property sold under the provisions of RCW 84.64.270 (as recodified by this act).

State of Washington

ss.

County of

This indenture, made this . . . . day of . . . . ., ~~((19--))~~ . . (year) . ., between . . . . ., as treasurer of . . . . . county, state of Washington, the party of the first part, and . . . . ., party of the second part.

WITNESSETH, That whereas, at a public sale of real property, held on the . . . . day of . . . . ., ~~((A.D., 19--))~~ . . (year) . ., pursuant to an order of the ~~((board of county commissioners))~~ county legislative authority of the county of . . . . ., state of Washington, duly made and entered, and after having first given due notice of the time and place and terms of ~~((said))~~ the sale, and, whereas, in pursuance of ~~((said))~~ the order of the ~~((said board of county commissioners))~~ county legislative authority, and of the laws of the state of Washington, and for and in consideration of the sum of . . . . . dollars, lawful money of the United States of America, to me in hand paid, the receipt whereof is hereby acknowledged, I have this day sold to . . . . . the following described real property, and which ~~((said))~~ the real property is the property of . . . . . county, and which is particularly described as follows, to wit: . . . . ., the ~~((said))~~ . . . . . being the highest and best bidder at ~~((said))~~ the sale, and the ~~((said))~~ sum being the highest and best sum bid at ~~((said))~~ the sale;

NOW, THEREFORE, Know ye that I, . . . . ., county treasurer of ~~((said))~~ the county of . . . . ., state of Washington, in consideration of the premises and by virtue of the statutes of the state of Washington, in such cases made and provided, do hereby grant and convey unto . . . . ., heirs and assigns, forever, the ~~((said))~~ real property hereinbefore described, as fully and completely as ~~((said))~~ the party of the first part can by virtue of the premises convey the same.

Given under my hand and seal of office this . . . . day of . . . . ., ~~((A.D., 19 . . . .))~~ . . (year) . ..

County Treasurer,

By

Deputy:

PROVIDED, That when by order of the ~~((board of county commissioners))~~ county legislative authority any of the minerals or other resources enumerated in RCW 84.64.270 (as recodified by this act) are reserved, the deed or contract of purchase shall contain the following reservation:

The party of the first part hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, all oils, gases, coals, ores, minerals, gravel, timber and fossils of every name, kind or description, and which may be in or upon ~~((said))~~ the lands above described; or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, gravel, timber and fossils; and it also hereby expressly saves reserves out of the grant hereby made, unto itself, its successors and assigns, forever, the right to enter by itself, its agents, attorneys and servants upon ~~((said))~~ the lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals, gravel, timber and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its successors and assigns, forever, the right by it or its agents, servants and attorneys at any and all times to erect, construct, maintain and use all such buildings, machinery, roads and railroads, sink such shafts, remove such oil, and to remain on ~~((said))~~ the lands or any part thereof, for the business of mining and to occupy as much of ~~((said))~~ the lands as may be necessary or convenient for the successful prosecution of such mining business, hereby expressly reserving to itself, its successors and assigns, as aforesaid, generally, all rights and powers in, to and over, ~~((said))~~ the land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and the rights hereby expressly reserved. No rights shall be exercised under the foregoing reservation, by the county, its successors or assigns, until provision has been made by the county, its successors or assigns, to pay to the owner of the land upon which the rights herein reserved to the county, its successors or assigns, are sought to be exercised, full payment for all damages sustained by ~~((said))~~ the owner, by reason of entering upon ~~((said))~~ the land: PROVIDED, That if ~~((said))~~ the owner from any cause whatever refuses or neglects to settle ~~((said))~~ the damages, then the county, its successors or assigns, or any applicant for a lease or contract from the county for the purpose of prospecting for or mining valuable minerals, or operation contract, or lease, for mining coal, or lease for extracting petroleum or natural gas, shall have the right to institute such legal proceedings in the superior court of the county wherein the land is situated, as may be necessary to determine the damages which ~~((said))~~ the owner of ~~((said))~~ the land may suffer: PROVIDED, The county treasurer shall cross out of such reservation any of ~~((said))~~ the minerals or other resources which were not reserved by order of the ~~((said board))~~ county legislative authority.

**Sec. 15.** RCW 84.64.330 and 1961 c 15 s 84.64.330 are each amended to read as follows:

In any and all instances in this state in which a treasurer's deed to real property has been or shall be issued to the county in proceedings to foreclose the lien of general taxes, and for any reason a defect in title exists or adverse claims against the same have not been legally determined, the county or its successors in interest or assigns shall have authority to institute an action in the superior court in ~~((said))~~ the county to correct such defects, and to determine such adverse claims and the priority thereof as provided in RCW 84.64.330 through 84.64.440 ~~((provided))~~ (as recodified by this act).

**Sec. 16.** RCW 84.64.340 and 1961 c 15 s 84.64.340 are each amended to read as follows:

The county or its successors in interest or assigns shall have authority to include in one action any and all tracts of land in which plaintiff or plaintiffs in such action, jointly or severally, has or claims to have an interest. Such action shall be one in rem as against every right and interest in and claim against any and every part of the real property involved, except so much thereof as may be at the time the summons and notice is filed with the clerk of the superior court in the actual, open and notorious possession of any person or corporation, and then except only as to the interest claimed by such person so in possession: PROVIDED, That the possession required under the provisions of RCW 84.64.330 through 84.64.440 (as recodified by this act) shall be construed to be that by personal occupancy only, and not merely by representation or in contemplation of law. No person, firm or corporation claiming an interest in or to such lands need be specifically named in the summons and notice, except as in RCW 84.64.330 through 84.64.440 ~~((provided))~~ (as recodified by this act), and no pleadings other than the summons and notice and the written statements of those claiming a right, title and interest in and to the property involved shall be required.

**Sec. 17.** RCW 84.64.350 and 1961 c 15 s 84.64.350 are each amended to read as follows:

Upon filing a copy of the summons and notice in the office of the county clerk, service thereof as against every interest in and claim against any and every part of the property described in such summons and notice, and every person, firm, or corporation, except one who is in the actual, open and notorious possession of any of ~~((said))~~ the properties, shall be had by publication in the official county newspaper for six consecutive weeks; and no affidavit for publication of such summons and notice shall be required. In case ~~((there are outstanding local improvement))~~ special assessments imposed by a city or town against any of the real property described in the summons and notice remain outstanding, a copy of the same shall be served on the treasurer of the city or town within which such real property is situated within five days after such summons and notice is filed.

The summons and notice in such action shall contain the title of the court; specify in general terms the years for which the taxes were levied and the amount of the taxes and the costs for which each tract of land was sold; give the legal description of each tract of land involved, and the tax record owner thereof during the years in which the taxes for which the property was sold were levied; state that the purpose of the action is to foreclose all adverse claims of every nature in and to the property described, and to have the title of existing liens and claims of every nature against ~~((said))~~ the described real property, except that of the county, forever barred.

~~((Said))~~ The summons and notice shall also summon all persons, firms and corporations claiming any right, title and interest in and to ~~((said))~~ the described real property to appear within sixty days after the date of the first publication, specifying the day and year, and state in writing what right, title and interest they have or claim to have in and to the property described, and file the same with the clerk of the court above named; and shall notify them that in case of their failure so to do, judgment will be rendered determining that the title to ~~((said))~~ the real property is in the county free from all existing adverse interests, rights or claims whatsoever: PROVIDED, That in case any of the lands involved is in the actual, open and notorious possession of anyone at the time the summons and notice is filed, as herein provided, a copy of the same modified as herein specified shall be served personally upon such person in the same manner as summons is served in civil actions generally. ~~((Said))~~ The summons shall be substantially in the form above outlined, except that in lieu of the statement relative to the date and day of publication it shall require the person served to appear within twenty days after the day of service, exclusive of the date of service, and that the day of service need not be specified therein, and except further that the recitals regarding the amount of the taxes and costs and the years the same were levied, the legal description of the land and the tax record owner thereof may be omitted except as to the land occupied by the persons served.

Every summons and notice provided for in RCW 84.64.330 through 84.64.440 (as recodified by this act) shall be subscribed by the prosecuting attorney of the county, or by any successor or assign of the county or his attorney, as the case may be, followed by ~~((his))~~ the post office address of the successor or assign.

**Sec. 18.** RCW 84.64.380 and 1961 c 15 s 84.64.380 are each amended to read as follows:

The right of action of the county, its successors or assigns, under RCW 84.64.330 through 84.64.440 (as recodified by this act) shall rest on the validity of the taxes involved, and the plaintiff shall be required to prove only the amount of the former judgment foreclosing the lien thereof, together with the costs of the foreclosure and sale of each tract of land for ~~((said))~~ the taxes, and all the presumptions in favor of the tax foreclosure sale and issuance of treasurer's deed existing by law shall obtain in ~~((said))~~ the action.

**Sec. 19.** RCW 84.64.420 and 1961 c 15 s 84.64.420 are each amended to read as follows:

Nothing in RCW 84.64.330 through 84.64.440 (as recodified by this act) contained shall be construed to deprive any city ~~((or))~~, town, or other unit of local government that imposed special assessments on the property by including the property in a local improvement or special assessment district of its right to reimbursement for special assessments out of any surplus over and above the taxes, interest and costs involved.

**Sec. 20.** RCW 84.64.430 and 1961 c 15 s 84.64.430 are each amended to read as follows:

That in all cases where any county of the state of Washington has perfected title to real estate owned by ~~((sueh))~~ the county, under the provisions of RCW 84.64.330 through 84.64.420 (as recodified by this act) and resells the same or part thereof, it shall give to the purchaser a warranty deed in substantially the following form:

STATE OF WASHINGTON     

ss.

County of     

This indenture, made this . . . . day of . . . . . ~~((19--))~~ ..(year).., between . . . . . as treasurer of . . . . . county, state of Washington, the party of the first part, and . . . . ., party of the second part.

WITNESSETH, THAT WHEREAS, at a public sale of real property, held on the . . . . day of . . . . . ~~((A.D. 19--))~~ ..(year).., pursuant to an order of the ~~((board of county commissioners))~~ county legislative authority of the county of . . . . ., state of Washington, duly made and entered, and after having first given due notice of the time and place and terms of ~~((said))~~ the sale, and, whereas, in pursuance of ~~((said))~~ the order of the ~~((said board of county commissioners))~~ county legislative authority, and of the laws of the state of Washington, and for and in consideration of the sum of . . . . . dollars, lawful money of the United States of America, to me in hand paid, the receipt whereof is hereby acknowledged, I have this day sold to . . . . . the following described real property, and which ~~((said))~~ the real property is the property of . . . . . county, and which is particularly described as follows, to wit:

. . . . ., the ~~((said))~~ . . . . . being the highest and best bidder at ~~((said))~~ the sale, and the ~~((said))~~ sum being the highest and best sum bid at ~~((said))~~ the sale:

NOW THEREFORE KNOW YE that I, . . . . . county treasurer of ~~((said))~~ the county of . . . . ., state of Washington, in consideration of the premises and by virtue of the statutes of the state of Washington, in such cases made and provided, do hereby grant, convey and warrant on behalf of . . . . . county unto . . . . ., his or her heirs and assigns, forever, the ~~((said))~~ real property hereinbefore described.

Given under my hand and seal of office this . . . . day of . . . . . ~~((A.D.)), ((19--))~~ ..(year)..

County Treasurer.

By

Deputy.

**Sec. 21.** RCW 84.64.440 and 1961 c 15 s 84.64.440 are each amended to read as follows:

No recovery for breach of warranty shall be had, against the county executing a deed under the provisions of RCW 84.64.430 (as recodified by this act), in excess of the purchase price of the land described in such deed, with interest at the legal rate.

**Sec. 22.** RCW 36.35.070 and 1972 ex.s. c 150 s 8 are each amended to read as follows:

The provisions of this chapter shall be deemed as alternatives to, and not be limited by, the provisions of RCW 39.33.010, 36.34.130, and 84.64.310 (as recodified by this act), nor shall the authority granted in this chapter be held to be subjected to or qualified by the terms of such statutory provisions.

**NEW SECTION. Sec. 23.** RCW 84.64.220 (as amended by this act), 84.64.230, 84.64.270, 84.64.300 (as amended by this act), 84.64.310, 84.64.320, 84.64.330 (as amended by this act), 84.64.340 (as amended by this act), 84.64.350 (as amended by this act), 84.64.360, 84.64.370, 84.64.380 (as amended by this act), 84.64.390, 84.64.400, 84.64.410, 84.64.420 (as amended by this act), 84.64.430 (as amended by this act), 84.64.440 (as amended by this act), 84.64.450, and 84.64.460 are each recodified as sections in chapter 36.35 RCW.

**NEW SECTION. Sec. 24.** The following acts or parts of acts are each repealed:

- (1) RCW 36.35.030 and 1972 ex.s. c 150 s 4;
- (2) RCW 36.35.040 and 1972 ex.s. c 150 s 5;
- (3) RCW 36.35.050 and 1972 ex.s. c 150 s 6; and
- (4) RCW 36.35.060 and 1972 ex.s. c 150 s 7."

## MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, line 1 of the title, after "treasurers;" strike the remainder of the title and insert "amending RCW 35.13.270, 35A.14.801, 36.29.010, 36.29.160, 57.16.110, 36.48.010, 39.46.110, 39.50.010, 57.08.081, 82.45.180, 84.04.060, 84.64.220, 84.64.300, 84.64.330, 84.64.340, 84.64.350, 84.64.380, 84.64.420, 84.64.430, 84.64.440, and 36.35.070; adding a new section to chapter 82.46 RCW; adding new sections to chapter 36.35 RCW; recodifying RCW 84.64.220, 84.64.230, 84.64.270, 84.64.300, 84.64.310, 84.64.320, 84.64.330, 84.64.340, 84.64.350,

84.64.360, 84.64.370, 84.64.380, 84.64.390, 84.64.400, 84.64.410, 84.64.420, 84.64.430, 84.64.440, 84.64.450, and 84.64.460; and repealing RCW 36.35.030, 36.35.040, 36.35.050, and 36.35.060."

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 2411, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2411, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2411, as amended by the Senate, and the bill passed the

Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Horn and Schow - 2. SUBSTITUTE HOUSE BILL NO. 2411, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Sellar, Senators Anderson, Hale and Strannigan were excused.

#### SECOND READING

HOUSE BILL NO. 1250, by Representatives Wensman, Costa, Sheahan, Sterk, Lantz, Kenney, Skinner, Sherstad, Lambert, Gardner, D. Schmidt and Pennington (by request of Secretary of State Munro)

Regulating trademarks.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 1250 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1250.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1250 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 3; Excused, 4.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 42. Absent: Senators Long, McDonald and Prince - 3. Excused: Senators Anderson, Hale, Schow and Strannigan - 4.

HOUSE BILL NO. 1250, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2459, by House Committee on Trade and Economic Development (originally sponsored by Representatives Veloria, Van Luven, Butler, Cody, Mason, Conway, McDonald, Kenney, Kastama, Dickerson and Keiser)

Regulating public housing authorities in large jurisdictions.

The bill was read the second time.

#### MOTION

Senator Winsley moved that the following Committee on Financial Institutions, Insurance and Housing amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.82.040 and 1995 c 293 s 1 are each amended to read as follows:

Except as provided in section 2 of this act, when the governing body of a city adopts a resolution declaring that there is a need for a housing authority, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons as commissioners of the authority created for the city. When the governing body of a county adopts a resolution declaring that there is a need for a housing authority, it shall appoint five persons as commissioners of the authority created for the county. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed for a term of office of ~~((five))~~ four years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created, unless the commissioner is an employee of a separately elected county official other than the county governing body in a county with a population of less than one hundred seventy-five thousand as of the 1990 federal census, and the total government employment in that county exceeds forty percent of total employment. A commissioner shall hold office until a successor has been appointed and has qualified, unless sooner removed according to this chapter. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services for the authority, in any capacity, but he or she shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

The powers of each authority shall be vested in the commissioners thereof in office from time to time. Except as provided in section 2 of this act, three commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. The mayor (or in the case of an authority for a county, the governing body of the county) shall designate which of the commissioners appointed shall be the first chair of the commission and he or she shall serve in the capacity of chair until the expiration of his or her term of office as commissioner. When the office of the chair of the authority becomes vacant, the authority shall select a chair from among its commissioners. An authority shall select from among its commissioners a vice-chair, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or the county or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

NEW SECTION. **Sec. 2.** A new section is added to chapter 35.82 RCW to read as follows:

(1) After the effective date of this section, the governing body of a city with a population of four hundred thousand or more, that has created a housing authority under RCW 35.82.040, shall adopt a resolution to expand the number of commissioners on the housing authority from five to seven. Upon receiving the notice, the mayor, with approval of the city council, shall appoint additional persons as commissioners of the authority created for the city.

(2) In appointing commissioners, the mayor shall consider persons that represent the community, provided that two commissioners shall consist of tenants that reside in a housing project that is owned by the housing authority.

(3) After the effective date of this section, all commissioners shall be appointed to serve five-year terms, except that all vacancies shall be filled for the remainder of the unexpired term. A commissioner of an authority may not be an officer or employee of the city for which the authority is created. A commissioner shall hold office until a successor has been appointed and has qualified, unless sooner removed according to this chapter.

(4) A commissioner may be reappointed only after review and approval by the city council.

(5) A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and the certificate is conclusive evidence of the due and proper appointment of the commissioner.

(6) A commissioner shall receive no compensation for his or her services for the authority, in any capacity, but he or she is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

(7) The powers of each authority vest in the commissioners of the authority in office from time to time. Four commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number.

(8) The mayor, with consent of the city council, shall designate which of the commissioners appointed shall be the first chair of the commission and he or she shall serve in the capacity of chair until the expiration of his or her term of office as commissioner. When the office of the chair of the authority becomes vacant, the authority shall select a chair from among its commissioners. An authority shall select from among its commissioners a vice-chair, and the authority may employ a secretary, who shall be executive director, technical experts and such other officers, agents, and employees, permanent and temporary, as the authority requires, and shall determine their qualifications, duties, and compensation.

(9) For such legal services as it may require, an authority may call upon the chief law officer of the city or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

**Sec. 3.** RCW 35.82.050 and 1965 c 7 s 35.82.050 are each amended to read as follows:

(1) No commissioner ((~~or~~), employee ((~~of an authority~~)), or appointee to any decision-making body for the housing authority shall ((acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project)) own or hold an interest in any contract or property or engage in any business, transaction, or professional or personal activity, that would:

(a) Be, or appear to be, in conflict with the commissioner's, employee's, or appointee's official duties to any decision-making body for the housing authority duties relating to the housing authority served by or subject to the authority of such commissioner, employee, or appointee to any decision-making body for the housing authority;

(b) Secure, or appear to secure, unwarranted privileges or advantages for such commissioner, employee, or appointee to any decision-making body for the housing authority, or others; or

(c) Prejudice, or appear to prejudice, such commissioner's, employee's, or appointee's to any decision-making body for the housing authority independence of judgment in exercise of his or her official duties relating to the housing authority served by or subject to the authority of the commissioner, employee, or appointee to any decision-making body for the housing authority.

(2) No commissioner, employee, or appointee to any decision-making body for the housing authority shall act in an official capacity in any manner in which such commissioner, employee, or appointee to any decision-making body of the housing authority has a direct or indirect financial or personal involvement.

(3) No commissioner, employee, or appointee to any decision-making body for the housing authority shall use his or her public office or employment to secure financial gain to such commissioner, employee, or appointee to any decision-making body for the housing authority.

(4) If any commissioner or employee of an authority or any appointee to any decision-making body for the housing authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure ((~~to~~)) to disclose such interest shall constitute misconduct in office. Upon such disclosure such commissioner ((~~or~~), employee, or appointee to any decision-making body for the housing authority shall not participate in any action by the authority affecting such property.

(5) No provision of this section shall preclude a tenant of the public housing authority from serving as a commissioner, employee, or appointee to any decision-making body of the housing authority. No provision of this section shall preclude a tenant of the public housing authority who is serving as a commissioner, employee, or appointee to any decision-making body of the housing authority from voting on any issue or decision, or participating in any action by the authority, unless a conflict of interest, as set forth in subsections (1) through (4) of this section, exists as to that particular tenant and the particular property or interest at issue before, or subject to action by the housing authority."

## MOTION

Senator Heavey moved that the following amendments by Senators Benton and Heavey to the Committee on Financial Institutions, Insurance and Housing striking amendment be considered simultaneously and be adopted:

On page 2, line 31, after "with" insert "a public hearing and"

On page 3, line 6, after "after" delete everything through "council" on line 7, and insert "a public hearing is held by the city council and an opportunity is given for public input"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Benton and Heavey on page 2, line 31, and page 3, line 6, to the Committee on Financial Institutions, Insurance and Housing striking amendment to Substitute House Bill No. 2459.

The motion by Senator Heavey failed and the amendments to the committee striking amendment were not adopted on a rising vote.

The President declared the question before the Senate to be the adoption of the Committee on Financial Institutions, Insurance and Housing striking amendment to Substitute House Bill No. 2459.

The motion by Senator Winsley carried and the committee striking amendment was adopted.

#### MOTIONS

On motion of Senator Prentice, the following title amendment was adopted:

On page 1, line 2 of the title, after "thousand;" strike the remainder of the title and insert "amending RCW 35.82.040 and 35.82.050; and adding a new section to chapter 35.82 RCW."

On motion of Senator Winsley, the rules were suspended, Substitute House Bill No. 2459, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2459, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2459, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Anderson - 1.

SUBSTITUTE HOUSE BILL NO. 2459, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2436, by Representatives McMorris, Huff, Backlund, H. Sommers, Gardner, Wensman, Ogden, Regala and Alexander (by request of Joint Legislative Audit and Review Committee)

Eliminating review and termination of the center for international trade in forest products and delaying review and termination of the office of public defense under the Washington sunset act.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, House Bill No. 2436 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Franklin, Senator Loveland was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2436.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2436 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke,



Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48.

Excused: Senator Loveland - 1. HOUSE BILL NO. 2436, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MOTION

On motion of Senator Johnson, the Senate advanced to the eighth order of business.

MOTION

On motion of Senator Anderson, the following resolution was adopted:

SENATE RESOLUTION 1998-8715

By Senators Anderson, Stevens, Hargrove, Horn, Johnson, Loveland, Rasmussen, Snyder, Rossi, Long, Roach, Benton, Fraser, Goings, Swecker, Finkbeiner, Spanel and B. Sheldon

WHEREAS, The Washington State Legislature recognizes excellence, achievement and conduct in all fields of endeavors; and

WHEREAS, Washington State is known for many outstanding athletic teams and stars; however, there is one sport in particular where the award-winning participants toil in the shadows of more publicized sports; and

WHEREAS, This particular sport warrants recognition because it takes tremendous skill, athleticism, and a certain amount of "horse sense;" and

WHEREAS, Washington State is home to a number of people who pride themselves for their love of horses and equestrian competitions; and

WHEREAS, The athletes here to be recognized use a unique breed of horse in their competitions, known as the Appaloosa; and

WHEREAS, The Appaloosa, one of the finest breeds of horses, has a unique heritage in the Pacific Northwest, dating back to the 1700s when the Nez Perce tribe first recognized the stellar characteristics of this breed and relied exclusively on the Appaloosa; and

WHEREAS, When handled with confidence and expertise, the Appaloosa are a breed apart when it comes to competition, such as dressage, jumping, reining, roping, pleasure and endurance; and

WHEREAS, These athletes merit distinction for their hard work and dedication to their sport and their achievements in equestrian events, including National and World competitions;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor the Washington State Appaloosa riders that earned a "Championship" or "Reserve Championship" honor from the National Show in Oklahoma City or the World Show in Fort Worth. The honorees include: Cori Anderson of Acme; Jenna Applegate of Bellingham; Sarah Aron of Issaquah; Nick and Jessica Barkas of Buckley; Brienne Berschaur of Lacey; Carlee Blackburn of Battleground; Ronald Dillion of Walla Walla; Debbie Hadden of Olympia; Robin and Allison King of Arlington; Brett Larson of Montesano; George Lawrence of Seattle; Diana McDaniel of Roy; Brittney Mercer of Vancouver; Corisa Quevillion of Mill Creek; Carrie Ruby of Issaquah; Roheela Shah of Sumner; Rachel and Tamara Sternoff of Redmond; Kandace Stevenson of Mercer Island; Kara and Monica Baker of Spanaway; and Andrea Willis of Ferndale; and

BE IT FURTHER RESOLVED, That we honor these champion horse riders for their hard work, dedication, competitive spirit and accomplishments.

Senators Anderson, Morton, Hargrove, McCaslin, Franklin, Rasmussen and Hochstatter spoke to Senate Resolution 1998-8715.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed the Washington State Appaloosa riders who were seated in the gallery.

MOTION

At 11:56 a.m., on motion of Senator Johnson, the Senate recessed until 1:30 p.m.

The Senate was called to order at 1:30 p.m. by President Owen.

There being no objection, the President reverted the Senate to the fourth order of business.

MESSAGE FROM THE HOUSE

March 3, 1998

MR. PRESIDENT:

The House has passed:

SUBSTITUTE SENATE BILL NO. 5517,  
SECOND SUBSTITUTE SENATE BILL NO. 5727,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5936,  
SENATE BILL NO. 6169,  
SENATE BILL NO. 6223,  
SUBSTITUTE SENATE BILL NO. 6258,  
SUBSTITUTE SENATE BILL NO. 6297,  
SENATE BILL NO. 6299,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6323,  
SENATE BILL NO. 6353,  
SENATE BILL NO. 6398,  
SENATE BILL NO. 6441,  
SUBSTITUTE SENATE BILL NO. 6535,  
SENATE BILL NO. 6604,  
SUBSTITUTE SENATE BILL NO. 6667, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5517,  
SECOND SUBSTITUTE SENATE BILL NO. 5727,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5936,  
SENATE BILL NO. 6169,  
SENATE BILL NO. 6223,  
SUBSTITUTE SENATE BILL NO. 6258,  
SUBSTITUTE SENATE BILL NO. 6297,  
SENATE BILL NO. 6299,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6323,  
SENATE BILL NO. 6353,  
SENATE BILL NO. 6398,  
SENATE BILL NO. 6441,  
SUBSTITUTE SENATE BILL NO. 6535,  
SENATE BILL NO. 6604,  
SUBSTITUTE SENATE BILL NO. 6667.

MOTION

On motion of Senator Johnson, the Senate advanced to the eighth order of business.

MOTION

On motion of Senator Haugen, the following resolution was adopted:

SENATE RESOLUTION 1998-8718

By Senators Haugen, Spanel, Loveland, Jacobsen, T. Sheldon, Franklin, Prentice, Rasmussen, Heavey, Wojahn and Kohl

WHEREAS, Oak Harbor Middle School teacher and former state representative from the Tenth District, Sue Karahalios, possessed the foresight and initiative to found the school's first leadership class; and

WHEREAS, She utilized her personal experience and own inner knowledge of both the history and practice of leadership to craft an innovative educational program, in which students learn the fundamentals of project leadership and cooperative teamwork; and

WHEREAS, The students in this leadership class, by coordinating and participating in numerous school, community, and church events, develop the skills necessary to become effective civic leaders and contributing members of society; and

WHEREAS, The leaders of tomorrow are inspired, encouraged, and enabled through visionary programs such as this one to lend their talents and services to the task of building a better world for the next generation; and

WHEREAS, The students of Oak Harbor Middle School Leadership Class have been awarded the Certificate of Excellence in Education by the city of Oak Harbor for their continued contributions to the smooth and spirited running of that educational institution;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize and honor the exceptional leadership skills and dedication demonstrated by the Oak Harbor Middle School Leadership Class; and

BE IT FURTHER RESOLVED, That the Senate applaud and commend Sue Karahalios for her role in teaching, mentoring, and preparing the students at Oak Harbor Middle School for the duties of responsible democratic citizenship, and instilling in them an appreciation for the workings of government on the local, state, and federal level; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Sue Karahalios, instructor at Oak Harbor Middle School, and the students of the Oak Harbor Middle School Leadership Class.

Senators Haugen, Wood, Wojahn, Franklin, Kohl, Long, Heavey and Jacobsen spoke to Senate Resolution 1998-8718.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced former Representative Sue Karahalios, who was seated in the gallery.

#### MOTION

On motion of Senator Johnson, the Senate returned to the sixth order of business.

#### SECOND READING

HOUSE BILL NO. 1835, by Representatives Skinner and Clements

Requiring audit resolution reports.

The bill was read the second time.

#### MOTION

On motion of Senator West, the following Committee on Ways and Means amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.88.160 and 1997 c 168 s 6 are each amended to read as follows:

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of

financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) Except as provided in chapter 43.88C RCW, the director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized man years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment

maintenance services to be performed more than three months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken ~~((promptly))~~ within six months, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110. The director of financial management shall annually report by December 31st the status of audit resolution to the appropriate committees of the legislature, the state auditor, and the attorney general. The director of financial management shall include in the audit resolution report actions taken as a result of an audit including, but not limited to, types of personnel actions, costs and types of litigation, and value of recouped goods or services.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management."

## MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, line 1 of the title, after "reports;" strike the remainder of the title and insert "and amending RCW 43.88.160."

On motion of Senator West, the rules were suspended, House Bill No. 1835, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1835, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1835, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 6; Excused, 0.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 43. Absent: Senators Bauer, Benton, Hochstatter, Horn, McAuliffe and Newhouse - 6. HOUSE BILL NO. 1835, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1971, by House Committee on Appropriations (originally sponsored by Representatives Bush, Lambert, Carrell, Talcott, Johnson, Hickel, Cody, Linville, Mitchell, Delvin, Mulliken, Veloria, Zellinsky, Thompson, Smith, Tokuda, Koster, Sherstad, Cole, Mastin, D. Schmidt and Backlund)

Preventing double payment for insurance benefits for teachers who are legislators.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute House Bill No. 1971 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTIONS

On motion of Senator Franklin, Senator Loveland was excused.

On motion of Senator McCaslin, Senators Horn and Newhouse were excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1971.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1971 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senators Deccio and McDonald - 2. Excused: Senators Horn, Loveland and Newhouse - 3. SUBSTITUTE HOUSE BILL NO. 1971, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2309, by Representatives Thompson and Dunshee (by request of Department of Revenue)

Revising notification of denial of property tax exemption.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, House Bill No. 2309 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Hale, Senators Deccio, Hochstatter and Strannigan were excused.  
The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2309.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2309 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 2; Excused, 5.

Voting yea: Senators Anderson, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 42. Absent: Senators Bauer and McAuliffe - 2. Excused: Senators Deccio, Hochstatter, Horn, Newhouse and Strannigan - 5. HOUSE BILL NO. 2309, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTIONS

On motion of Senator Tim Sheldon, Senator McAuliffe was excused.  
On motion of Senator Loveland, Senator Bauer was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1126, by House Committee on Finance (originally sponsored by Representatives Mastin, Sump, Boldt, Doumit, Hatfield, McMorris, Kessler, Sheahan, Sheldon, Mulliken, Grant, Chandler, O'Brien, Conway, Wood, Cooper, Murray and Morris)

Providing for 911 emergency communications funding.

The bill was read the second time.

#### MOTION

On motion of Senator West, the following Committee on Ways and Means amendment was adopted:

Strike everything after the enacting clause and insert the following:

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

(1) The state enhanced 911 excise tax imposed at the current rate of twenty cents per switched access line per month generates adequate tax revenues to enhance the 911 telephone system for switched access lines state-wide by December 31, 1998, as mandated in RCW 38.52.510;

(2) The tax revenues generated from the state enhanced 911 excise tax when the tax rate decreases to a maximum of ten cents per switched access line on January 1, 1999, will not be adequate to fund the long-term operation and equipment replacement costs for the enhanced 911 telephone systems in the counties or multicounty regions that receive financial assistance from the state enhanced 911 office;

(3) Some counties or multicounty regions will need financial assistance from the state enhanced 911 office to implement and maintain enhanced 911 because the tax revenue generated from the county enhanced 911 excise tax is not adequate;

(4) Counties with populations of less than seventy-five thousand will need salary assistance to create multicounty regions and counties with populations of seventy-five thousand or more, if requested by smaller counties, will need technical assistance and incentives to provide multicounty services; and

(5) Counties should not request state financial assistance for implementation and maintenance of enhanced 911 for switched access lines unless the county has imposed the maximum enhanced 911 tax authorized in RCW 82.14B.030.

**Sec. 2.** RCW 82.14B.030 and 1994 c 96 s 3 are each amended to read as follows:

(1) The legislative authority of a county may impose a county enhanced 911 excise tax on the use of switched access lines in an amount not exceeding fifty cents per month for each switched access line. The amount of tax shall be uniform for each switched access line. Each county shall provide notice of such tax to all local exchange companies serving in the county at least sixty days in advance of the date on which the first payment is due.

(2) The legislative authority of a county may also impose a county 911 excise tax on the use of radio access lines located within the county in an amount not exceeding twenty-five cents per month for each radio access line. The amount of tax shall be uniform for each radio access line. The county shall provide notice of such tax to all radio communications service companies serving in the county at least sixty days in advance of the date on which the first payment is due. Any county imposing this tax shall include in its ordinance a refund mechanism whereby the amount of any tax ordered to be refunded by the judgment of a court of record, or as a result of the resolution of any appeal therefrom, shall be refunded to the radio communications service company or local exchange company that collected the tax, and those companies shall reimburse the users who paid the tax. The ordinance shall further provide that to the extent the users who paid the tax cannot be identified or located, the tax paid by those users shall be returned to the county.

(3) ~~((Beginning January 1, 1992,))~~ A state enhanced 911 excise tax is imposed on all switched access lines in the state. ~~((For 1992, the tax shall be set at a rate of twenty cents per month for each switched access line. Until December 31, 1998,))~~ The amount of tax shall not exceed twenty cents per month for each switched access line ~~((and thereafter shall not exceed ten cents per month for each switched access line))~~. The tax shall be uniform for each switched access line. The tax imposed under this subsection shall be remitted to the state treasurer by local exchange companies on a tax return provided by the department within thirty days after the end of the month in which the tax was collected. A local exchange company that serves less than two percent of the access lines in the state of Washington may remit the tax to the state treasurer thirty days after the last day of the calendar quarter in which the tax was due to the local exchange company. Tax proceeds shall be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540.

(4) By August 31st of each year the state enhanced 911 coordinator shall recommend the level for the next year of the state enhanced 911 excise tax, based on a systematic cost and revenue analysis, to the utilities and transportation commission. The commission shall by the following October 31st determine the level of the state enhanced 911 excise tax for the following year.

**Sec. 3.** RCW 38.52.540 and 1994 c 96 s 7 are each amended to read as follows:

The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise tax imposed by RCW 82.14B.030 shall be deposited into the account. Moneys in the account shall be used only to help implement and operate enhanced 911 state-wide ~~((, and to conduct a study of the tax base and rate for the 911 excise tax))~~. Moneys in the account may be used to provide salary assistance on a temporary basis not to exceed three years to counties with a population of less than seventy-five thousand that need additional resources to cover unfunded costs that can be shown to result from handling 911 calls. Moneys in the account may be used to assist multicounty regions, including ongoing salary assistance for multicounty regions consisting of counties with populations of less than seventy-five thousand. However, funds shall not be distributed to any county that has not imposed the maximum county enhanced 911 taxes allowed under RCW 82.14B.030 (1) and (2). The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, shall specify by rule the purposes for which moneys may be expended from this account.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 1998."

## MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, line 3 of the title, after "funding;" strike the remainder of the title and insert "amending RCW 82.14B.030 and 38.52.540; creating a new section; and providing an effective date."

On motion of Senator West, the rules were suspended, Substitute House Bill No. 1126, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1126, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1126, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens,



Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Bauer, Hochstatter, Horn and McAuliffe - 4. SUBSTITUTE HOUSE BILL NO. 1126, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1297, by Representatives DeBolt, Sheahan, Ballasiotes, Costa, Benson, McMorris, Thompson, Lambert, Radcliff, K. Schmidt, Mitchell, Sherstad, Robertson, Pennington, Hickel, Kastama, Sullivan, Sump, Sheldon, Delvin, Cooke, Morris, Wensman, Mason and Mielke

Including the existence of a no contact order as an aggravating circumstance in first degree murder.

The bill was read the second time.

## MOTION

Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 10.95.020 and 1995 c 129 s 17 and 1994 c 121 s 3 are each reenacted and amended to read as follows:

A person is guilty of aggravated first degree murder if he or she commits first degree murder as defined by RCW 9A.32.030(1)(a), as now or hereafter amended, and one or more of the following aggravating circumstances exist:

(1) The victim was a law enforcement officer, corrections officer, or fire fighter who was performing his or her official duties at the time of the act resulting in death and the victim was known or reasonably should have been known by the person to be such at the time of the killing;

(2) At the time of the act resulting in the death, the person was serving a term of imprisonment, had escaped, or was on authorized or unauthorized leave in or from a state facility or program for the incarceration or treatment of persons adjudicated guilty of crimes;

(3) At the time of the act resulting in death, the person was in custody in a county or county-city jail as a consequence of having been adjudicated guilty of a felony;

(4) The person committed the murder pursuant to an agreement that he or she would receive money or any other thing of value for committing the murder;

(5) The person solicited another person to commit the murder and had paid or had agreed to pay money or any other thing of value for committing the murder;

(6) The person committed the murder to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group;

(7) The murder was committed during the course of or as a result of a shooting where the discharge of the firearm, as defined in RCW 9.41.010, is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge;

(8) The victim was:

(a) A judge; juror or former juror; prospective, current, or former witness in an adjudicative proceeding; prosecuting attorney; deputy prosecuting attorney; defense attorney; a member of the indeterminate sentence review board; or a probation or parole officer; and

(b) The murder was related to the exercise of official duties performed or to be performed by the victim;

(9) The person committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime, including, but specifically not limited to, any attempt to avoid prosecution as a persistent offender as defined in RCW 9.94A.030;

(10) There was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the person;

(11) The murder was committed in the course of, in furtherance of, or in immediate flight from one of the following crimes:

(a) Robbery in the first or second degree;

(b) Rape in the first or second degree;

(c) Burglary in the first or second degree or residential burglary;

(d) Kidnapping in the first degree; or

(e) Arson in the first degree;

(12) The victim was regularly employed or self-employed as a newsreporter and the murder was committed to obstruct or hinder the investigative, research, or reporting activities of the victim;

(13) At the time the person committed the murder, there existed a court order, issued in this or any other state, which prohibited the person from either contacting the victim, molesting the victim, or disturbing the peace of the victim, and the person had knowledge of the existence of that order:

(14) At the time the person committed the murder, the person and the victim were "family or household members" as that term is defined in RCW 10.99.020(1), and the person had previously engaged in a pattern or practice of three or more of the following crimes committed upon the victim within a five-year period, regardless of whether a conviction resulted:

(a) Harassment as defined in RCW 9A.46.020; or

(b) Any criminal assault."

#### MOTION

Senator Fairley moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 2, beginning on line 33 of the amendment, after "person" strike all material through "resulted:" on line 36, and insert "had previously been convicted three or more times of any of the following crimes committed upon the victim within a five-year period:"

Debate ensued.

#### POINT OF INQUIRY

Senator Fairley: "Senator Roach, are you aware that this section--section 14--there is no protection order involved, there is no court order involved? This is a completely separate section that deals with only having three incidences in which you have either pushed or shoved--it could be as little as that involved?"

Senator Roach: "What I am aware of, Senator Fairley, is that this particular amendment, according to the affect statement which I know that you have in front of you, says, 'three or more prior convictions for specified crimes against the same victim is an aggravating circumstance.' The way the bill is right now, you don't have to have those three prior convictions. The adding of this amendment would dilute the whole essence of the bill."

Further debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 2, beginning on line 33, to the Committee on Law and Justice striking amendment to House Bill No. 1297.

The motion by Senator Fairley failed and the amendment to the committee striking amendment was not adopted.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment to House Bill No. 1297.

The motion by Senator Roach carried and the committee striking amendment was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 2 of the title, after "murder;" strike the remainder of the title and insert "reenacting and amending RCW 10.95.020; and prescribing penalties."

On motion of Senator Roach, the rules were suspended, House Bill No. 1297, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1297, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1297, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 37. Voting nay: Senators Brown, Fairley, Heavey, Jacobsen, Kline, Kohl, Prentice, Sheldon, B., Spanel, Thibaudeau and Wojahn

- 11. Excused: Senator McAuliffe - 1. HOUSE BILL NO. 1297, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection the Senate resumed consideration of Substitute House Bill No. 1043 and the pending amendment by Senator Fairley on page 2, after line 16, to the Committee on Law and Justice striking amendment, deferred after the demand for a roll call had been sustained on March 3, 1998.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Fairley on page 2, after line 16, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1043.

Debate ensued.

#### ROLL CALL

The Secretary called the roll and the amendment to the committee striking amendment was adopted by the following vote: Yeas, 44; Nays, 2; Absent, 2; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McCaslin, McDonald, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Morton and West - 2. Absent: Senators Loveland and Sellar - 2. Excused: Senator McAuliffe - 1.

#### MOTION

Senator Thibaudeau moved that the following amendment by Senators Thibaudeau and Kohl to the Committee on Law and Justice striking amendment be adopted:

On page 2, after line 16 of the amendment, insert the following:

"(3) Section 2 of this act does not apply to local ordinances dealing with landlord-tenant relations for houseboats, floating homes, or floating home docks."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Thibaudeau and Kohl to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1043.

The motion by Senator Thibaudeau carried and the amendment to the committee striking amendment was adopted.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment, as amended, to Substitute House Bill No. 1043.

The motion by Senator Roach carried and the committee striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Snyder, the following title amendment was adopted:

On page 1, line 2 of the title, after "duties;" strike the remainder of the title and insert "adding new sections to chapter 59.18 RCW; and creating a new section."

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 1043, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Horn was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1043, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1043, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 16; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, T., Stevens, Strannigan, Swecker, West and Zarelli - 30. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Jacobsen, Kline, Kohl, McAuliffe, Prentice, Sheldon, B., Snyder, Spanel, Thibaudeau, Winsley, Wojahn and Wood - 16. Absent: Senator Sellar - 1. Excused: Senators Horn and Loveland - 2. SUBSTITUTE HOUSE BILL NO. 1043, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1230, by House Committee on Education (originally sponsored by Representatives Backlund, Johnson, Lambert, Carrell, Sherstad, D. Schmidt, Thompson, Boldt and Pennington)

Protecting students' religious rights.

The bill was read the second time.

## MOTION

Senator McAuliffe moved that the following amendment be adopted:

On page 1, after line 17, strike all the material down to and including "school." on page 2, line 33, and insert "Each year each school district shall inform each student, parent, and certificated employee in the district about the district's policies protecting students' rights to freedom of religion and the right to have their schools free from sectarian control or influence."

Debate ensued

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator McAuliffe on page 1, after line 17, to Engrossed Substitute House Bill No. 1230.

## ROLL CALL

The Secretary called the roll and the amendment was not adopted by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 22. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Hochstatter, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Excused: Senator Horn - 1.

## MOTION

On motion of Senator Hochstatter, the rules were suspended, Engrossed Substitute House Bill No. 1230 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

## POINT OF INQUIRY

Senator Patterson: "Senator Hochstatter, I am generally supportive of the legislation, but there is a part of the legislation that I don't completely understand. May I have permission, Mr. President, to read from the bill?"

President Owen: "With permission of the body, you may read."

Senator Patterson: "Senator Hochstatter, it says that no employee of the school district may prompt students to express religious opinions. and this is on page 2, lines 24 through 27. I simply would like to know what the intent of that language is. I would like to know-- does this mean that, for instance a teacher, does it mean that a teacher can't ask a question about whether or not the provisions in the Declaration of Independence, which speak of God-given unalienable rights are appropriate? Would a teacher be able to engage a class in a discussion like that about the appropriateness of the God-given unalienable rights as stated in the Declaration of Independence? Would the teacher be censored from engaging a class in a discussion about that--if this legislation should pass?"

Senator Hochstatter: "Thank you, Senator Patterson. No, they would not. What happened--this arose because a child's rights were impaired by a teacher. In cases, generally, it is the parent that transmits or the adult that transmits against the student. The object of the bill is to allow the student the broadest expression without adult interference. Thank you."

Further debate ensued.

#### POINT OF INQUIRY

Senator Heavey: "Senator Hochstatter, on the news a few years ago, there was a young boy, I think from North Carolina, who stood out on the school grounds pounding the bible and yelling, that all the kids were going to go to hell. Then he would do it in the classroom. Would this bill keep a disruptive student in school if he was expressing religious beliefs?"

Senator Hochstatter: "Senator Heavey, not being a lawyer, I think this disruptive behavior is not condoned in this bill."

Senator Heavey: "But, parts of this bill say you cannot penalize a student for expressing religious beliefs. If they are expressing their religious beliefs, but if they are standing up and disrupting the classroom, could they be penalized--would this prevent them from being penalized?"

Senator Hochstatter: "Senator Heavey, I don't have the strict definition that a lawyer may have, but if your religious belief is to paint graffiti, for example, that is specifically expressed by the law. I don't think there would be any problem whatsoever in prohibiting that kind of behavior or any other kind of destructive, abusive or disruptive behavior."

Senator Heavey: "So, under this bill, a child could still be reprimanded--kicked out of school--if they were being extremely disruptive, even though the disruption was preaching in class?"

Senator Hochstatter: "Thank you."

Senator Heavey: "Is that correct?"

Senator Rasmussen asked Senator Hochstatter to yield to a question and Senator Hochstatter would not yield.

Further debate ensued.

#### MOTION

On motion of Senator Johnson, further consideration of Engrossed Substitute House Bill No. 1230 was deferred.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2791, by Representatives Schoesler, Doumit, Sheahan, Ballasiotes, Radcliff, Sump, Sullivan, Mielke, Buck, Alexander, Boldt, Sterk, Crouse, Smith, Van Luven, Hickel, Koster, Mulliken, Johnson, Wensman, D. Sommers, Backlund and DeBolt

Fighting methamphetamine.

The bill was read the second time.

#### MOTION

Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.030 and 1997 c 365 s 1, 1997 c 340 s 4, 1997 c 339 s 1, 1997 c 338 s 2, 1997 c 144 s 1, and 1997 c 70 s 1 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(12) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (a) whether the defendant has been placed on probation and the length and terms thereof; and (b) whether the defendant has been incarcerated and the length of incarceration.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinative sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinative sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

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

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

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

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

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

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22) "First-time offender" means any person who is convicted of a felony (a) not classified as a violent offense or a sex offense under this chapter, or (b) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marijuana, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Manufacture or possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine in or near a residence in which a minor or a pregnant woman resides;

~~(n)~~ (n) Promoting prostitution in the first degree;

~~((n))~~ (o) Rape in the third degree;

~~((o))~~ (p) Robbery in the second degree;

~~((p))~~ (q) Sexual exploitation;

~~((q))~~ (r) Vehicular assault;

~~((r))~~ (s) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

~~((s))~~ (t) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

~~((t))~~ (u) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

~~((u))~~ (v) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

~~((v))~~ (w)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

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

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

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

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under subsection (27)(b)(i) only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under subsection (27)(b)(i) only when the offender was eighteen years of age or older when the offender committed the offense.

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

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

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

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

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

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

(33) "Sex offense" means:

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

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

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

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.



(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

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

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

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

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

**Sec. 2.** RCW 70.105D.070 and 1997 c 406 s 5 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

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

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

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

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

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

(vii) Hazardous materials emergency response training;

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

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

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

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority: (i) Remedial actions; (ii) hazardous waste plans and programs under chapter 70.105 RCW; ~~((and))~~ (iii) solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW; and (iv) funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511. Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW.

(b) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation.

(7) The department shall adopt rules for grant or loan issuance and performance."

#### MOTION

Senator Loveland moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 12, after line 21, insert the following:

"NEW SECTION. Sec. 3. If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

#### MOTION

There being no objection, on motion of Senator Betti Sheldon, the demand for a roll call was withdrawn.

The President declared the question before the Senate to be the adoption of the amendment by Senator Loveland on page 12, after line 21, to the Committee on Law and Justice striking amendment to Engrossed House Bill No. 2791.

The motion by Senator Loveland carried and the amendment to the committee striking amendment was adopted.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment, as amended, to Engrossed House Bill No. 2791.

The motion by Senator Roach carried and the Committee on Law and Justice striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On line 1 of the title, after "methamphetamine;" strike the remainder of the title and insert "amending RCW 70.105D.070; and reenacting and amending RCW 9.94A.030."

On page 12, on line 27 of the title amendment, after "030" insert "; and creating a new section"

On motion of Senator Roach, the rules were suspended, Engrossed House Bill No. 2791, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2791, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2791, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 38. Voting nay: Senators Brown, Fairley, Heavey, Jacobsen, Kline, Kohl, McAuliffe, Prentice, Thibaudeau and Wojahn - 10. Excused: Senator Horn - 1. ENGROSSED HOUSE BILL NO. 2791, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.'

#### SECOND READING

HOUSE BILL NO. 2355, by Representatives Alexander, Ogden, Lantz, Anderson and Conway (by request of Parks and Recreation Commission)

Managing state park lands.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, House Bill No. 2355 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2355.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2355 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 4; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 45. Absent: Senators Hargrove, Hochstatter, Sheldon, T. and Wood - 4. HOUSE BILL NO. 2355, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

Vice President Pro Tempore Morton assumed the Chair.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2368, by House Committee on Criminal Justice and Corrections (originally sponsored by Representatives Carlson, Kenney, Radcliff, Gardner, Anderson, Constantine and Mason)

Requiring sex offenders and kidnappers on college campuses to register with campus security.

The bill was read the second time.

#### MOTION

Senator Long moved that the following Committee on Human Services and Corrections amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9A.44.130 and 1997 c 340 s 3 and 1997 c 113 s 3 are each reenacted and amended to read as follows:

(1) Any adult or juvenile residing in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence. In addition, any such adult or juvenile who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution. Persons required to register under this section who are enrolled in a public or private institution of higher education on the effective date of this act must notify the county sheriff immediately. The sheriff shall notify the institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.500 upon the public safety department of any public or private institution of higher education.

(3) The person shall provide the county sheriff with the following information when registering: (a) Name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; and (h) social security number.

~~((3))~~ (4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection ~~((7))~~ (8) of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a

local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection ~~((3))~~ (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection ~~((3))~~ (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection ~~((7))~~ (8) of this section.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection ~~((7))~~ (8) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

~~((4))~~ (5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff at least fourteen days before moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. If any person required to register pursuant to this section moves out of Washington state, the person must also send written notice within ten days of moving to the new state or a foreign country to the county sheriff with whom the person last registered in Washington state.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

~~((5))~~ (6) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

~~((6))~~ (7) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means any offense defined as a sex offense by RCW 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a minor), 9.68A.050 (dealing in depictions of minor engaged in sexually explicit conduct), 9.68A.060 (sending, bringing into state depictions of minor engaged in sexually explicit conduct), 9.68A.090 (communication with minor for immoral purposes), 9.68A.100 (patronizing juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in the second degree), as well as any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

(b) "Kidnapping offense" means the crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent.

~~((7))~~ (8) A person who knowingly fails to register with the county sheriff or ~~((who moves without notifying))~~ notify the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony. If the crime was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

NEW SECTION. Sec. 2. A new section is added to chapter 9A.44 RCW to read as follows:

The state patrol shall notify registered sex and kidnapping offenders of any change to the registration requirements."

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the Committee on Human Services and Corrections striking amendment to Substitute House Bill No. 2368.

The motion by Senator Long carried and the committee striking amendment was adopted

#### MOTIONS

On motion of Senator Long, the following title amendment was adopted:

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "reenacting and amending RCW 9A.44.130; and adding a new section to chapter 9A.44 RCW."

On motion of Senator Long, the rules were suspended, Substitute House Bill No. 2368, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2368, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2368, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senators Johnson and Patterson - 2. SUBSTITUTE HOUSE BILL NO. 2368, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senators Johnson and West were excused.

#### SECOND READING

HOUSE BILL NO. 2402, by Representatives Sheahan, Lambert, Hatfield, Thompson, McDonald and Dunn

Authorizing the use of electronic copies for preservation of court record.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 2402 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 2402.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2402 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 47.

Excused: Senators Johnson and West - 2. HOUSE BILL NO. 2402, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator McCaslin was excused.

#### SECOND READING

HOUSE BILL NO. 2429, by Representatives Huff, H. Sommers, Carlson, Wolfe and L. Thomas (by request of State Investment Board)

Providing for the operation of the state investment board.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, House Bill No. 2429 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 2429.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2429 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators McCaslin and West - 2. HOUSE BILL NO. 2429, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Swecker, Senator McDonald was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2452, by House Committee on Health Care (originally sponsored by Representatives Backlund, Cody, Parlette, Kastama, DeBolt, Dyer, Lambert, Koster, Sherstad, Benson, Anderson and Zellinsky)

Defining medication assistance in community-based settings.

The bill was read the second time.

#### MOTION

On motion of Senator Strannigan, the rules were suspended, Substitute House Bill No. 2452 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2452.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2452 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Horn - 1. Excused: Senators McCaslin, McDonald and West - 3. SUBSTITUTE HOUSE BILL NO. 2452, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2477, by House Committee on Commerce and Labor (originally sponsored by Representatives Schoesler, McMorris, Chandler, Mulliken, Sump, Honeyford and Sheahan)

Adding theatrical agencies to definition of employment agency.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the following Committee on Commerce and Labor amendment was adopted:  
On page 2, line 1, before "organization" strike "theatrical agency."

#### MOTION

On motion of Senator Schow, the rules were suspended, Engrossed Substitute House Bill No. 2477, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Sellar, Senator Horn was excused.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2477, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2477, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senator Benton - 1. Excused: Senators Horn, McCaslin, McDonald and West - 4. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2477, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION



On motion of Senator Swecker, Senator Benton was excused.

## SECOND READING

HOUSE BILL NO. 2503, by Representatives Robertson, Sullivan and Carrell

Authorizing consideration of the income level of customers when setting rates and charges for a storm water control facility.

The bill was read the second time.

## MOTION

On motion of Senator Finkbeiner, the following Committee on Energy and Utilities amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.89.080 and 1995 c 124 s 1 are each amended to read as follows:

Any county legislative authority may provide by resolution for revenues by fixing rates and charges for the furnishing of service to those served or receiving benefits or to be served or to receive benefits from any storm water control facility or contributing to an increase of surface water runoff. In fixing rates and charges, the county legislative authority may in its discretion consider: (1) Services furnished or to be furnished; (2) benefits received or to be received; (3) the character and use of land or its water runoff characteristics; (4) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; ~~((or))~~ (5) income level of persons served or provided benefits under this chapter, including senior citizens and disabled persons; or (6) any other matters which present a reasonable difference as a ground for distinction. The service charges and rates collected shall be deposited in a special fund or funds in the county treasury to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating storm water control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing and improving any of such facilities, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose."

## MOTIONS

On motion of Senator Finkbeiner, the following title amendment was adopted:

On page 1, beginning on line 1 of the title, after "facilities;" strike the remainder of the title and insert "and amending RCW 36.89.080."

On motion of Senator Finkbeiner, the rules were suspended, House Bill No. 2503, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 2503, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2503, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 43. Absent: Senator McAuliffe - 1. Excused: Senators Benton, Horn, McCaslin, McDonald and West - 5. HOUSE BILL NO. 2503, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

President Owen assumed the Chair.

## MOTION

On motion of Senator Hale, Senator Schow was excused.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752, by House Committee on Energy and Utilities (originally sponsored by Representatives Bush, Crouse, Gardner, Cairnes, Dyer, Mulliken, Morris, Linville, Reams, Romero, Smith, McDonald, Ogden, Dickerson, Butler, O'Brien, Ballasiotes, Talcott and Appelwick) (by request of Attorney General Gregoire)

Prohibiting unsolicited electronic mail.

The bill was read the second time.

#### MOTION

Senator Jacobsen moved that the following amendments be considered simultaneously and be adopted:

On page 4, line 22, strike "three" and insert "five"

On page 4, line 27, after "representatives;" strike "and" and insert "(b) Two members of the senate, one from each of the two largest caucuses, each member being a member of the senate energy and utilities committee, appointed by the president; and"

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 5, line 2, after "research" insert "and senate committee services"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Jacobsen on page 4, lines 22 and 27, and page 5, line 2, to Engrossed Substitute House Bill No. 2752.

The motion by Senator Jacobsen carried and the amendments were adopted.

#### MOTION

On motion of Senator Finkbeiner, the rules were suspended, Engrossed Substitute House Bill No. 2752, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2752, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2752, as amended by the Senate, and the bill passed the Senate by the following vote Yeas, 42; Nays, 0; Absent, 2; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 42. Absent: Senators Newhouse and Sellar - 2. Excused: Senators Horn, McCaslin, McDonald, Schow and West - 5. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2550, by Representatives L. Thomas and Wolfe (by request of Insurance Commissioner Senn)

Regulating the charitable gift annuity business.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the following Committee on Financial Institutions, Insurance and Housing amendment was adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.38.010 and 1979 c 130 s 6 are each amended to read as follows:

The commissioner may grant a certificate of exemption to any insurer or educational, religious, charitable, or scientific institution conducting a charitable gift annuity business:

(1) Which is organized and operated exclusively as, or for the purpose of aiding, an educational, religious, charitable, or scientific institution which is organized as a nonprofit organization without profit to any person, firm, partnership, association, corporation, or other entity;

(2) Which possesses a current tax exempt status under the laws of the United States;

(3) Which serves such purpose by issuing charitable gift annuity contracts only for the benefit of such educational, religious, charitable, or scientific institution;

(4) Which appoints the insurance commissioner as its true and lawful attorney upon whom may be served lawful process in any action, suit, or proceeding in any court, which appointment shall be irrevocable, shall bind the insurer or institution or any successor in interest, shall remain in effect as long as there is in force in this state any contract made or issued by the insurer or institution, or any obligation arising therefrom, and shall be processed in accordance with RCW 48.05.210;

(5) Which is fully and legally organized and qualified to do business and has been actively doing business under the laws of the state of its domicile for a period of at least three years prior to its application for a certificate of exemption;

(6) Which has and maintains minimum unrestricted net assets of five hundred thousand dollars. "Unrestricted net assets" means the excess of total assets over total liabilities that are neither permanently restricted nor temporarily restricted by donor-imposed stipulations;

(7) Which files with the insurance commissioner its application for a certificate of exemption showing:

(a) Its name, location, and organization date;

(b) The kinds of charitable annuities it proposes to offer;

(c) A statement of the financial condition, management, and affairs of the organization and any affiliate thereof, as that term is defined in RCW ((48.31A.010)) 48.31B.005, on a form satisfactory to, or furnished by the insurance commissioner;

(d) Such other documents, stipulations, or information as the insurance commissioner may reasonably require to evidence compliance with the provisions of this chapter;

((7)) (8) Which subjects itself and any affiliate thereof, as that term is defined in RCW ((48.31A.010)) 48.31B.005, to periodic examinations conducted under chapter 48.03 RCW as may be deemed necessary by the insurance commissioner;

((8)) (9) Which files with the insurance commissioner for the commissioner's advance approval a copy of any policy or contract form to be offered or issued to residents of this state. The grounds for disapproval of the policy or contract form shall be those set forth in RCW 48.18.110; and

((9)) (10) Which:

(a) Files with the insurance commissioner on or before March 1 of each year a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other financial material as may be requested, including the annual statement or other such financial materials as may be requested relating to any affiliate, as that term is defined in RCW ((48.31A.010)) 48.31B.005; and

(b) Coincident with the filing of its annual statement, pays an annual filing fee of twenty-five dollars plus five dollars for each charitable gift annuity contract written for residents of this state during the previous calendar year; and

(c) Which includes on or attaches to the first page of the annual statement the statement of a qualified actuary setting forth the actuary's opinion relating to annuity reserves and other actuarial items. "Qualified actuary" as used in this subsection means a member in good standing of the American academy of actuaries or a person who has otherwise demonstrated actuarial competence to the satisfaction of the insurance regulatory official of the domiciliary state.

**Sec. 2.** RCW 48.38.020 and 1979 c 130 s 7 are each amended to read as follows:

(1) Upon granting to such insurer or institution under RCW 48.38.010 a certificate of exemption to conduct a charitable gift annuity business, the insurance commissioner shall require it to establish and maintain a ((reserve)) separate reserve fund adequate to meet the future payments under its charitable gift annuity contracts ((and, in any event, the reserve fund shall)),

(2) The assets of the separate reserve fund:

(a) Shall be held legally and physically segregated from the other assets of the certificate of exemption holder;

(b) Shall be invested in the same manner that persons of reasonable prudence, discretion, and intelligence exercise in the management of a like enterprise, not in regard to speculating but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Investments shall be of sufficient value, liquidity, and diversity to assure the insurer or institution's ability to meet its outstanding obligations; and

(c) Shall not be liable for any debts of the insurer or institution holding a certificate of exemption under this chapter, other than those incurred pursuant to the issuance of charitable gift annuities.

(3) The amount of the separate reserve fund shall be:

(a) For contracts issued prior to July 1, 1998, not ((be)) less than an amount computed in accordance with the standard of valuation based on the 1971 individual annuity mortality table((, or any modification of this table approved by the insurance commissioner.)) with six percent interest for single premium immediate annuity contracts and four percent interest for all other individual annuity contracts;

(b) For contracts issued on or after July 1, 1998, in an amount not less than the aggregate reserves calculated according to the standards set forth in RCW 48.74.030 for other annuities with no cash settlement options;

(c) Plus a surplus of ten percent of the combined amounts under (a) and (b) of this subsection.

(4) The general assets of the insurer or institution holding a certificate of exemption under this chapter shall be liable for the payment of annuities to the extent that the separate reserve fund is inadequate.

~~((2))~~ (5) For any failure on its part to establish and maintain the ~~((reserve))~~ separate reserve fund, the insurance commissioner shall revoke its certificate of exemption.

**Sec. 3.** RCW 48.38.040 and 1979 c 130 s 9 are each amended to read as follows:

(1) An insurer or institution holding a certificate of exemption under this chapter shall be exempt from all other provisions of this title except as specifically enumerated in this chapter by reference.

(2) An insurer or institution holding a certificate of exemption under this chapter is subject to chapter 48.31 RCW.

**Sec. 4.** RCW 48.38.050 and 1979 c 130 s 10 are each amended to read as follows:

(1) The insurance commissioner may refuse to grant, or may revoke or suspend, a certificate of exemption if the insurance commissioner finds that the insurer or institution does not meet the requirements of this chapter or if the insurance commissioner finds that the insurer or institution has violated RCW 48.01.030 or any provisions of chapter 48.30 RCW or is found by the insurance commissioner to be in such condition that its further issuance of charitable gift annuities would be hazardous to annuity contract holders and the people of this state.

(2) After hearing or with the consent of the insurer or institution and in addition to or in lieu of the suspension, revocation, or refusal to renew any certificate of exemption, the commissioner may levy a fine upon the insurer or institution in an amount not more than ten thousand dollars. The order levying such a fine shall specify the period within which the fine shall be fully paid and which period shall not be less than fifteen nor more than thirty days from the date of the order. Upon failure to pay such a fine when due the commissioner shall revoke the certificate of exemption of the insurer or institution if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund.

NEW SECTION. **Sec. 5.** A new section is added to chapter 48.38 RCW to read as follows:

An insurer or institution holding a certificate of exemption to issue charitable gift annuities under this chapter shall not transact or be authorized to transact a variable annuity business as described in chapter 48.18A RCW.

NEW SECTION. **Sec. 6.** A new section is added to chapter 48.38 RCW to read as follows:

The commissioner may adopt rules to implement and administer this chapter.

NEW SECTION. **Sec. 7.** A new section is added to chapter 48.38 RCW to read as follows:

After June 30, 1998, an insurer or institution which does not have the minimum unrestricted net assets required by RCW 48.38.010(6) may not issue any new charitable gift annuities until the insurer or institution has and maintains the minimum unrestricted net assets required by RCW 48.38.010(6).

**Sec. 8.** RCW 48.31.020 and 1989 c 151 s 1 are each amended to read as follows:

For the purposes of this chapter, other than as to RCW 48.31.010, and in addition to persons included under RCW ~~((48.31.110))~~ 48.99.010, the term "insurer" shall be deemed to include an insurer authorized under chapter 48.05 RCW, an insurer or institution holding a certificate of exemption under RCW 48.38.010, a health care service contractor registered under chapter 48.44 RCW, and a health maintenance organization registered under chapter 48.46 RCW, as well as all persons engaged as, or purporting to be engaged as insurers, institutions issuing charitable gift annuities, health care service contractors, or health maintenance organizations in this state, and to persons in process of organization to become insurers, institutions issuing charitable gift annuities, health care service contractors, or health maintenance organizations."

## MOTIONS

On motion of Senator Winsley, the following title amendment was adopted:

On page 1, line 2 of the title, after "business;" strike the remainder of the title and insert "amending RCW 48.38.010, 48.38.020, 48.38.040, 48.38.050, and 48.31.020; and adding new sections to chapter 48.38 RCW."

On motion of Senator Winsley, the rules were suspended, House Bill No. 2550, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

## MOTIONS

On motion of Senator Swecker, Senator Sellar was excused.

On motion of Senator Franklin, Senator Thibaudeau was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2550, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2550, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Winsley, Wojahn, Wood and Zarelli - 42. Excused: Senators Horn, McCaslin, McDonald, Schow, Sellar, Thibaudeau and West - 7. HOUSE BILL NO. 2550, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

On motion of Senator Franklin, Senators Loveland and Betti Sheldon were excused.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2680, by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas and Wolfe)

Clarifying the definition of capitalized cost for purposes of the consumer leasing act.

The bill was read the second time.

## MOTION

On motion of Senator Winsley, the rules were suspended, Substitute House Bill No. 2680 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2680.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2680 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 41. Excused: Senators Horn, Loveland, McCaslin, McDonald, Schow, Sellar, Sheldon, B. and West - 8. SUBSTITUTE HOUSE BILL NO. 2680, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2663, by Representative Crouse (by request of Utilities and transportation Commission)

Requiring companies that seek to contract with an affiliated interest to file with the utilities and transportation commission.

The bill was read the second time.

## MOTION

On motion of Senator Finkbeiner, the rules were suspended, House Bill No. 2663 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2663.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2663 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 42. Absent: Senator Oke - 1. Excused: Senators Horn, McCaslin, McDonald, Sellar, Sheldon, B. and West - 6. HOUSE BILL NO. 2663, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2628, by Representatives Schoesler, Quall, Costa, O'Brien, Dunshee, Ballasiotes, Dyer, Thompson, Wolfe and Lambert (by request of Governor Locke)

Increasing the penalty for manufacture of methamphetamine.

The bill was read the second time.

## MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 2628 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2628.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2628 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 43. Absent: Senator Oke - 1. Excused: Senators Horn, McCaslin, Sellar, Sheldon, B. and West - 5. HOUSE BILL NO. 2628, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

On motion of Senator Hale, Senator Oke was excused.

## SECOND READING

ENGROSSED HOUSE BILL NO. 2707, by Representatives Backlund, Quall, Dickerson, Koster, O'Brien, Scott, Sullivan, Lambert, Cairnes, Wood, McDonald, Sherstad, Mulliken, Kessler, Ogden, Cooke, Conway, Anderson, Dunshee, Gardner, Ballasiotes and Dunn

Prohibiting sex offenders in inmate work programs from obtaining private individuals' names.

The bill was read the second time.

## MOTION

On motion of Senator Long, the rules were suspended, Engrossed House Bill No. 2707 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2707.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2707 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Hargrove - 1. Excused: Senators Horn, Oke and Sheldon, B. - 3. ENGROSSED HOUSE BILL NO. 2707, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2710, by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler and Honeyford)

Changing irrigation district administration.

The bill was read the second time.

#### MOTION

Senator Morton moved that the following Committee on Agriculture and Environment amendment not be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 87.03.845 and 1993 c 235 s 2 are each amended to read as follows:

This section and RCW 87.03.847 through 87.03.855 provide the procedures by which a minor irrigation district may be merged into a major irrigation district as authorized by RCW 87.03.530(2).

To institute proceedings for such a merger, the board of directors of the minor district shall adopt a resolution requesting the board of directors of the major district to consider the merger, or proceedings for such a merger may be instituted by a petition requesting the board of directors of the major district to consider the merger, signed by ten owners of land within the minor district or five percent of the total number of landowners within the minor district, whichever is greater. However, if there are fewer than twenty owners of land within the minor irrigation district, the petition shall be signed by a majority of the landowners and filed with the board of directors of the major irrigation district.

The board of directors of the major irrigation district shall consider the request at the next regularly scheduled meeting of the board of directors of the major district following its receipt of the minor district's request or at a special meeting called for the purpose of considering the request. If the board of the major district denies the request of the minor district, no further action on the request shall be taken.

If the board of the major district does not deny the request, it shall conduct a public hearing on the request and shall give notice regarding the hearing. The notice shall describe the proposed merger and shall be published once a week for two consecutive weeks preceding the date of the hearing and the last publication shall be not more than seven days before the date of the hearing. The notice shall contain a statement that unless the holders of title or evidence of title to at least twenty percent of the assessed lands within the major district file a protest opposing the merger with the board of the major district at or before the hearing, the board is free to approve the request for the merger without an election being conducted in the major district on the request. If the board of the major district is considering requests from more than one minor district, the hearing shall be conducted on all such requests.

**Sec. 2.** RCW 87.80.130 and 1996 c 320 s 11 are each amended to read as follows:

(1) A board of joint control created under the provisions of this chapter shall have full authority within its area of jurisdiction to enter into and perform any and all necessary contracts; to accept grants and loans, including, but not limited to, those provided under chapters 43.83B and 43.99E RCW, to appoint and employ and discharge the necessary officers, agents, and employees; to sue and be sued as a board but without personal liability of the members thereof in any and all matters in which all the irrigation entities represented on the board as a whole have a common interest without making the irrigation entities parties to the suit; to represent the entities in all matters of common interest as a whole within the scope of this chapter; and to do any and all lawful acts required and expedient to carry out the purposes of this chapter. A board of joint control may, subject to the same limitations as an irrigation district operating under chapter 87.03 RCW, acquire any property or property

rights for use within the board's area of jurisdiction by power of eminent domain; acquire, purchase, or lease in its own name all necessary real or personal property or property rights; and sell, lease, or exchange any surplus real or personal property or property rights. Any transfers of water, however, are limited to transfers authorized under subsection (2) of this section.

(2) A board of joint control is authorized and encouraged to pursue conservation and system efficiency improvements to optimize the use of appropriated waters and to either redistribute the saved water within its area of jurisdiction, or, transfer the water to others, or both. A redistribution of saved water as an operational practice internal to the board of joint control's area of jurisdiction, may be authorized if it can be made without detriment or injury to rights existing outside of the board of control's area of jurisdiction, including instream flow water rights established under state or federal law. Prior to undertaking a water conservation or system efficiency improvement project which will result in a redistribution of saved water, the board of joint control must consult with the department of ecology and if the board's jurisdiction is within a United States reclamation project the board must obtain the approval of the bureau of reclamation. The purpose of such consultation is to assure that the proposal will not impair the rights of other water holders or bureau of reclamation contract water users. A board of control does not have the power to authorize a change of any water right that would change the point or points of diversion, purpose of use, or place of use outside the board's area of jurisdiction, without the approval of the department of ecology pursuant to RCW 90.03.380 and if the board's jurisdiction is within a United States reclamation project, the approval of the bureau of reclamation.

(3) A board of joint control is authorized to design, construct, and operate either drainage projects, or water quality enhancement projects, or both.

(4) Where the board of joint control area of jurisdiction is totally within a federal reclamation project, the board is authorized to accept operational responsibility for federal reserved works.

(5) Nothing contained in this chapter gives a board of joint control the authority to abridge the existing rights, responsibilities, and authorities of an individual irrigation entity or others within the area of jurisdiction; nor in a case where the board of joint control consists of representatives of two or more divisions of a federal reclamation project shall the board of joint control abridge any powers of an existing board of control created through federal contract; nor shall a board of joint control have any authority to abridge or modify a water right benefiting lands within its area of jurisdiction without consent of the party holding the ownership interest in the water right.

(6) A board of joint control created under this chapter may not use any authority granted to it by this chapter or by RCW 90.03.380 to authorize a transfer of or change in a water right or to authorize a redistribution of saved water before July 1, 1997.

**NEW SECTION. Sec. 3.** The following acts or parts of acts are each repealed:

- (1) RCW 89.30.001 and 1933 c 149 s 1 & 1927 c 254 s 1;
- (2) RCW 89.30.004 and 1933 c 149 s 2 & 1927 c 254 s 2;
- (3) RCW 89.30.007 and 1933 c 149 s 3 & 1927 c 254 s 3;
- (4) RCW 89.30.010 and 1933 c 149 s 4 & 1927 c 254 s 4;
- (5) RCW 89.30.013 and 1927 c 254 s 5;
- (6) RCW 89.30.016 and 1927 c 254 s 6;
- (7) RCW 89.30.019 and 1927 c 254 s 7;
- (8) RCW 89.30.022 and 1927 c 254 s 8;
- (9) RCW 89.30.025 and 1927 c 254 s 9;
- (10) RCW 89.30.028 and 1927 c 254 s 10;
- (11) RCW 89.30.031 and 1927 c 254 s 11;
- (12) RCW 89.30.034 and 1927 c 254 s 12;
- (13) RCW 89.30.037 and 1927 c 254 s 13;
- (14) RCW 89.30.040 and 1927 c 254 s 14;
- (15) RCW 89.30.043 and 1927 c 254 s 15;
- (16) RCW 89.30.046 and 1927 c 254 s 16;
- (17) RCW 89.30.049 and 1927 c 254 s 17;
- (18) RCW 89.30.052 and 1927 c 254 s 18;
- (19) RCW 89.30.055 and 1988 c 127 s 70, 1933 c 149 s 5, & 1927 c 254 s 19;
- (20) RCW 89.30.058 and 1988 c 127 s 71, 1933 c 149 s 6, & 1927 c 254 s 20;
- (21) RCW 89.30.061 and 1927 c 254 s 21;
- (22) RCW 89.30.064 and 1927 c 254 s 22;
- (23) RCW 89.30.067 and 1927 c 254 s 23;
- (24) RCW 89.30.070 and 1988 c 127 s 72, 1933 c 149 s 7, & 1927 c 254 s 24;
- (25) RCW 89.30.073 and 1927 c 254 s 25;
- (26) RCW 89.30.076 and 1927 c 254 s 26;
- (27) RCW 89.30.079 and 1927 c 254 s 27;
- (28) RCW 89.30.082 and 1927 c 254 s 28;



- (29) RCW 89.30.085 and 1927 c 254 s 29;
- (30) RCW 89.30.088 and 1927 c 254 s 30;
- (31) RCW 89.30.091 and 1927 c 254 s 31;
- (32) RCW 89.30.094 and 1927 c 254 s 32;
- (33) RCW 89.30.097 and 1927 c 254 s 33;
- (34) RCW 89.30.100 and 1927 c 254 s 34;
- (35) RCW 89.30.103 and 1927 c 254 s 35;
- (36) RCW 89.30.106 and 1927 c 254 s 36;
- (37) RCW 89.30.109 and 1927 c 254 s 37;
- (38) RCW 89.30.112 and 1927 c 254 s 38;
- (39) RCW 89.30.115 and 1927 c 254 s 39;
- (40) RCW 89.30.118 and 1927 c 254 s 40;
- (41) RCW 89.30.121 and 1967 c 164 s 10 & 1927 c 254 s 41;
- (42) RCW 89.30.124 and 1927 c 254 s 42;
- (43) RCW 89.30.127 and 1927 c 254 s 43;
- (44) RCW 89.30.130 and 1927 c 254 s 44;
- (45) RCW 89.30.133 and 1927 c 254 s 45;
- (46) RCW 89.30.136 and 1933 c 149 s 8 & 1927 c 254 s 46;
- (47) RCW 89.30.139 and 1927 c 254 s 47;
- (48) RCW 89.30.142 and 1927 c 254 s 48;
- (49) RCW 89.30.145 and 1927 c 254 s 49;
- (50) RCW 89.30.148 and 1927 c 254 s 50;
- (51) RCW 89.30.151 and 1927 c 254 s 51;
- (52) RCW 89.30.154 and 1927 c 254 s 52;
- (53) RCW 89.30.157 and 1927 c 254 s 53;
- (54) RCW 89.30.160 and 1933 c 149 s 9 & 1927 c 254 s 54;
- (55) RCW 89.30.163 and 1933 c 149 s 10 & 1927 c 254 s 55;
- (56) RCW 89.30.166 and 1927 c 254 s 56;
- (57) RCW 89.30.169 and 1927 c 254 s 57;
- (58) RCW 89.30.172 and 1927 c 254 s 58;
- (59) RCW 89.30.175 and 1927 c 254 s 59;
- (60) RCW 89.30.178 and 1927 c 254 s 60;
- (61) RCW 89.30.181 and 1927 c 254 s 61;
- (62) RCW 89.30.184 and 1927 c 254 s 62;
- (63) RCW 89.30.187 and 1927 c 254 s 63;
- (64) RCW 89.30.190 and 1927 c 254 s 64;
- (65) RCW 89.30.193 and 1927 c 254 s 65;
- (66) RCW 89.30.196 and 1926 c 254 s 66;
- (67) RCW 89.30.199 and 1927 c 254 s 67;
- (68) RCW 89.30.202 and 1927 c 254 s 68;
- (69) RCW 89.30.205 and 1927 c 254 s 69;
- (70) RCW 89.30.208 and 1927 c 254 s 70;
- (71) RCW 89.30.211 and 1933 c 149 s 11 & 1927 c 254 s 71;
- (72) RCW 89.30.214 and 1933 c 149 s 12 & 1929 c 254 s 72;
- (73) RCW 89.30.217 and 1927 c 254 s 73;
- (74) RCW 89.30.220 and 1927 c 254 s 74;
- (75) RCW 89.30.223 and 1927 c 254 s 75;
- (76) RCW 89.30.226 and 1927 c 254 s 76;
- (77) RCW 89.30.229 and 1927 c 254 s 77;
- (78) RCW 89.30.232 and 1927 c 254 s 78;
- (79) RCW 89.30.235 and 1927 c 254 s 79;
- (80) RCW 89.30.238 and 1927 c 254 s 80;
- (81) RCW 89.30.241 and 1927 c 254 s 81;
- (82) RCW 89.30.244 and 1927 c 254 s 82;

- (83) RCW 89.30.247 and 1927 c 254 s 83;
- (84) RCW 89.30.250 and 1933 c 149 s 13 & 1927 c 254 s 84;
- (85) RCW 89.30.253 and 1927 c 254 s 85;
- (86) RCW 89.30.256 and 1927 c 254 s 86;
- (87) RCW 89.30.259 and 1927 c 254 s 87;
- (88) RCW 89.30.262 and 1927 c 254 s 88;
- (89) RCW 89.30.265 and 1927 c 254 s 89;
- (90) RCW 89.30.268 and 1927 c 254 s 90;
- (91) RCW 89.30.271 and 1927 c 254 s 91;
- (92) RCW 89.30.274 and 1927 c 254 s 92;
- (93) RCW 89.30.277 and 1927 c 254 s 93;
- (94) RCW 89.30.280 and 1927 c 254 s 94;
- (95) RCW 89.30.283 and 1927 c 254 s 95;
- (96) RCW 89.30.286 and 1927 c 254 s 96;
- (97) RCW 89.30.289 and 1927 c 254 s 97;
- (98) RCW 89.30.292 and 1927 c 254 s 98;
- (99) RCW 89.30.295 and 1927 c 254 s 99;
- (100) RCW 89.30.298 and 1927 c 254 s 100;
- (101) RCW 89.30.301 and 1927 c 254 s 101;
- (102) RCW 89.30.304 and 1927 c 254 s 102;
- (103) RCW 89.30.307 and 1927 c 254 s 103;
- (104) RCW 89.30.310 and 1927 c 254 s 104;
- (105) RCW 89.30.313 and 1927 c 254 s 105;
- (106) RCW 89.30.316 and 1927 c 254 s 106;
- (107) RCW 89.30.319 and 1927 c 254 s 107;
- (108) RCW 89.30.322 and 1927 c 254 s 108;
- (109) RCW 89.30.325 and 1983 c 167 s 249 & 1927 c 254 s 109;
- (110) RCW 89.30.328 and 1927 c 254 s 110;
- (111) RCW 89.30.331 and 1927 c 254 s 111;
- (112) RCW 89.30.334 and 1927 c 254 s 112;
- (113) RCW 89.30.337 and 1927 c 254 s 113;
- (114) RCW 89.30.340 and 1927 c 254 s 114;
- (115) RCW 89.30.343 and 1927 c 254 s 115;
- (116) RCW 89.30.346 and 1927 c 254 s 116;
- (117) RCW 89.30.349 and 1927 c 254 s 117;
- (118) RCW 89.30.352 and 1927 c 254 s 118;
- (119) RCW 89.30.355 and 1927 c 254 s 119;
- (120) RCW 89.30.358 and 1927 c 254 s 120;
- (121) RCW 89.30.361 and 1927 c 254 s 121;
- (122) RCW 89.30.364 and 1927 c 254 s 122;
- (123) RCW 89.30.367 and 1927 c 254 s 123;
- (124) RCW 89.30.370 and 1927 c 254 s 124;
- (125) RCW 89.30.373 and 1927 c 254 s 125;
- (126) RCW 89.30.376 and 1927 c 254 s 126;
- (127) RCW 89.30.379 and 1927 c 254 s 127;
- (128) RCW 89.30.382 and 1927 c 254 s 128;
- (129) RCW 89.30.385 and 1927 c 254 s 129;
- (130) RCW 89.30.388 and 1927 c 254 s 130;
- (131) RCW 89.30.391 and 1933 c 149 s 14 & 1927 c 254 s 131;
- (132) RCW 89.30.394 and 1927 c 254 s 132;
- (133) RCW 89.30.397 and 1927 c 254 s 133;
- (134) RCW 89.30.400 and 1984 c 186 s 63, 1970 ex.s. c 42 s 38, & 1927 c 254 s 134;
- (135) RCW 89.30.403 and 1984 c 186 s 64, 1970 ex.s. c 42 s 39, & 1927 c 254 s 135;
- (136) RCW 89.30.412 and 1984 c 186 s 65, 1983 c 167 s 250, & 1927 c 254 s 138;

- (137) RCW 89.30.427 and 1983 c 167 s 254, 1933 c 149 s 15, & 1927 c 254 s 143;
- (138) RCW 89.30.430 and 1927 c 254 s 144;
- (139) RCW 89.30.433 and 1983 c 167 s 255, 1981 c 156 s 33, 1933 c 149 s 16, & 1927 c 254 s 145;
- (140) RCW 89.30.436 and 1933 c 149 s 17 & 1927 c 254 s 146;
- (141) RCW 89.30.439 and 1927 c 254 s 147;
- (142) RCW 89.30.442 and 1927 c 254 s 148;
- (143) RCW 89.30.445 and 1927 c 254 s 149;
- (144) RCW 89.30.448 and 1927 c 254 s 150;
- (145) RCW 89.30.451 and 1927 c 254 s 151;
- (146) RCW 89.30.454 and 1927 c 254 s 152;
- (147) RCW 89.30.457 and 1927 c 254 s 153;
- (148) RCW 89.30.460 and 1927 c 254 s 154;
- (149) RCW 89.30.463 and 1927 c 254 s 155;
- (150) RCW 89.30.466 and 1927 c 254 s 156;
- (151) RCW 89.30.469 and 1927 c 254 s 157;
- (152) RCW 89.30.472 and 1927 c 254 s 158;
- (153) RCW 89.30.475 and 1927 c 254 s 159;
- (154) RCW 89.30.478 and 1927 c 254 s 160;
- (155) RCW 89.30.481 and 1927 c 254 s 161;
- (156) RCW 89.30.484 and 1927 c 254 s 162;
- (157) RCW 89.30.487 and 1927 c 254 s 163;
- (158) RCW 89.30.490 and 1927 c 254 s 164;
- (159) RCW 89.30.493 and 1927 c 254 s 165;
- (160) RCW 89.30.496 and 1927 c 254 s 166;
- (161) RCW 89.30.499 and 1927 c 254 s 167;
- (162) RCW 89.30.502 and 1927 c 254 s 168;
- (163) RCW 89.30.505 and 1927 c 254 s 169;
- (164) RCW 89.30.508 and 1927 c 254 s 170;
- (165) RCW 89.30.511 and 1927 c 254 s 171;
- (166) RCW 89.30.514 and 1927 c 254 s 172;
- (167) RCW 89.30.517 and 1983 c 167 s 256 & 1927 c 254 s 173;
- (168) RCW 89.30.520 and 1983 c 167 s 257, 1970 ex.s. c 56 s 103, 1969 ex.s. c 232 s 62, & 1927 c 254 s 174;
- (169) RCW 89.30.523 and 1927 c 254 s 175;
- (170) RCW 89.30.526 and 1927 c 254 s 176;
- (171) RCW 89.30.529 and 1927 c 254 s 177;
- (172) RCW 89.30.532 and 1927 c 254 s 178;
- (173) RCW 89.30.535 and 1927 c 254 s 179;
- (174) RCW 89.30.538 and 1927 c 254 s 180;
- (175) RCW 89.30.541 and 1927 c 254 s 181;
- (176) RCW 89.30.544 and 1983 c 167 s 258 & 1927 c 254 s 182;
- (177) RCW 89.30.547 and 1983 c 167 s 259 & 1927 c 254 s 183;
- (178) RCW 89.30.550 and 1927 c 254 s 184;
- (179) RCW 89.30.553 and 1927 c 254 s 185;
- (180) RCW 89.30.556 and 1983 c 167 s 260 & 1927 c 254 s 186;
- (181) RCW 89.30.565 and 1927 c 254 s 189;
- (182) RCW 89.30.568 and 1927 c 254 s 190;
- (183) RCW 89.30.571 and 1927 c 254 s 191;
- (184) RCW 89.30.574 and 1927 c 254 s 192;
- (185) RCW 89.30.577 and 1927 c 254 s 193;
- (186) RCW 89.30.580 and 1927 c 254 s 194;
- (187) RCW 89.30.583 and 1927 c 254 s 195;
- (188) RCW 89.30.586 and 1927 c 254 s 196;
- (189) RCW 89.30.589 and 1927 c 254 s 197;
- (190) RCW 89.30.592 and 1927 c 254 s 198;

(191) RCW 89.30.595 and 1927 c 254 s 199;  
(192) RCW 89.30.598 and 1927 c 254 s 200;  
(193) RCW 89.30.601 and 1927 c 254 s 201;  
(194) RCW 89.30.604 and 1927 c 254 s 202;  
(195) RCW 89.30.607 and 1927 c 254 s 203;  
(196) RCW 89.30.610 and 1927 c 254 s 204;  
(197) RCW 89.30.613 and 1927 c 254 s 205;  
(198) RCW 89.30.616 and 1983 c 167 s 261 & 1927 c 254 s 206;  
(199) RCW 89.30.619 and 1927 c 254 s 207;  
(200) RCW 89.30.622 and 1927 c 254 s 208;  
(201) RCW 89.30.625 and 1927 c 254 s 209;  
(202) RCW 89.30.628 and 1927 c 254 s 210;  
(203) RCW 89.30.631 and 1927 c 254 s 211;  
(204) RCW 89.30.634 and 1927 c 254 s 212;  
(205) RCW 89.30.637 and 1927 c 254 s 213;  
(206) RCW 89.30.640 and 1927 c 254 s 214;  
(207) RCW 89.30.643 and 1927 c 254 s 215;  
(208) RCW 89.30.646 and 1927 c 254 s 216;  
(209) RCW 89.30.649 and 1927 c 254 s 217;  
(210) RCW 89.30.652 and 1927 c 254 s 218;  
(211) RCW 89.30.655 and 1927 c 254 s 219;  
(212) RCW 89.30.658 and 1927 c 254 s 220;  
(213) RCW 89.30.661 and 1927 c 254 s 221;  
(214) RCW 89.30.664 and 1927 c 254 s 222;  
(215) RCW 89.30.667 and 1927 c 254 s 223;  
(216) RCW 89.30.670 and 1927 c 254 s 224;  
(217) RCW 89.30.673 and 1927 c 254 s 225;  
(218) RCW 89.30.676 and 1927 c 254 s 226;  
(219) RCW 89.30.679 and 1927 c 254 s 227;  
(220) RCW 89.30.682 and 1927 c 254 s 228;  
(221) RCW 89.30.685 and 1927 c 254 s 229;  
(222) RCW 89.30.688 and 1927 c 254 s 230;  
(223) RCW 89.30.691 and 1927 c 254 s 231;  
(224) RCW 89.30.694 and 1927 c 254 s 232;  
(225) RCW 89.30.697 and 1927 c 254 s 233;  
(226) RCW 89.30.700 and 1927 c 254 s 234;  
(227) RCW 89.30.703 and 1927 c 254 s 235;  
(228) RCW 89.30.706 and 1927 c 254 s 236;  
(229) RCW 89.30.709 and 1927 c 254 s 237;  
(230) RCW 89.30.712 and 1927 c 254 s 238;  
(231) RCW 89.30.715 and 1927 c 254 s 239;  
(232) RCW 89.30.718 and 1927 c 254 s 240;  
(233) RCW 89.30.721 and 1927 c 254 s 241;  
(234) RCW 89.30.724 and 1927 c 254 s 242;  
(235) RCW 89.30.727 and 1927 c 254 s 243;  
(236) RCW 89.30.730 and 1927 c 254 s 244;  
(237) RCW 89.30.733 and 1927 c 254 s 245;  
(238) RCW 89.30.736 and 1927 c 254 s 246;  
(239) RCW 89.30.739 and 1927 c 254 s 247;  
(240) RCW 89.30.742 and 1927 c 254 s 248;  
(241) RCW 89.30.745 and 1927 c 254 s 249;  
(242) RCW 89.30.748 and 1927 c 254 s 250;  
(243) RCW 89.30.751 and 1927 c 254 s 251;  
(244) RCW 89.30.754 and 1927 c 254 s 252;

(245) RCW 89.30.757 and 1927 c 254 s 253;  
(246) RCW 89.30.760 and 1927 c 254 s 254;  
(247) RCW 89.30.763 and 1927 c 254 s 255;  
(248) RCW 89.30.766 and 1927 c 254 s 256;  
(249) RCW 89.30.769 and 1927 c 254 s 257;  
(250) RCW 89.30.772 and 1927 c 254 s 258;  
(251) RCW 89.30.775 and 1927 c 254 s 259;  
(252) RCW 89.30.778 and 1983 c 167 s 262 & 1927 c 254 s 260;  
(253) RCW 89.30.781 and 1983 c 167 s 263 & 1927 c 254 s 261;  
(254) RCW 89.30.784 and 1983 c 167 s 264 & 1927 c 254 s 262;  
(255) RCW 89.30.787 and 1933 c 149 s 18 & 1927 c 254 s 263;  
(256) RCW 89.30.790 and 1927 c 254 s 264;  
(257) RCW 89.30.793 and 1927 c 254 s 265;  
(258) RCW 89.30.796 and 1927 c 254 s 266;  
(259) RCW 89.30.799 and 1927 c 254 s 267;  
(260) RCW 89.30.802 and 1927 c 254 s 268;  
(261) RCW 89.30.805 and 1927 c 254 s 269;  
(262) RCW 89.30.808 and 1927 c 254 s 270;  
(263) RCW 89.30.811 and 1927 c 254 s 271;  
(264) RCW 89.30.814 and 1927 c 254 s 272;  
(265) RCW 89.30.817 and 1927 c 254 s 273;  
(266) RCW 89.30.820 and 1927 c 254 s 274;  
(267) RCW 89.30.823 and 1927 c 254 s 275;  
(268) RCW 89.30.826 and 1927 c 254 s 276;  
(269) RCW 89.30.829 and 1927 c 254 s 277;  
(270) RCW 89.30.832 and 1927 c 254 s 278; and  
(271) RCW 89.30.835 and 1927 c 254 s 279."

The President declared the question before the Senate to be the motion by Senator Morton that the Committee on Agriculture and Environment striking amendment to Substitute House Bill No. 2710 not be adopted.

The motion by Senator Morton carried and the committee striking amendment was not adopted.

#### MOTION

On motion of Senator Morton, the following amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 87.03.845 and 1993 c 235 s 2 are each amended to read as follows:

This section and RCW 87.03.847 through 87.03.855 provide the procedures by which a minor irrigation district may be merged into a major irrigation district as authorized by RCW 87.03.530(2).

To institute proceedings for such a merger, the board of directors of the minor district shall adopt a resolution requesting the board of directors of the major district to consider the merger, or proceedings for such a merger may be instituted by a petition requesting the board of directors of the major district to consider the merger, signed by ten owners of land within the minor district or five percent of the total number of landowners within the minor district, whichever is greater. However, if there are fewer than twenty owners of land within the minor irrigation district, the petition shall be signed by a majority of the landowners and filed with the board of directors of the major irrigation district.

The board of directors of the major irrigation district shall consider the request at the next regularly scheduled meeting of the board of directors of the major district following its receipt of the minor district's request or at a special meeting called for the purpose of considering the request. If the board of the major district denies the request of the minor district, no further action on the request shall be taken.

If the board of the major district does not deny the request, it shall conduct a public hearing on the request and shall give notice regarding the hearing. The notice shall describe the proposed merger and shall be published once a week for two consecutive weeks preceding the date of the hearing and the last publication shall be not more than seven days before the date of the hearing. The notice shall contain a statement that unless the holders of title or evidence of title to at least twenty percent of the assessed lands within the major district file a protest opposing the merger with the board of the major district at or before the hearing, the board is free to approve the request for the merger without an election being conducted in the major district on the request. If the board of the major district is considering requests from more than one minor district, the hearing shall be conducted on all such requests.

**Sec. 2.** RCW 87.80.130 and 1996 c 320 s 11 are each amended to read as follows:

(1) A board of joint control created under the provisions of this chapter shall have full authority within its area of jurisdiction to enter into and perform any and all necessary contracts; to accept grants and loans, including, but not limited to, those provided under chapters 43.83B and 43.99E RCW, to appoint and employ and discharge the necessary officers, agents, and employees; to sue and be sued as a board but without personal liability of the members thereof in any and all matters in which all the irrigation entities represented on the board as a whole have a common interest without making the irrigation entities parties to the suit; to represent the entities in all matters of common interest as a whole within the scope of this chapter; and to do any and all lawful acts required and expedient to carry out the purposes of this chapter. A board of joint control may, subject to the same limitations as an irrigation district operating under chapter 87.03 RCW, acquire any property or property rights for use within the board's area of jurisdiction by power of eminent domain; acquire, purchase, or lease in its own name all necessary real or personal property or property rights; and sell, lease, or exchange any surplus real or personal property or property rights. Any transfers of water, however, are limited to transfers authorized under subsection (2) of this section.

(2) A board of joint control is authorized and encouraged to pursue conservation and system efficiency improvements to optimize the use of appropriated waters and to either redistribute the saved water within its area of jurisdiction, or, transfer the water to others, or both. A redistribution of saved water as an operational practice internal to the board of joint control's area of jurisdiction, may be authorized if it can be made without detriment or injury to rights existing outside of the board of control's area of jurisdiction, including instream flow water rights established under state or federal law. Prior to undertaking a water conservation or system efficiency improvement project which will result in a redistribution of saved water, the board of joint control must consult with the department of ecology and if the board's jurisdiction is within a United States reclamation project the board must obtain the approval of the bureau of reclamation. The purpose of such consultation is to assure that the proposal will not impair the rights of other water holders or bureau of reclamation contract water users. A board of control does not have the power to authorize a change of any water right that would change the point or points of diversion, purpose of use, or place of use outside the board's area of jurisdiction, without the approval of the department of ecology pursuant to RCW 90.03.380 and if the board's jurisdiction is within a United States reclamation project, the approval of the bureau of reclamation.

(3) A board of joint control is authorized to design, construct, and operate either drainage projects, or water quality enhancement projects, or both.

(4) Where the board of joint control area of jurisdiction is totally within a federal reclamation project, the board is authorized to accept operational responsibility for federal reserved works.

(5) Nothing contained in this chapter gives a board of joint control the authority to abridge the existing rights, responsibilities, and authorities of an individual irrigation entity or others within the area of jurisdiction; nor in a case where the board of joint control consists of representatives of two or more divisions of a federal reclamation project shall the board of joint control abridge any powers of an existing board of control created through federal contract; nor shall a board of joint control have any authority to abridge or modify a water right benefiting lands within its area of jurisdiction without consent of the party holding the ownership interest in the water right.

(6) A board of joint control created under this chapter may not use any authority granted to it by this chapter or by RCW 90.03.380 to authorize a transfer of or change in a water right or to authorize a redistribution of saved water before July 1, 1997."

## MOTIONS

On motion of Senator Morton, the following title amendment was adopted:

On page 1, line 1 of the title, after "districts;" strike the remainder of the title and insert "and amending RCW 87.03.845 and 87.80.130."

On motion of Senator Morton, the rules were suspended, Substitute House Bill No. 2710, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

## POINT OF INQUIRY

Senator Loveland: "Senator Morton, would you just briefly--I listened to your explanation and I was aware of what was on the pink calendar--what does this striker do different than what the current law is, because you are talking about islands, but this talks about a large irrigation district and a small irrigation district merging and the number of people required? I wondered how this is different than what goes on now?"

Senator Morton: "As I understand it, Senator Loveland, the large districts are not able to absorb some of the--what are called--island districts--some of the smaller ones, and allow them to continue with the same rights that they have had. So, this now corrects that and allows that to take place. If the island districts want to be merged with the larger districts, they can, but they retain their same rights."

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2710, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2710, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senator Schow - 1. Excused: Senators Horn, Oke, Sheldon, B. and West - 4. SUBSTITUTE HOUSE BILL NO. 2710, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

On motion of Senator Hale, Senator Finkbeiner was excused.

## SECOND READING

HOUSE BILL NO. 2732, by Representatives Robertson, Ogden, L. Thomas, McCune, Constantine, Wood, Zellinsky, Ballasiotes, Delvin and Hickel

Regarding wage assignment orders for child support or spousal maintenance payments.

The bill was read the second time.

## MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 2732 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2732.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2732 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 44. Excused: Senators Finkbeiner, Horn, Oke, Sheldon, B. and West - 5. HOUSE BILL NO. 2732, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

ENGROSSED HOUSE BILL NO. 2772, by Representatives McDonald and Kastama

Revising provisions relating to drug paraphernalia.

The bill was read the second time.

## MOTION

On motion of Senator Roach, the following Committee on Law and Justice amendment was adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 26.28 RCW to read as follows:

(1) Every person who sells or gives, or permits to be sold or given to any person under the age of eighteen years any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia"

means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums;

(l) Bongs; and

(m) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits legal distribution of injection syringe equipment through public health and community based HIV prevention programs."

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 1 of the title, after "paraphernalia;" strike the remainder of the title and insert "adding a new section to chapter 26.28 RCW; and prescribing penalties."

On motion of Senator Roach, the rules were suspended, Engrossed House Bill No. 2772, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2772, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2772, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senator Brown - 1. Excused: Senators Finkbeiner, Horn and West - 3. ENGROSSED HOUSE BILL NO. 2772, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1541, by House Committee on Law and Justice (originally sponsored by Representatives Sump, McMorris, Sheahan, Sheldon, Crouse, Sherstad, Honeyford, DeBolt, Koster, Chandler, Linville, Clements, Boldt, Sterk, Smith, Conway and Bush)

Protecting sport shooting ranges.

The bill was read the second time.

#### MOTION



Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that sport shooting ranges in this state offer valuable hunter and firearm safety training, legitimate and important forms of recreation to the general public, and provide the opportunity for many law enforcement agencies to maintain necessary firearms skills efficiently and at little or no cost. The continued existence and viability of sport shooting ranges is impacted by burdensome retroactive regulation and lawsuits, thereby potentially threatening the availability of low-cost firearms training to some local law enforcement agencies, as well as hunter and firearms safety training and recreation to the general public.

NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW to read as follows:

(1)(a) Notwithstanding any other provision of law, a person who operates or uses a sport shooting range in this state is not subject to civil liability or criminal prosecution in a matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(b) A person who operates or uses a sport shooting range is not subject to an action for nuisance, and a court of the state shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(c) Rules adopted by any state department or agency for limiting levels of noise in terms of decibel level that may occur in the outdoor atmosphere do not apply to a sport shooting range exempted from liability under this section.

(2) A person who acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved sport shooting range shall not maintain a nuisance action against the person who owns the range to restrain, enjoin, or impede the use of the range where there has not been a substantial change in the nature of the use of the range. This subsection does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

(3) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance must be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance.

(4) A person who participates in sport shooting at a sport shooting range accepts the risks associated with the sport to the extent the risks are obvious and inherent. Those risks include, but are not limited to, injuries that may result from noise, discharge of a projectile or shot, malfunction of sport shooting equipment not owned by the shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural growth or debris.

(5) Except as otherwise provided in this section, this section does not prohibit a local government from regulating the location and construction of a sport shooting range after the effective date of this act.

(6) As used in this section:

(a) "Local government" means a county, city, or town.

(b) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity.

(c) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting."

#### MOTION

Senator Fairley moved that the following amendments to the Committee on Law and Justice striking amendment be considered simultaneously and be adopted:

On page 1, line 26, after "(b)" strike all material through "(c)" on line 32.

On page 2, line 1, after "(2)" strike all material through "range." on line 8 and insert the following:

"A person who acquires title to real property after the initial construction of a permanently located and improved sport shooting range, and whose use of the property is adversely affected by the operation of the range, shall not maintain an action against the owner or operator of the range for nuisance unless there has been a substantial change in the nature of the use of the range. This subsection (2) does not prohibit an action for negligent, reckless or intentional acts by a person owning or operating a range or any person engaged in any activity permitted by the owner or operator of the range while the person is on the range."

Senator Roach demanded a roll call and the demand was sustained.

#### MOTION

On motion of Senator Franklin, Senator Heavey was excused.

The President declared the question before the Senate to be the roll call on the adoption of the amendments by Senator Fairley on page 1, line 26, and page 2, line 1, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1541.

#### ROLL CALL

The Secretary called the roll and the amendments to the committee striking amendment were not adopted by the following vote: Yeas, 15; Nays, 31; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Fairley, Franklin, Fraser, Haugen, Jacobsen, Kline, Kohl, McCaslin, Patterson, Prentice, Spanel, Thibaudeau, Winsley and Wojahn - 15. Voting nay: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Hochstatter, Johnson, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Wood and Zarelli - 31. Excused: Senators Heavey, Horn and West - 3. MOTION

On motion of Senator Franklin, Senators Bauer and Prentice were excused.

#### MOTION

Senator Kline moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 2, line 14, after "(4)" strike the remainder of the subsection and insert the following:

"A person who participates in sport shooting at a sport shooting range accepts the risk of injury associated with reasonable operation of the range by the owner or operator, to the extent these risks are obvious and inherent. For purpose of this subsection (4) the injuries are those which result from noise, natural variations in terrain, surface and subsurface conditions, barren earth, rocks, trees, natural growth of plants and location of debris, and malfunction of sport shooting equipment not owned by or under the control of the owner or operator of the sport shooting range."

Debate ensued.

Senator Benton demanded a roll call and the demand was sustained.

Further debate ensued.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Kline on page 2, line 14, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1541.

#### ROLL CALL

The Secretary called the roll and the amendment to the committee striking amendment was not adopted by the following vote: Yeas, 12; Nays, 33; Absent, 0; Excused, 4.

Voting yea: Senators Brown, Fairley, Fraser, Heavey, Jacobsen, Kline, Kohl, Patterson, Spanel, Thibaudeau, Wojahn and Wood - 12. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Hochstatter, Johnson, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Winsley and Zarelli - 33. Excused: Senators Bauer, Horn, Prentice and West - 4.

#### MOTION

Senator Heavey moved that the following amendment by Senators Heavey and Fairley to the Committee on Law and Justice striking amendment be adopted:

On page 2, after line 21, insert the following:

"(5) Liquor, as defined in RCW 66.04.010 may not be sold, served, distributed or consumed at any sport shooting range while the range is in operation as a sport shooting range. Nothing in this subsection prohibits the sale, service, distribution, or consumption of liquor while the range is in use for any purpose other than discharge of shot or projectile."

Renumber the subsections consecutively and correct any internal references accordingly.

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

## POINT OF INQUIRY

Senator Rasmussen: "Senator Heavey, my daughter had her wedding at the Tacoma Sportsmen's Club. It was in the early afternoon, right after the services. While we didn't use the bar--the bar was not open--we did serve champagne for the toast to the bride. Yes, the range was in operation, but we had two or three hundred people there for the wedding, because it is a gorgeous facility. Would we have been prohibited from doing that?"

Senator Heavey: "Absolutely, yes."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senators Heavey and Fairley on page 2, after line 21, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1541.

## ROLL CALL

The Secretary called the roll and the amendment to the committee striking amendment was not adopted by the following vote: Yeas, 17; Nays, 27; Absent, 1; Excused, 4.

Voting yea: Senators Brown, Fairley, Fraser, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, Patterson, Sheldon, B., Snyder, Spanel, Thibaudeau, Wojahn and Wood - 17. Voting nay: Senators Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hochstatter, Johnson, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, Winsley and Zarelli - 27. Absent: Senator Anderson - 1. Excused: Senators Bauer, Horn, Prentice and West - 4. MOTION

Senator Kline moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 2, after line 21, insert the following:

"(5) The owner or operator of any sport shooting range shall have in place an insurance policy providing insurance for personal and property damage which occurs as a result of acts at the range, with liability limits of at least two hundred fifty thousand dollars per occurrence. This subsection shall become effective January 1, 1999."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kline on page 2, after line 21, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1541.

The motion by Senator Kline carried and the amendment to the committee striking amendment was adopted.

## MOTION

Senator Kline moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 2, line 31, after "operated" insert "primarily"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kline on page 2, line 31, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1541.

The motion by Senator Kline failed and the amendment to the committee striking amendment was not adopted.

## MOTION

Senator Spanel moved that the following amendment by Senators Spanel, Fraser and Fairley to the Committee on Law and Justice striking amendment be adopted:

On page 2, after line 32, insert the following:

**"NEW SECTION. Sec. 3.** A new section is added to chapter 9.41 RCW to read as follows:

The provisions of section 2 (1), (2), and (3) of this act do not apply to sport shooting ranges which, since commencement of operation as a range, have: (a) been found to not be in compliance with laws or rules or regulations relating to its operation as a range; (b) violated conditions which were imposed as necessary to the issuance of any permit to build or operate the range; (c) expanded in geographic size through acquiring title to, or the right to use, real property adjoining the range; or (d) experienced an increase in users of fifty percent or greater since the conclusion of the first year of operation."

## POINT OF INQUIRY

Senator Rasmussen: "Senator Spanel, in reading the last few lines it says, 'an increase in users of fifty percent or greater since the conclusion of the first year of operation.' Some of these ranges, I am thinking of the Tacoma Sportsmen's Club, started out with, perhaps, fifty members and they have been in operation for sixty years and now they have, perhaps, three hundred members. Isn't that an increase of over fifty percent? Would they be considered the same as if you were in violation of other things, even though this facility answers to all the other rules and regulations?"

Senator Spanel: "Well, I think clearly, that is a larger facility than it started out, so if you are going to say, base this whole bill on one--you know--when a shooting range began, that is a significant increase in use, from the very beginning."

Senator Rasmussen: "Is this an increase in use or an increase in the land that they operate on?"

Senator Spanel: "It is an increase in the number of people, so I would presume an increase in use."

Further debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Spanel, Fraser and Fairley on page 2, after line 32, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1541.

The motion by Senator Spanel failed and the amendment to the committee striking amendment was not adopted.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment, as amended, to Substitute House Bill No. 1541.

The motion by Senator Roach carried and the Committee on Law and Justice striking amendment, as amended, was adopted.

## MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and adopted:

On line 1 of the title, after "ranges;" strike the remainder of the title and insert "adding a new section to chapter 9.41 RCW; and creating a new section."

On page 3, line 5 of the title amendment, after "RCW;" strike "and creating a new section" and insert "creating a new section; and providing an effective date"

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 1541, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1541, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1541, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Johnson, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Winsley, Wood and Zarelli - 36. Voting nay: Senators Brown, Fairley, Fraser, Jacobsen, Kline, McAuliffe, Patterson, Prentice, Spanel, Thibaudeau and Wojahn - 11. Excused: Senators Horn and West - 2. SUBSTITUTE HOUSE BILL NO. 1541, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

At 6:04 p.m., on motion of Senator Johnson, the Senate recessed until 7:15 p.m.

The Senate was called to order at 7:19 p.m. by President Owen.

## SECOND READING GUBERNATORIAL APPOINTMENTS

#### MOTION

On motion of Senator Betti Sheldon, Gubernatorial Appointment 9283, James Robinson, as a member of the Board of Trustees for Olympic Community College District No. 3, was confirmed.

Senators Betti Sheldon and Tim Sheldon spoke to the confirmation of James Robinson, as a member of the Board of Trustees for Olympic Community College District No. 3.

#### APPOINTMENT OF JAMES ROBINSON

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 6; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 43. Absent: Senators Brown, Deccio, McCaslin, Newhouse, Rossi and Wojahn - 6.

#### MOTIONS

On motion of Senator Goings, Senators Brown was excused.

On motion of Senator Hale, Senators Deccio, McCaslin and Rossi were excused.

#### MOTION

On motion of Senator Benton, Gubernatorial Appointment 9275, Holly Echo-Hawk Middleton, as a member of the Board of Trustees for Clark Community College District No.14, was confirmed.

Senators Benton and Bauer spoke to the confirmation of Holly Echo-Hawk Middleton, as a member of the Board of Trustees for Clark Community College District No. 14.

#### APPOINTMENT OF HOLLY ECHO-HAWK MIDDLETON

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wood and Zarelli - 43. Absent: Senators West and Wojahn - 2. Excused: Senators Brown, Deccio, McCaslin and Rossi - 4.

#### MOTION

On motion of Senator Swecker, Senator Benton was excused.

#### SECOND READING

HOUSE BILL NO. 3053, by Representatives Clements and Skinner

Providing a lump sum distribution option for certain members of the teachers' retirement system, plan III.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, House Bill No. 3053 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 3053.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3053 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 3; Excused, 4.

Voting yea: Senators Anderson, Bauer, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 42. Absent: Senators Horn, McDonald and Wojahn - 3. Excused: Senators Benton, Deccio, McCaslin and Rossi - 4. HOUSE BILL NO. 3053, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTIONS

On motion of Senator Hale, Senators Horn and McDonald were excused.

On motion of Senator Franklin, Senator Kline was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2973, by House Committee on Commerce and Labor (originally sponsored by Representative McMorris)

Clarifying the role of the liquor control board to hear appeals related to the seizure and forfeiture of cigarettes.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, Substitute House Bill No. 2973 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2973.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2973 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 2; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 41. Absent: Senators Sellar and Wojahn - 2. Excused: Senators Deccio, Horn, Kline, McCaslin, McDonald and Rossi - 6. SUBSTITUTE HOUSE BILL NO. 2973, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTIONS

On motion of Senator Goings, Senator Wojahn was excused.

On motion of Senator Hale, Senator Sellar was excused.

#### SECOND READING

HOUSE BILL NO. 2837, by Representatives Clements, Skinner and Buck

Identifying property abandoned by the department of fish and wildlife.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, House Bill No. 2837 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2837.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2837 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 41. Excused: Senators Deccio, Horn, Kline, McCaslin, McDonald, Rossi, Sellar and Wojahn - 8. HOUSE BILL NO. 2837, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2822, by House Committee on Commerce and Labor (originally sponsored by Representative McMorris) (by request of Department of Labor and Industries)

Exempting agency medical coverage decisions by labor and industries from rule-making provisions.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, Substitute House Bill No. 2822 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Heavey: "Senator Schow, would you confirm for me that, with the exception of new rule-making to establish criteria for medical coverage decisions, this bill gives no new authority to L&I, and that this bill will allow the department to continue to make medical coverage decisions the way they do now?"

Senator Schow: "Yes, Senator, I can confirm both of those statements. The intent of this bill is to make sure that the present decision-making process for medical coverage decisions can be continued with a more public process to establish criteria by rule."

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2822.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2822 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel,

Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 46. Excused: Senators Kline, McDonald and Wojahn - 3. SUBSTITUTE HOUSE BILL NO. 2822, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2990, by Representatives Dyer, Backlund and Anderson

Creating a pilot project for third-party accreditation of boarding homes.

The bill was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, House Bill No. 2990 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2990.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2990 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senators Bauer and McCaslin - 2. Excused: Senator McDonald - 1. HOUSE BILL NO. 2990, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2790, by House Committee on Law and Justice (originally sponsored by Representatives Mastin, Sheahan, Costa and Lambert)

Requiring restitution hearings for juvenile offenders to occur within one hundred eighty days of the disposition hearing.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 2790 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2790.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2790 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel,



Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McDonald - 1. SUBSTITUTE HOUSE BILL NO. 2790, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2784, by Representatives Johnson, D. Schmidt, Wensman, Cairnes, Zellinsky and Clements

Adding inhabitants of county as recipients of water works benefits.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, House Bill No. 2784 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Hale, Senator Wood was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2784.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2784 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley and Wojahn - 46. Absent: Senator Zarelli - 1. Excused: Senators McDonald and Wood - 2. SUBSTITUTE HOUSE BILL NO. 2784, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Sellar was excused.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2414, by Representatives Pennington, Mielke, Alexander, Carlson, Honeyford, Chandler, Buck, Hatfield and Doumit

Extending the time in which to comply with outdoor burning prohibitions.

The bill was read the second time.

#### MOTION

On motion of Senator Morton, the following Committee on Agriculture and Environment amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.94.743 and 1997 c 225 s 1 are each amended to read as follows:

(1) Consistent with the policy of the state to reduce outdoor burning to the greatest extent practical:

(a) Outdoor burning shall not be allowed in any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning.

(b) Outdoor burning shall not be allowed in any urban growth area as defined by RCW 36.70A.030, or any city of the state having a population greater than ten thousand people if such cities are threatened to exceed state or federal air quality standards, and alternative disposal practices consistent with good solid waste management are reasonably available or practices eliminating production of organic refuse

are reasonably available. In no event shall such burning be allowed after December 31, 2000, except that within the urban growth areas for cities having a population of less than five thousand people, that are neither within nor contiguous with any nonattainment or maintenance area designated under the federal clean air act, in no event shall such burning be allowed after December 31, 2006.

(c) Notwithstanding any other provision of this section, outdoor burning may be allowed for the exclusive purpose of managing storm or flood-related debris. The decision to allow burning shall be made by the entity with permitting jurisdiction as determined under RCW 70.94.660 or 70.94.755. If outdoor burning is allowed in areas subject to (a) or (b) of this subsection, a permit shall be required, and a fee may be collected to cover the expenses of administering and enforcing the permit. All conditions and restrictions pursuant to RCW 70.94.750(1) and 70.94.775 apply to outdoor burning allowed under this section.

(2) "Outdoor burning" means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

(3) This section shall not apply to silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas."

#### MOTIONS

On motion of Senator Morton, the following title amendment was adopted:

On page 1, line 1 of the title, after "burning;" strike the remainder of the title and insert "and amending RCW 70.94.743."

On motion of Senator Morton, the rules were suspended, Engrossed House Bill No. 2414, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2414, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2414, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Zarelli - 45. Absent: Senator West - 1. Excused: Senators McDonald, Sellar and Wood - 3. ENGROSSED HOUSE BILL NO. 2414, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator West was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2431, by House Committee on Appropriations (originally sponsored by Representatives DeBolt, Alexander, Mielke, Johnson and Pennington)

Refining provisions concerning the Southwest Washington Fair.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 2431 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2431.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2431 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn and Zarelli - 45. Excused: Senators McDonald, Sellar, West and Wood - 4. SUBSTITUTE HOUSE BILL NO. 2431, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2556, by House Committee on Children and Family Services (originally sponsored by Representatives Cooke, Tokuda and O'Brien) (by request of Department of Social and Health Services)

Making changes concerning the federal child abuse prevention and treatment act.

The bill was read the second time.

## MOTION

Senator Long moved that the following Committee on Human Services and Corrections amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 13.34.020 and 1990 c 284 s 31 are each amended to read as follows:

The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact unless a child's right to conditions of basic nurture, health, or safety is jeopardized. When the rights of basic nurture, physical and mental health, and safety of the child and the legal rights of the parents are in conflict, the rights and safety of the child should prevail. In making reasonable efforts under this chapter, the child's health and safety shall be the paramount concern. The right of a child to basic nurturing includes the right to a safe, stable, and permanent home and a speedy resolution of any proceeding under this chapter.

**Sec. 2.** RCW 13.34.130 and 1997 c 280 s 1 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030; after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is related to the child as defined in RCW 74.15.020(4)(a) and with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(i) There is no parent or guardian available to care for such child;

(ii) The parent, guardian, or legal custodian is not willing to take custody of the child;

(iii) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or

(iv) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the court finds ~~((#))~~: (a) Termination is recommended by the supervising agency~~((, that it))~~; (b) termination is in the best interests of the child; and (c) that ~~((it is not reasonable to provide further services to reunify the family))~~ because of the existence of aggravated circumstances ~~((make it unlikely that services will effectuate the return of the child to the child's parents in the near future))~~, reasonable efforts to unify the family are not required. Notwithstanding the existence of aggravated circumstances, reasonable efforts may be required if the court or department determines it is in the best interest of the child. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

~~((a))~~ (i) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

~~((b))~~ (ii) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

~~((c))~~ (iii) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

~~((d))~~ (iv) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

~~((e))~~ (v) Conviction of the parent of attempting, soliciting, or conspiracy to commit a crime listed in (c)(i), (ii), (iii), or (iv) of this subsection:

(vi) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;

~~((f))~~ (vii) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim.

(3) If reasonable efforts are not ordered under this subsection (3) a permanency plan hearing shall be held within thirty days. Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(4) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent living, if appropriate and if the child is age sixteen or older. Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(b) Unless the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

(ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(c) If the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child

pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.

~~((4))~~ (5) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home is inconsistent with the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan of care and to complete whatever steps are necessary to finalize the permanent placement of the child.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

~~((5))~~ (7) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits. The supervising agency shall provide a foster parent, preadoptive parent, or relative with notice of, and their right to an opportunity to be heard in, a review hearing pertaining to the child, but only if that person is currently providing care to that child at the time of the hearing. This section shall not be construed to grant party status to any person who has been provided an opportunity to be heard.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration and preference has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

**Sec. 3.** RCW 13.34.145 and 1995 c 311 s 20 and 1995 c 53 s 2 are each reenacted and amended to read as follows:

(1) A permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(a) Whenever a child is placed in out-of-home care pursuant to RCW 13.34.130, the agency that has custody of the child shall provide the court with a written permanency plan of care directed towards securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent living, if appropriate and if the child is age sixteen or older and the provisions of subsection (2) of this section are met.

(b) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

~~(3)((a) For children ten and under,)~~ A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

~~((b) For children over ten, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least fifteen months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than eighteen months following commencement of the current placement episode.))~~

(4) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve ~~((or eighteen))~~ months, as provided in subsection (3) of this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree or guardianship order is entered, or the dependency is dismissed.

(5) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(6) At the permanency planning hearing, the court shall enter findings as required by RCW 13.34.130~~((5))~~ (7) and shall review the permanency plan prepared by the agency. If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280 and 13.34.130(7). If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. In cases where the primary permanency planning goal has not yet been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. In all cases, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.130~~((5))~~ (7), and the court shall determine the need for continued intervention.

(8) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(9) Except as otherwise provided in RCW 13.34.235, the status of all dependent children shall continue to be reviewed by the court at least once every six months, in accordance with RCW 13.34.130~~((5))~~ (7), until the dependency is dismissed. Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**Sec. 4.** RCW 13.34.180 and 1997 c 280 s 2 are each amended to read as follows:

A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege:

- (1) That the child has been found to be a dependent child under RCW 13.34.030(4); and
- (2) That the court has entered a dispositional order pursuant to RCW 13.34.130; and
- (3) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(4); and
- (4) That the services ordered under RCW 13.34.130 have been clearly offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided; and
- (5) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future.

A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(a) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; or

(b) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; and

(6) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home; or

(7) In lieu of the allegations in subsections (1) through (6) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found; or

(8) In lieu of the allegations in subsections (2) through (6) of this section, the petition may allege that the parent has been found by a court of competent jurisdiction:

(a) To have committed, against another child of such parent, murder in the first degree, murder in the second degree, or homicide by abuse as defined in chapter 9A.32 RCW;

(b) To have committed, against another child of such parent, manslaughter in the first degree or manslaughter in the second degree, as defined in chapter 9A.32 RCW;

(c) To have attempted, conspired, or solicited to commit one or more of the crimes listed in (a) or (b) of this subsection; or

(d) To have committed assault in the first or second degree, as defined in chapter 9A.36 RCW, against the surviving child or another child of the parent.

~~((A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been offered or provided.))~~

Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

#### "NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.
2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of social and health services and other agencies, tell you about the law, help you understand your rights, and help you at

hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number)."

**NEW SECTION. Sec. 5.** A new section is added to chapter 13.34 RCW to read as follows:

The department shall file a petition for the expedited termination of a parent and child relationship when the court determines that an infant, under three years of age, has been abandoned as defined in RCW 13.34.030(4)(a). The department shall, concurrently with proceeding with the petition, identify, recruit, process, and approve a qualified family for an adoption unless: (1) At the option of the department, the infant is being cared for by a relative; (2) the department has documented in the case plan a compelling reason for determining that the filing of such petition would not be in the best interest of the infant; or (3) the department has not provided the family such services as the department deems necessary for the safe return of the infant to the infant's home, if reasonable efforts are required to be made.

For the purposes of this section "expedited" refers to the filing of a petition for the termination of a parent and child relationship five months after an infant has been determined to be abandoned.

**Sec. 6.** RCW 13.34.190 and 1993 c 412 s 3 are each amended to read as follows:

After hearings pursuant to RCW 13.34.110, the court may enter an order terminating all parental rights to a child if the court finds that:

(1)(a) The allegations contained in the petition as provided in RCW 13.34.180 (1) through (6) are established by clear, cogent, and convincing evidence; or

~~((2))~~ (b) RCW 13.34.180 (3) and (4) may be waived because the allegations under RCW 13.34.180 (1), (2), (5), and (6) are established beyond a reasonable doubt; or

~~((3))~~ (c) The allegation under RCW 13.34.180(7) is established beyond a reasonable doubt. In determining whether RCW 13.34.180 (5) and (6) are established beyond a reasonable doubt, the court shall consider whether one or more of the aggravated circumstances listed in RCW 13.34.130(2) exist; or

(d) The allegation under RCW 13.34.180(8) is established beyond a reasonable doubt; and

~~((4))~~ (2) Such an order is in the best interests of the child.

**Sec. 7.** RCW 74.15.130 and 1995 c 302 s 5 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or (b) that the conditions required for the issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of a foster family home license, the department's decision shall be upheld if there is reasonable cause to believe that:

(a) The applicant or licensee lacks the character, suitability, or competence to care for children placed in out-of-home care, however, no unfounded report of child abuse or neglect may be used to deny employment or a license;

(b) The applicant or licensee has failed or refused to comply with any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements adopted pursuant to such provisions; or

(c) The conditions required for issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses.

(3) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, other than a foster family home license, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(4) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under the provisions of this chapter and RCW 74.13.031 or that an agency subject to licensing under this chapter and RCW 74.13.031 is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed seventy-five dollars per violation for a family day-care home and two hundred fifty dollars per violation for group homes, child day-care centers, and child-placing agencies. Each day upon which the same or substantially similar action occurs is a separate violation subject to



the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

**Sec. 8.** RCW 26.44.020 and 1997 c 386 s 45, 1997 c 386 s 24, 1997 c 282 s 4, and 1997 c 132 s 2 are each reenacted and amended to read as follows:

For the purpose of and as used in this chapter:

- (1) "Court" means the superior court of the state of Washington, juvenile department.
- (2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.
- (3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.
- (4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.
- (5) "Department" means the state department of social and health services.
- (6) "Child" or "children" means any person under the age of eighteen years of age.
- (7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.
- (8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.
- (9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child, adult dependent, or developmentally disabled person by any person under circumstances which indicate that the child's or adult's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined herein.
- (13) "Child protective services section" shall mean the child protective services section of the department.
- (14) "Adult dependent persons" shall be defined as those persons over the age of eighteen years who have been found to be legally incompetent or disabled pursuant to chapter 11.88 RCW.
- (15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.
- (16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety. The fact that siblings share a bedroom is not, in and of itself, "negligent treatment or maltreatment."
- (17) "Developmentally disabled person" means a person who has a disability defined in RCW 71A.10.020.
- (18) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions which endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(19) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

(21) "Unfounded" means available ~~((evidence))~~ information indicates that, more likely than not, child abuse or neglect did not occur.

**Sec. 9.** RCW 26.44.100 and 1997 c 282 s 2 are each amended to read as follows:

(1) The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth in this chapter, provided that nothing contained in this chapter shall cause any delay in protective custody action.

(2) The department shall notify the alleged perpetrator of the allegations of child abuse and neglect at the earliest possible point in the investigation that will not jeopardize the safety and protection of the child or the investigation process.

Whenever the department completes an investigation of a child abuse or neglect report under chapter 26.44 RCW, the department shall notify the alleged perpetrator of the report and the department's investigative findings. The notice shall also advise the alleged perpetrator that:

(a) A written response to the report may be provided to the department and that such response will be filed in the record following receipt by the department;

(b) Information in the department's record may be considered in subsequent investigations or proceedings related to child protection or child custody;

(c) ~~((There is currently information in the department's record that may))~~ Founded reports of child abuse and neglect may be considered in determining ~~((that))~~ whether the person is disqualified from being licensed to provide child care, employed by a licensed child care agency, or authorized by the department to care for children; and

(d) ~~((A person who has demonstrated a good faith desire to work in a licensed agency may request an informal meeting with the department to have an opportunity to discuss and contest the information currently in the record.))~~ An alleged perpetrator named in a founded report of child abuse or neglect has the right to seek review of the finding as provided in this chapter.

(3) The notification required by this section shall be made by ~~((regular))~~ certified mail, return receipt requested, to the person's last known address.

(4) The duty of notification created by this section is subject to the ability of the department to ascertain the location of the person to be notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

**NEW SECTION. Sec. 10.** A new section is added to chapter 26.44 RCW to read as follows:

(1) A person who is named as an alleged perpetrator after October 1, 1998, in a founded report of child abuse or neglect has the right to seek review and amendment of the finding as provided in this section.

(2) Within twenty calendar days after receiving written notice from the department under RCW 26.44.100 that a person is named as an alleged perpetrator in a founded report of child abuse or neglect, he or she may request that the department review the finding. The request must be made in writing. If a request for review is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding.

(3) Upon receipt of a written request for review, the department shall review and, if appropriate, may amend the finding. Management level staff within the children's administration designated by the secretary shall be responsible for the review. The review must be conducted in accordance with procedures the department establishes by rule. Upon completion of the review, the department shall notify the alleged perpetrator in writing of the agency's determination. The notification must be sent by certified mail, return receipt requested, to the person's last known address.

(4) If, following agency review, the report remains founded, the person named as the alleged perpetrator in the report may request an adjudicative hearing to contest the finding. The adjudicative proceeding is governed by chapter 34.05 RCW and this section. The request for an adjudicative proceeding must be filed within thirty calendar days after receiving notice of the agency review determination. If a request for an adjudicative proceeding is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding.

(5) Reviews and hearings conducted under this section are confidential and shall not be open to the public. Information about reports, reviews, and hearings may be disclosed only in accordance with federal and state laws pertaining to child welfare records and child protective services reports.

(6) The department may adopt rules to implement this section.

**Sec. 11.** RCW 74.13.031 and 1997 c 386 s 32 and 1997 c 272 s 1 are each reenacted and amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

- (1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of homeless, runaway, dependent, or neglected children.
- (2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."
- (3) Investigate complaints of ~~((alleged neglect, abuse, or abandonment of children))~~ any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.
- (4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.
- (5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.
- (6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.
- (7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.
- (8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.
- (9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.
- (10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.
- (11) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

**Sec. 12.** RCW 70.190.010 and 1996 c 132 s 2 are each amended to read as follows:

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

- (1) "Administrative costs" means the costs associated with procurement; payroll processing; personnel functions; management; maintenance and operation of space and property; data processing and computer services; accounting; budgeting; auditing; indirect costs; and organizational planning, consultation, coordination, and training.
- (2) "Assessment" has the same meaning as provided in RCW 43.70.010.
- (3) "At-risk" children are children who engage in or are victims of at-risk behaviors.
- (4) "At-risk behaviors" means violent delinquent acts, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence.
- (5) "Community public health and safety networks" or "networks" means the organizations authorized under RCW 70.190.060.

(6) "Comprehensive plan" means a two-year plan that examines available resources and unmet needs for a county or multicounty area, barriers that limit the effective use of resources, and a plan to address these issues that is broadly supported by local residents.

(7) "Participating state agencies" means the office of the superintendent of public instruction, the department of social and health services, the department of health, the employment security department, the department of community, trade, and economic development, and such other departments as may be specifically designated by the governor.

(8) "Family policy council" or "council" means the superintendent of public instruction, the secretary of social and health services, the secretary of health, the commissioner of the employment security department, and the director of the department of community, trade, and economic development or their designees, ~~((one))~~ two legislators from each caucus of the senate and house of representatives, and one representative of the governor.

(9) "Fiduciary interest" means (a) the right to compensation from a health, educational, social service, or justice system organization that receives public funds, or (b) budgetary or policy-making authority for an organization listed in (a) of this subsection. A person who acts solely in an advisory capacity and receives no compensation from a health, educational, social service, or justice system organization, and who has no budgetary or policy-making authority is deemed to have no fiduciary interest in the organization.

(10) "Outcome" or "outcome based" means defined and measurable outcomes used to evaluate progress in reducing the rate of at-risk children and youth through reducing risk factors and increasing protective factors.

(11) "Matching funds" means an amount no less than twenty-five percent of the amount budgeted for a network. The network's matching funds may be in-kind goods and services. Funding sources allowable for match include appropriate federal or local levy funds, private charitable funding, and other charitable giving. Basic education funds shall not be used as a match. State general funds shall not be used as a match for violence reduction and drug enforcement account funds created under RCW 69.50.520.

(12) "Policy development" has the same meaning as provided in RCW 43.70.010.

(13) "Protective factors" means those factors determined by the department of health to be empirically associated with behaviors that contribute to socially acceptable and healthy nonviolent behaviors. Protective factors include promulgation, identification, and acceptance of community norms regarding appropriate behaviors in the area of delinquency, early sexual activity, alcohol and substance abuse, educational opportunities, employment opportunities, and absence of crime.

(14) "Risk factors" means those factors determined by the department of health to be empirically associated with at-risk behaviors that contribute to violence.

**Sec. 13.** RCW 70.190.060 and 1996 c 132 s 3 are each amended to read as follows:

(1) The legislature authorizes community public health and safety networks to reconnect parents and other citizens with children, youth, families, and community institutions which support health and safety. The networks have only those powers and duties expressly authorized under this chapter. The networks should empower parents and other citizens by being a means of expressing their attitudes, spirit, and perspectives regarding safe and healthy family and community life. The legislature intends that parent and other citizen perspectives exercise a controlling influence over policy and program operations of professional organizations concerned with children and family issues within networks in a manner consistent with the Constitution and state law. It is not the intent of the legislature that health, social service, or educational professionals dominate community public health and safety network processes or programs, but rather that these professionals use their skills to lend support to parents and other citizens in expressing their values as parents and other citizens identify community needs and establish community priorities. To this end, the legislature intends full participation of parents and other citizens in community public health and safety networks. The intent is that local community values are reflected in the operations of the network.

(2) A group of persons described in subsection (3) of this section may apply to be a community public health and safety network.

(3) Each community public health and safety network shall be composed of twenty-three people, thirteen of whom shall be citizens who live within the network boundary with no fiduciary interest. In selecting these members, first priority shall be given to members of community mobilization advisory boards, city or county children's services commissions, human services advisory boards, or other such organizations. The thirteen persons shall be selected as follows: Three by chambers of commerce, three by school board members, three by county legislative authorities, three by city legislative authorities, and one high school student, selected by student organizations. The remaining ten members shall live or work within the network boundary and shall include local representation selected by the following groups and entities: Cities; counties; federally recognized Indian tribes; parks and recreation programs; law enforcement agencies; state children's service workers; employment assistance workers; private social service providers, broad-based nonsecular organizations, or health service providers; and public education.

(4) Each of the twenty-three people who are members of each community public health and safety network must sign an annual declaration under penalty of perjury or a notarized statement that clearly, in plain and understandable language, states whether or not he or she has a fiduciary interest. If a member has a fiduciary interest, the nature of that interest must be made clear, in plain understandable language, on the signed statement.

(5) Members of the network shall serve terms of three years.

The terms of the initial members of each network shall be as follows: (a) One-third shall serve for one year; (b) one-third shall serve for two years; and (c) one-third shall serve for three years. Initial members may agree which shall serve fewer than three years or the decision may be made by lot. Any vacancy occurring during the term may be filled by the chair for the balance of the unexpired term.

~~((5))~~ (6) Not less than sixty days before the expiration of a network member's term, the chair shall submit the name of a nominee to the network for its approval. The network shall comply with subsection (3) of this section.

~~((6))~~ (7) Networks are subject to the open public meetings act under chapter 42.30 RCW and the public records provisions of RCW 42.17.270 through 42.17.310.

**Sec. 14.** RCW 70.190.130 and 1996 c 132 s 8 are each amended to read as follows:

(1) The council shall only disburse funds to a network after a comprehensive plan has been prepared by the network and approved by the council. In approving the plan the council shall consider whether the network:

(a) Promoted input from the widest practical range of agencies and affected parties, including public hearings;  
(b) Reviewed the indicators of violence data compiled by the local public health departments and incorporated a response to those indicators in the plan;

(c) Obtained a declaration by the largest health department within the network boundary, indicating whether the plan meets minimum standards for assessment and policy development relating to social development according to RCW 43.70.555;

(d) Included a specific mechanism of data collection and transmission based on the rules established under RCW 43.70.555;

(e) Considered all relevant causes of violence in its community and did not isolate only one or a few of the elements to the exclusion of others and demonstrated evidence of building community capacity through effective neighborhood and community development;

(f) Considered youth employment and job training programs outlined in this chapter as a strategy to reduce the rate of at-risk children and youth;

(g) Integrated local programs that met the network's priorities and were deemed successful by the network;

(h) Committed to make measurable reductions in the rate of at-risk children and youth by reducing the rate of state-funded out-of-home placements and make reductions in at least three of the following rates of youth: Violent criminal acts, substance abuse, pregnancy and male parentage, suicide attempts, dropping out of school, child abuse or neglect, and domestic violence; and

(i) Held a public hearing on its proposed comprehensive plan and submitted to the council all of the written comments received at the hearing and a copy of the minutes taken at the hearing.

(2) The council may establish a maximum amount to be expended by a network for purposes of planning and administrative duties~~((, that shall not, in total, exceed ten percent of funds available to a network))~~. The council shall determine, as needed, the appropriate maximum amount that can be spent by a network or group of networks on planning and administrative duties. This amount shall be determined after considering the size of the budgets of each network and giving consideration to setting a higher percentage for administrative and planning purposes in budgets for smaller networks and a smaller percentage of the budgets for administration and planning purposes in larger networks.

(3) The council may determine that a network is not in compliance with this chapter if it fails to comply with statutory requirements. Upon a determination of noncompliance, the council may suspend or revoke a network's status or contract and specify a process and deadline for the network's compliance.

NEW SECTION. **Sec. 15.** Section 10 of this act takes effect October 1, 1998."

## MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli, Long, Hargrove and Kohl to the Committee on Human Services and Corrections striking amendment be adopted:

On page 27, after line 12 of the amendment, insert the following:

"NEW SECTION. **Sec. 15.** The legislature finds that it is critically important to the basic nurture, health, and safety of children that the state operate a state-wide program relating to child abuse and neglect that includes the creation of regional citizen review panels. The creation of these panels is intended to meet the federal requirements contained in the federal child abuse prevention and treatment act, 42 U.S.C. Sec. 5106a. Citizen review panels will enable community members to contribute to improving the policy and programs critical to the well-being of children and their families and to ensure that the state's plan for the prevention and investigation of child abuse and neglect is being carried out as intended by the legislature. It has been long-standing public policy in Washington that the family unit is a fundamental resource of American life which should be nurtured. Toward continuation of this principle, the legislature finds that through the performance of these panels, which are broadly representative of the community, knowledge of the policies and procedures of state and local agencies and an examination of specific cases will occur. From this an evaluation of the state-wide program to prevent child abuse and neglect will yield improvements that are in the best interest of children and families and further the principle that the family unit should remain intact, recognizing that the child's health and safety are paramount.

**NEW SECTION. Sec. 16.** There are hereby created a minimum of six citizen review panels, at least one for each service delivery region of the department of social and health services. The department of community, trade, and economic development shall contract with a private nonprofit organization to serve as the administrator for and the appointing authority of the citizen review panels. The department or its contractor shall provide administrative coordination and support to the local citizen review panels and shall:

- (1) Recruit applicants through public service announcements in local radio, television, and newspapers of record and accept application on a first-come basis based on postmarked date of receipt;
- (2) Obtain background checks, screening applicants on the same suitability, character, and competence standards as required in RCW 74.15.130;
- (3) Select citizen review panel members for each region and establish basic requirements for participation;
- (4) Stagger the terms of membership on each panel so that there is always a quorum of members who have had at least six months' experience and have participated in at least two meetings of the panel;
- (5) Provide consultation and basic training to local panels as requested;
- (6) Compile and provide aggregate citizen review panel reports;
- (7) Consider recommendations of local teams; and
- (8) Ensure that they meet at least every three months.

**NEW SECTION. Sec. 17.** The department shall ensure that the citizen review panels have been created no later than July 1, 1999.

**NEW SECTION. Sec. 18.** (1) The citizen review panels shall have only those powers and duties expressly authorized under this chapter.

(2) The citizen review panels must have access to all information from the department of social and health services, criminal justice agencies, law enforcement, schools, and medical providers, and other sources that have relevant information, including reports and records made and maintained by the department and its contracting agencies.

(3) The panels shall receive, upon request and with the full assistance of the agency with the information, complete access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its duties.

(4) The citizen review panels must preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians. However, the state shall always have the right to refuse to disclose identifying information concerning the individual alleging suspected instances of child abuse or neglect. The state must make such information known to the citizen review panel only where a court orders such disclosure after such court has reviewed, in camera, the record of the state related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

**NEW SECTION. Sec. 19.** The powers and duties of the citizen review panels are to:

(1) Examine the policies and procedures of state agencies and, where appropriate, specific cases, to evaluate the extent to which the agencies are effectively discharging their child protection responsibilities according to the state law and the state plan required under 42 U.S.C. Sec. 5106a. These responsibilities may include a review of any of the following:

- (a) The extent to which the state agencies and community-based programs have developed the capacity to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level;
- (b) Intake, assessment, and screening, and investigation processes for reports of child abuse and neglect;
- (c) Multidisciplinary teams and interagency protocols used to enhance child abuse and neglect investigations;
- (d) Legal preparation and representation of both children and families;
- (e) Case management and service delivery systems for children and families;
- (f) Risk and safety assessment tools and protocols;
- (g) Automation systems that support the program and track reports of child abuse and neglect from intake through final disposition, including information referral systems;
- (h) Training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protective and child welfare systems;
- (i) Training protocols for individuals mandated to report child abuse and neglect;
- (j) Child abuse and neglect prevention, treatment, and research programs in the public and private sectors;
- (k) Information, education programs, and training programs to improve the provision of service to infants with chronic disabilities or life-threatening conditions;
- (l) Programs to assist in obtaining or coordinating necessary services for families of infants with disabilities or life-threatening conditions;

(m) Coordination, to the maximum extent practicable with the state plan under part B, Title IV of the Social Security Act relating to child welfare services, including adoption, and family preservation and family support services.

(2) Examine child protection standards set forth in the federal and state law, including but not limited to standards for reporting of known and suspected abuse and neglect, immediate screening, safety assessment, and prompt investigation, steps to protect the safety of

abused or neglected children, immunity from prosecution for individuals who make good faith reports of suspected or known instances of abuse or neglect, methods to preserve confidentiality of records, provisions to allow for public disclosure of findings or information about cases of abuse and neglect that result in child fatality or near fatality, and the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in the investigation, assessment, prosecution, and treatment of abuse and neglect;

(3) Examine any other criteria that the panel considers important to ensure the protection of children, including a review of the extent to which the state child protective services system is coordinated with the foster care and adoption programs established under part E, Title IV of the Social Security Act.

(4) Conduct a review of reports of child fatalities and near fatalities conducted under RCW 26.44.030.

**NEW SECTION. Sec. 20.** There shall be at least one citizen review panel in each of the six department of social and health services' designated service delivery regions. Each panel shall have no more than seven volunteer members who are all permanent residents living in the region, who broadly represent the region in which each panel is established. Three members shall have professional or academic expertise in the prevention and treatment of child abuse and neglect. Four members shall be members of the public at large with no fiduciary interest in publicly funded social services. "Fiduciary interest" has the same meaning as defined in RCW 70.190.010. Volunteer members of the local citizen review panels shall serve for no longer than an eighteen-month period of time and can not serve again for a period of sixty months from the date they end their eighteen-month membership. The citizen review panel shall meet no less than once every three months to examine the policies and procedures of state and local agencies and, where appropriate in specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with applicable state law. The goal of the citizen review panels is to improve the child protective services system.

**NEW SECTION. Sec. 21.** The department of community, trade, and economic development shall present proposed rules, policies, and procedures to the legislative children's oversight committee created in RCW 44.04.220 prior to implementation.

**NEW SECTION. Sec. 22.** The citizen review panels shall employ staff as necessary which may include contracting for investigators only as necessary to assist the panel in fulfilling their responsibilities.

**NEW SECTION. Sec. 23.** Members and staff and any staff on contract with the citizen review panel shall not disclose to any person or government official, other than the department of social and health services or the family and children's ombudsman, any identifying information about any specific child protection case with respect to which the panel is provided information and shall not make public other information unless authorized by state statute. A violation of this section is a civil penalty punishable by a fine not to exceed five thousand dollars per violation.

**NEW SECTION. Sec. 24.** (1) The citizen review panels may examine any child abuse and neglect case referred to the panel.

(2) Members of the legislature may refer child abuse and neglect cases, in writing, to the panel in the legislator's district for review. The panels may also receive written requests for review from the family and children's ombudsman and from the department of social and health services. No other entity or individual may refer cases to the citizen review panels.

**NEW SECTION. Sec. 25.** (1) Notwithstanding any confidentiality laws, if the citizen review panel finds possible criminal activity, the panel shall turn the investigation and information over to the local prosecuting attorney in the county in which the case resides.

(2) If the panel finds possible civil infractions, the panel shall turn the findings over to any interested citizen, if the conditions set forth in RCW 74.13.500 through 74.13.525 are met. The courts shall award attorney fees, costs, and triple damages, and may impose punitive damages if the citizens prevail in court.

**NEW SECTION. Sec. 26.** (1) All powers, duties, and functions of the department of community, trade, and economic development pertaining to entering into and administering contracts and implementation of rules, policies, and procedures pursuant to sections 16 and 21 of this act are transferred to the office of the family and children's ombudsman. All references to the director or the department of community, trade, and economic development in the Revised Code of Washington shall be construed to mean the director or the office of the family and children's ombudsman when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of community, trade, and economic development pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the office of the family and children's ombudsman. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of community, trade, and economic development in carrying out the powers, functions, and duties transferred shall be made available to the office of the family and children's ombudsman. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the office of the family and children's ombudsman.

(b) Any appropriations made to the department of community, trade, and economic development for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the office of the family and children's ombudsman.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of community, trade, and economic development engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the office of the family and children's ombudsman. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of the family and children's ombudsman to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of community, trade, and economic development pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the office of the family and children's ombudsman. All existing contracts and obligations shall remain in full force and shall be performed by the office of the family and children's ombudsman.

(5) The transfer of the powers, duties, functions, and personnel of the department of community, trade, and economic development shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.

**Sec. 27.** RCW 44.04.220 and 1996 c 131 s 1 are each amended to read as follows:

(1) There is created the legislative children's oversight committee for the purpose of monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences. The committee shall consist of three senators and three representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate. The house members of the committee shall be appointed by the speaker of the house. Not more than two members from each chamber shall be from the same political party. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(2) The committee shall have the following powers:

(a) Selection of its officers and adopt rules for orderly procedure;

(b) Request investigations by the ombudsman of administrative acts;

(c) Receive reports of the ombudsman;

(d)(i) Obtain access to all relevant records in the possession of the ombudsman, except as prohibited by law; and (ii) make recommendations to all branches of government;

(e) Request legislation;

(f) Conduct hearings into such matters as it deems necessary.

(3) Upon receipt of records from the ombudsman, the committee is subject to the same confidentiality restrictions as the ombudsman under RCW 43.06A.050.

(4) The committee may also review any proposed rules, policies, or procedures relating to the citizen review panels created under section 16 of this act.

**Sec. 28.** RCW 13.50.010 and 1997 c 386 s 21 and 1997 c 338 s 39 are each reenacted and amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of family and children's ombudsman, members of the citizen review panels created under section 16 of this act, including the contracting agency, and the panel's staff and contractors, the department of social and health services and its contracting agencies, schools; and, in addition, persons or public or private agencies having children committed to their custody;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court, upon proof presented, to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and



(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.040 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the sentencing guidelines commission under RCW 9.94A.040 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(10) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombudsman.

NEW SECTION. **Sec. 29.** Section 26 of this act takes effect January 1, 2001."

Debate ensued.

#### POINT OF ORDER

Senator Wojahn: "A point of order, Mr. President. I would question the scope and object of the amendment to the committee amendment.

This does not address itself to the particular items that the original bill addresses itself to and I don't think that it has any right to be in here." Debate ensued

#### MOTION

On motion of Senator Johnson, further consideration of Substitute House Bill No. 2556 was deferred.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1408, by Representatives Mielke, Sheahan, Doumit, Pennington, Mulliken, Sterk, Thompson, Dunn and Sullivan

Authorizing carrying of concealed pistols by certain persons from out of state.

The bill was read the second time.

#### MOTION

Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.41.050 and 1997 c 200 s 1 are each amended to read as follows:

(1)(a) Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed pistol issued under RCW 9.41.070, unless the person holds a valid permit or license issued by a state or local agency in another state authorizing the person to carry a concealed firearm.

(b) Every licensee shall have his or her concealed pistol license in his or her immediate possession at all times that he or she is required by this section to have a concealed pistol license and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. Any violation of this subsection (1)(b) shall be a class 1 civil infraction under chapter 7.80 RCW and shall be punished accordingly pursuant to chapter 7.80 RCW and the infraction rules for courts of limited jurisdiction. This subsection applies also to a concealed pistol license issued in another state.

(2) A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed pistol and:  
(a) The pistol is on the licensee's person, (b) the licensee is within the vehicle at all times that the pistol is there, or (c) the licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle.

(3) A person at least eighteen years of age who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.

(4) Violation of any of the prohibitions of subsections (2) and (3) of this section is a misdemeanor.

(5) Nothing in this section permits the possession of firearms illegal to possess under state or federal law.

**Sec. 2.** RCW 9.41.060 and 1996 c 295 s 5 are each amended to read as follows:

The provisions of RCW 9.41.050 shall not apply to:

- (1) Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers of this state or another state;
- (2) Members of the armed forces of the United States or of the national guard or organized reserves, when on duty;
- (3) Officers or employees of the United States duly authorized to carry a concealed pistol;
- (4) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the usual or ordinary course of the business;
- (5) Regularly enrolled members of any organization duly authorized to purchase or receive pistols from the United States or from this state;
- (6) Regularly enrolled members of clubs organized for the purpose of target shooting, when those members are at or are going to or from their places of target practice;
- (7) Regularly enrolled members of clubs organized for the purpose of modern and antique firearm collecting, when those members are at or are going to or from their collector's gun shows and exhibits;
- (8) Any person engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;
- (9) Any person while carrying a pistol unloaded and in a closed opaque case or secure wrapper; or
- (10) Law enforcement officers retired for service or physical disabilities, except for those law enforcement officers retired because of mental or stress-related disabilities. This subsection applies only to a retired officer who has: (a) Obtained documentation from a law enforcement agency within Washington state from which he or she retired that is signed by the agency's chief law enforcement officer and that states that the retired officer was retired for service or physical disability; and (b) not been convicted of a crime making him or her ineligible for a concealed pistol license."

## MOTION

Senator Fairley moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 1, line 11 of the amendment, after "pistol" strike all material through "firearm." on line 14 and insert ". For purposes of this section, a license to carry a concealed pistol must be a valid license issued under RCW 9.41.070, or a valid permit or license issued under the law of another state or of a local jurisdiction of another state but only if the eligibility requirements for the issuance of the permit or license from the other state or local jurisdiction of another state are at least as restrictive as those under RCW 9.41.070. The attorney general shall make a determination as to which states' permits will be recognized in Washington and provide that list to every law enforcement agency within the state."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 1, line 11, to the Committee on Law and Justice striking amendment to Engrossed House Bill No. 1408.

The motion by Senator Fairley failed and the amendment to the Committee on Law and Justice striking amendment was not adopted.

## MOTION

Senator Fairley moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 1, line 11 of the amendment, after "pistol" strike all material through "firearm." on line 14, and insert ". For purposes of this section, a license to carry a concealed pistol must be a valid license issued under RCW 9.41.070, or a valid permit or license issued under the law of another state or of a local jurisdiction of another state but only if the state that issued the license recognizes concealed pistol licenses issued under RCW 9.41.070. The attorney general shall make a determination as to which states' permits will be recognized in Washington."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Fairley on page 1, line 11, to the Committee on Law and Justice striking amendment to Engrossed House Bill No. 1408.

## ROLL CALL

The Secretary called the roll and the amendment to the committee striking amendment was not adopted by the following vote: Yeas, 15; Nays, 33; Absent, 0; Excused, 1.

Voting yea: Senators Bauer, Brown, Fairley, Fraser, Haugen, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Sheldon, B., Spanel, Thibaudeau and Wojahn - 15. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Winsley, Wood and Zarelli - 33. Excused: Senator West - 1.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment to Engrossed House Bill No. 1408.

The motion by Senator Roach carried and the Committee on Law and Justice striking amendment was adopted.

## MOTIONS

On motion of Senator Roach, the following title amendment was adopted: On line 2 of the title, after "state;" strike the remainder of the title and insert "and amending RCW 9.41.050 and 9.41.060."

On motion of Senator Roach, the rules were suspended, Engrossed House Bill No. 1408, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 1408, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1408, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Winsley, Wood and Zarelli - 36. Voting nay: Senators Brown, Fairley, Fraser, Kline, Kohl, McAuliffe, Patterson, Prentice, Sheldon, B., Spanel, Thibaudeau and Wojahn - 12. Excused: Senator West - 1. ENGROSSED HOUSE BILL NO. 1408, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2598, by Representatives Radcliff, McDonald, Pennington, Dickerson, Mastin, Dunshee, O'Brien, Mulliken, Cole, Conway, Mason, Wood and Ogden

Modifying property tax exemptions for nonprofit organizations.

The bill was read the second time.

MOTION

On motion of Senator West, the rules were suspended, House Bill No. 2598 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2598.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2598 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 47. Absent: Senators McDonald and Wood - 2. HOUSE BILL NO. 2598, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the seventh order of business.

There being no objection, the Senate resumed consideration of Engrossed Substitute House Bill No. 1230, deferred on third reading earlier today.

MOTION

On motion of Senator Johnson, the rules were suspended, Engrossed Substitute House Bill No. 1230 was returned to second reading and read the second time.

MOTION

Senator McAuliffe moved that the following amendment be adopted:

On page 1, line 14, after "education to" strike "solicit student responses that"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe on page 1, line 14, to Engrossed Substitute House Bill No. 1230.

The motion by Senator McAuliffe failed and the amendment was not adopted.

MOTION

Senator Hochstatter moved that the following amendment by Senators Hargrove, Patterson and Hochstatter be adopted:

On page 2, line 24, after "state." strike the remainder of the subsection and insert the following:

"No officer, employee, agent, or contractor of a school district may impose his or her religious beliefs on any student in class work, homework, evaluations or tests, extracurricular activities, or other activities under the auspices of the school district."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove, Patterson and Hochstatter on page 2, line 24, to Engrossed Substitute House Bill No. 1230.

The motion by Senator Hargrove carried and the amendment was adopted.

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1230, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 1230, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1230, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 37. Voting nay: Senators Brown, Fairley, Fraser, Jacobsen, Kline, Kohl, McAuliffe, Prentice, Sheldon, B., Spanel, Thibaudeau and Wojahn - 12. ENGROSSED SUBSTITUTE HOUSE BILL NO. 1230, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 9:11 p.m., on motion of Senator Johnson, the Senate adjourned until 8:30 a.m., Thursday, March 5, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

FIFTY-SECOND DAY, MARCH 4, 1998

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#### FIFTY-THIRD DAY

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MORNING SESSION  
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Senate Chamber, Olympia, Thursday, March 5, 1998

The Senate was called to order at 8:30 a.m. by President Pro Tempore Newhouse. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present except Senators Brown, McDonald, Patterson, Rasmussen and Stevens. On motion of Senator Franklin, Senators Brown, Patterson and Rasmussen were excused.

The Sergeant at Arms Color Guard, consisting of Pages Maria Pardo and Barry Pranikay, presented the Colors. Reverend Jim Northrup, assistance pastor of St. Michael's Catholic Church of Olympia, offered the prayer.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

#### MESSAGES

March 4, 1998

MR. PRESIDENT:

The House passed HOUSE BILL NO. 3122, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 4, 1998

MR. PRESIDENT:

The Speaker signed:

SECOND SUBSTITUTE HOUSE BILL NO. 1065,  
SUBSTITUTE HOUSE BILL NO. 1077,  
HOUSE BILL NO. 1082,  
HOUSE BILL NO. 1117,  
HOUSE BILL NO. 2144,  
SUBSTITUTE HOUSE BILL NO. 2295,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2297,  
SUBSTITUTE HOUSE BILL NO. 2321,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2330,  
SUBSTITUTE HOUSE BILL NO. 2364,  
HOUSE BILL NO. 2575,  
HOUSE BILL NO. 2717,  
ENGROSSED HOUSE BILL NO. 2920,  
SUBSTITUTE HOUSE BILL NO. 2931,  
SUBSTITUTE HOUSE BILL NO. 3056, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SECOND SUBSTITUTE HOUSE BILL NO. 1065,  
SUBSTITUTE HOUSE BILL NO. 1077,  
HOUSE BILL NO. 1082,  
HOUSE BILL NO. 1117,  
HOUSE BILL NO. 2144,  
SUBSTITUTE HOUSE BILL NO. 2295,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2297,  
SUBSTITUTE HOUSE BILL NO. 2321,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2330,  
SUBSTITUTE HOUSE BILL NO. 2364,  
HOUSE BILL NO. 2575,  
HOUSE BILL NO. 2717,  
ENGROSSED HOUSE BILL NO. 2920,  
SUBSTITUTE HOUSE BILL NO. 2931,  
SUBSTITUTE HOUSE BILL NO. 3056.

INTRODUCTION AND FIRST READING OF HOUSE BILL

HB 3122 by Representative Ballasiotes

Regarding work ethic camp programs.

MOTION

On motion of Senator Johnson, the rules were suspended, House Bill No. 3122 was advanced to second reading and placed on the second reading calendar.

MOTION

On motion of Senator Fraser, the following resolution was adopted:

SENATE RESOLUTION 1998-8717

By Senators Fraser, Heavey, Rasmussen, Wood, Deccio, Prince, Jacobsen, Prentice, Spanel and Kohl

WHEREAS, Father Arnold John Fox, OSB, is a lifelong resident of Washington, and one of the oldest priests in the Archdiocese of Seattle; and

WHEREAS, He has been an example of leadership and devotion during his more than 58 combined years of service to the parishioners of Immaculate Conception in Arlington, Visitation Parish in Tacoma, Queen of Angels Parish in Port Angeles, and Assumption Parish in Seattle; and

WHEREAS, Father Fox was a teacher and administrator of numerous young men at Saint Martin's School and College from 1936 to 1940; and

WHEREAS, He has provided spiritual guidance and instruction to many community leaders, including former Governor John Spellman and his family; and

WHEREAS, Father Fox has personally raised thousands of dollars for the benefit of the poor, for education, the arts, and many other deserving causes for the citizens of Washington; and

WHEREAS, He has been a respected member of the monastic community at St. Martin's Abbey and College in Lacey since 1927; and

WHEREAS, This man of God has remained faithful to his vocation, despite the tremendous change the Roman Catholic Church has seen during his service to his monastic community and the residents of this state; and

WHEREAS, Father Fox will mark his Diamond Jubilee on March 7, 1998, along with his ninety-fifth birthday; and

WHEREAS, This Diamond Jubilee will be celebrated at St. Martin's College on the afternoon of March 8, 1998; and

WHEREAS, Father Fox is an outstanding example for all Washingtonians through his unselfish service to those in need of education, guidance, or support;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize and honor Father Arnold John Fox for his lifetime of commitment and tenacious dedication to the spiritual health of the people of Washington; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate immediately transmit a copy of this resolution to Father Arnold John Fox and the members of the monastic community at St. Martin's Abbey.

Senators Fraser, Prince and Jacobsen spoke to Senate Resolution 1998-8717.

INTRODUCTION OF SPECIAL GUEST

The President Pro Tempore welcomed and introduced Father Arnold John Fox, who was seated in the gallery.

SECOND READING

HOUSE BILL NO. 2387, by Representatives Sheahan, Constantine and Costa

Regulating shareholder rights under the Washington business corporation act.

The bill was read the second time.

MOTION

On motion of Senator Johnson, the rules were suspended, House Bill No. 2387 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 2387.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2387 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senators McDonald and Stevens - 2. Excused: Senators Brown, Patterson and Rasmussen - 3. HOUSE BILL NO. 2387, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2463, by Representatives Sheahan, Costa and Mulliken

Prescribing garnishee's processing fees.

The bill was read the second time.

#### MOTION

Senator Fairley moved that the following amendment be adopted:

On page 6, beginning on line 14, strike all of section 5

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 6, beginning on line 14, to House Bill No. 2463.

The motion by Senator Fairley carried and the amendment was adopted.

#### MOTIONS

On motion of Senator Johnson, the following title amendment was adopted:

On page 1, line 3 of the title, after "6.27.110" strike "; and declaring an emergency"

On motion of Senator Johnson, the rules were suspended, House Bill No. 2463, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 2463, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2463, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 3; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, Winsley, Wood and Zarelli - 43.

Voting nay: Senator Wojahn - 1.

Absent: Senators McDonald, Stevens and West - 3.

Excused: Senators Brown and Patterson - 2. HOUSE BILL NO. 2463, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.



MOTION

At 9:04 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:35 a.m. by President Owen.

SECOND READING

HOUSE BILL NO. 1487, by Representatives K. Schmidt, Fisher, Mitchell and Hankins.

Enhancing transportation planning.

The bill was read the second time.

MOTION

On motion of Senator Prince, the following Committee on Transportation amendment was adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 36.70A.040 and 1995 c 400 s 1 are each amended to read as follows:

(1) Each county that has both a population of fifty thousand or more and, until May 16, 1995, has had its population increase by more than ten percent in the previous ten years or, on or after May 16, 1995, has had its population increase by more than seventeen percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall conform with all of the requirements of this chapter. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements of adopting comprehensive land use plans and development regulations under this chapter if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection (5) of this section.

Once a county meets either of these sets of criteria, the requirement to conform with all of the requirements of this chapter remains in effect, even if the county no longer meets one of these sets of criteria.

(2) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention to have subsection (1) of this section apply to the county. Each city, located in a county that chooses to plan under this subsection, shall conform with all of the requirements of this chapter. Once such a resolution has been adopted, the county and the cities located within the county remain subject to all of the requirements of this chapter.

(3) Any county or city that is initially required to conform with all of the requirements of this chapter under subsection (1) of this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forest lands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forest lands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995, but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(4) Any county or city that is required to conform with all the requirements of this chapter, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forest lands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city that is located within the county shall adopt

a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(5) If the office of financial management certifies that the population of a county that previously had not been required to plan under subsection (1) or (2) of this section has changed sufficiently to meet either of the sets of criteria specified under subsection (1) of this section, and where applicable, the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall adopt development regulations under RCW 36.70A.060 conserving agricultural lands, forest lands, and mineral resource lands it designated within one year of the certification by the office of financial management; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city located within the county shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan within four years of the certification by the office of financial management, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(6) A copy of each document that is required under this section shall be submitted to the department at the time of its adoption.

(7) Cities and counties planning under this chapter must amend the transportation element of the comprehensive plan to be in compliance with this chapter and chapter 47.80 RCW no later than December 31, 2000.

**Sec. 2.** RCW 36.70A.070 and 1997 c 429 s 7 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. In order to achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design

guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- (i) Containing or otherwise controlling rural development;
- (ii) Assuring visual compatibility of rural development with the surrounding rural area;
- (iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;
- (iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources; and
- (v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments. A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection. An industrial area is not required to be principally designed to serve the existing and projected rural population;

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

~~((a))~~ (i) Land use assumptions used in estimating travel;

~~((b))~~ (ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

~~((c))~~ (iii) Facilities and services needs, including:

~~((d))~~ (A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdiction boundaries;

~~((#))~~ (B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

~~((#))~~ (C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's six-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of state-wide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance ~~((any))~~ locally owned transportation facilities or services that are below an established level of service standard;

~~((#))~~ (E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

~~((#))~~ (F) Identification of state and local system ~~((expansion needs and transportation system management))~~ needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the state-wide multimodal transportation plan required under chapter 47.06 RCW;

~~((#))~~ (iv) Finance, including:

~~((#))~~ (A) An analysis of funding capability to judge needs against probable funding resources;

~~((#))~~ (B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the six-year improvement program developed by the department of transportation as required by RCW 47.05.030;

~~((#))~~ (C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

~~((#))~~ (v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

~~((#))~~ (vi) Demand-management strategies.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(c) The transportation element described in this subsection (6), and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, ~~((and))~~ RCW 35.58.2795 for public transportation systems, and RCW 47.05.030 for the state, must be consistent.

**Sec. 3.** RCW 36.70A.200 and 1991 sp.s. c 32 s 1 are each amended to read as follows:

(1) The comprehensive plan of each county and city that is planning under this chapter shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in section 7 of this act, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, and group homes.

(2) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list. No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

**Sec. 4.** RCW 36.70A.210 and 1994 c 249 s 28 are each amended to read as follows:

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

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

(a) No later than sixty calendar days from July 16, 1991, the legislative authority of each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040 shall convene a meeting with representatives of each city located within the county for the purpose of

establishing a collaborative process that will provide a framework for the adoption of a county-wide planning policy. In other counties that are required or choose to plan under RCW 36.70A.040, this meeting shall be convened no later than sixty days after the date the county adopts its resolution of intention or was certified by the office of financial management.

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

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

(d) If there is no agreement by October 1, 1991, in a county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or if there is no agreement within one hundred twenty days of the date the county adopted its resolution of intention or was certified by the office of financial management in any other county that is required or chooses to plan under RCW 36.70A.040, the governor shall first inquire of the jurisdictions as to the reason or reasons for failure to reach an agreement. If the governor deems it appropriate, the governor may immediately request the assistance of the department of community, trade, and economic development to mediate any disputes that preclude agreement. If mediation is unsuccessful in resolving all disputes that will lead to agreement, the governor may impose appropriate sanctions from those specified under RCW 36.70A.340 on the county, city, or cities for failure to reach an agreement as provided in this section. The governor shall specify the reason or reasons for the imposition of any sanction.

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

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

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

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

(c) Policies for siting public capital facilities of a county-wide or state-wide nature, including transportation facilities of state-wide significance as defined in section 7 of this act;

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

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

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

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

(h) An analysis of the fiscal impact.

(4) Federal agencies and Indian tribes may participate in and cooperate with the county-wide planning policy adoption process.

Adopted county-wide planning policies shall be adhered to by state agencies.

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

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

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

**Sec. 5.** RCW 47.05.021 and 1993 c 490 s 2 are each amended to read as follows:

(1) The transportation commission is hereby directed to conduct periodic analyses of the entire state highway system, report thereon to the chairs of the transportation committees of the senate and house of representatives, including one copy to the staff of each of the committees, biennially and based thereon, to subdivide, classify, and subclassify according to their function and importance all designated state highways and those added from time to time and periodically review and revise the classifications into the following three functional classes:

(a) The "principal arterial system" shall consist of a connected network of rural arterial routes with appropriate extensions into and through urban areas, including all routes designated as part of the interstate system, which serve corridor movements having travel characteristics indicative of substantial state-wide and interstate travel;

(b) The "minor arterial system" shall, in conjunction with the principal arterial system, form a rural network of arterial routes linking cities and other activity centers which generate long distance travel, and, with appropriate extensions into and through urban areas, form an integrated network providing interstate and interregional service; and

(c) The "collector system" shall consist of routes which primarily serve the more important intercounty, intracounty, and intraurban travel corridors, collect traffic from the system of local access roads and convey it to the arterial system, and on which, regardless of traffic volume, the predominant travel distances are shorter than on arterial routes.

(2) In making the functional classification the transportation commission shall adopt and give consideration to criteria consistent with this section and federal regulations relating to the functional classification of highways, including but not limited to the following:

(a) Urban population centers within and without the state stratified and ranked according to size;

(b) Important traffic generating economic activities, including but not limited to recreation, agriculture, government, business, and industry;

(c) Feasibility of the route, including availability of alternate routes within and without the state;

(d) Directness of travel and distance between points of economic importance;

(e) Length of trips;

(f) Character and volume of traffic;

(g) Preferential consideration for multiple service which shall include public transportation;

(h) Reasonable spacing depending upon population density; and

(i) System continuity.

(3) The transportation commission shall designate ~~((a system of))~~ state highways ~~((that have))~~ of state-wide significance under section 7 of this act, and shall submit a list of such facilities for adoption by the 1999 legislature. This state-wide system shall include at a minimum interstate highways and other state-wide principal arterials that are needed to connect major communities across the state and support the state's economy.

(4) The transportation commission shall designate a freight and goods transportation system. This state-wide system shall include state highways, county roads, and city streets. The commission, in cooperation with cities and counties, shall review and make recommendations to the legislature regarding policies governing weight restrictions and road closures which affect the transportation of freight and goods. The first report is due by December 15, 1993, and biennially thereafter.

**Sec. 6.** RCW 47.05.030 and 1993 c 490 s 3 are each amended to read as follows:

The transportation commission shall adopt a comprehensive six-year investment program specifying program objectives and performance measures for the preservation and improvement programs defined in this section. In the specification of investment program objectives and performance measures, the transportation commission, in consultation with the Washington state department of transportation, shall define and adopt standards for effective programming and prioritization practices including a needs analysis process. The needs analysis process shall ensure the identification of problems and deficiencies, the evaluation of alternative solutions and trade-offs, and estimations of the costs and benefits of prospective projects. The investment program shall be revised biennially, effective on July 1st of odd-numbered years. The investment program shall be based upon the needs identified in the state-owned highway component of the state-wide multimodal transportation plan as defined in RCW 47.01.071(3).

(1) The preservation program shall consist of those investments necessary to preserve the existing state highway system and to restore existing safety features, giving consideration to lowest life cycle costing. The comprehensive six-year investment program for preservation shall identify projects for two years and an investment plan for the remaining four years.

(2) The improvement program shall consist of investments needed to address identified deficiencies on the state highway system to improve mobility, safety, support for the economy, and protection of the environment. The six-year investment program for improvements shall identify projects for two years and major deficiencies proposed to be addressed in the six-year period giving consideration to relative benefits and life cycle costing. The transportation commission shall give higher priority for correcting identified deficiencies on those facilities classified as facilities of state-wide significance as defined in section 7 of this act.

The transportation commission shall approve and present the comprehensive six-year investment program to the legislature in support of the biennial budget request under RCW 44.40.070 and 44.40.080.

**NEW SECTION. Sec. 7.** A new section is added to chapter 47.06 RCW to read as follows:

The legislature declares the following transportation facilities and services to be of state-wide significance: The interstate highway system, interregional state principal arterials including ferry connections that serve state-wide travel, intercity passenger rail services, intercity high-speed ground transportation, major passenger intermodal terminals excluding all airport facilities and services, the freight railroad system, the Columbia/Snake navigable river system, marine port facilities and services that are related solely to marine activities affecting international and interstate trade, and high-capacity transportation systems serving regions as defined in RCW 81.104.015. The department, in cooperation with regional transportation planning organizations, counties, cities, transit agencies, public ports, private railroad operators, and private transportation providers, as appropriate, shall plan for improvements to transportation facilities and services of state-wide significance in the state-wide multimodal plan. Improvements to facilities and services of state-wide significance identified in the state-wide multimodal plan are essential state public facilities under RCW 36.70A.200.

The department of transportation, in consultation with local governments, shall set level of service standards for state highways and state ferry routes of state-wide significance. Although the department shall consult with local governments when setting level of service

standards, the department retains authority to make final decisions regarding level of service standards for state highways and state ferry routes of state-wide significance. In establishing level of service standards for state highways and state ferry routes of state-wide significance, the department shall consider the necessary balance between providing for the free interjurisdictional movement of people and goods and the needs of local communities using these facilities.

**Sec. 8.** RCW 47.80.023 and 1994 c 158 s 2 are each amended to read as follows:

Each regional transportation planning organization shall have the following duties:

(1) Prepare and periodically update a transportation strategy for the region. The strategy shall address alternative transportation modes and transportation demand management measures in regional corridors and shall recommend preferred transportation policies to implement adopted growth strategies. The strategy shall serve as a guide in preparation of the regional transportation plan.

(2) Prepare a regional transportation plan as set forth in RCW 47.80.030 that is consistent with county-wide planning policies if such have been adopted pursuant to chapter 36.70A RCW, with county, city, and town comprehensive plans, and state transportation plans.

(3) Certify by December 31, 1996, that the transportation elements of comprehensive plans adopted by counties, cities, and towns within the region reflect the guidelines and principles developed pursuant to RCW 47.80.026, are consistent with the adopted regional transportation plan, and, where appropriate, conform with the requirements of RCW 36.70A.070.

(4) Where appropriate, certify that county-wide planning policies adopted under RCW 36.70A.210 and the adopted regional transportation plan are consistent.

(5) Develop, in cooperation with the department of transportation, operators of public transportation services and local governments within the region, a six-year regional transportation improvement program which proposes regionally significant transportation projects and programs and transportation demand management measures. The regional transportation improvement program shall be based on the programs, projects, and transportation demand management measures of regional significance as identified by transit agencies, cities, and counties pursuant to RCW 35.58.2795, 35.77.010, and 36.81.121, respectively. The program shall include a priority list of projects and programs, project segments and programs, transportation demand management measures, and a specific financial plan that demonstrates how the transportation improvement program can be funded. The program shall be updated at least every two years for the ensuing six-year period.

(6) Designate a lead planning agency to coordinate preparation of the regional transportation plan and carry out the other responsibilities of the organization. The lead planning agency may be a regional organization, a component county, city, or town agency, or the appropriate Washington state department of transportation district office.

(7) Review level of service methodologies used by cities and counties planning under chapter 36.70A RCW to promote a consistent regional evaluation of transportation facilities and corridors.

(8) Work with cities, counties, transit agencies, the department of transportation, and others to develop level of service standards or alternative transportation performance measures.

**Sec. 9.** RCW 47.80.030 and 1994 c 158 s 4 are each amended to read as follows:

(1) Each regional transportation planning organization shall develop in cooperation with the department of transportation, providers of public transportation and high capacity transportation, ports, and local governments within the region, adopt, and periodically update a regional transportation plan that:

(a) Is based on a least cost planning methodology that identifies the most cost-effective facilities, services, and programs;

(b) Identifies existing or planned transportation facilities, services, and programs, including but not limited to major roadways including state highways and regional arterials, transit and nonmotorized services and facilities, multimodal and intermodal facilities, marine ports and airports, railroads, and noncapital programs including transportation demand management that should function as an integrated regional transportation system, giving emphasis to those facilities, services, and programs that exhibit one or more of the following characteristics:

(i) ~~(Physically)~~ Crosses member county lines;

(ii) Is or will be used by a significant number of people who live or work outside the county in which the facility, service, or project is located;

(iii) Significant impacts are expected to be felt in more than one county;

(iv) Potentially adverse impacts of the facility, service, program, or project can be better avoided or mitigated through adherence to regional policies; ~~(and)~~

(v) Transportation needs addressed by a project have been identified by the regional transportation planning process and the remedy is deemed to have regional significance; and

(vi) Provides for system continuity;

(c) Establishes level of service standards ~~(at a minimum for all)~~ for state highways and state ferry routes, with the exception of transportation facilities of state-wide significance as defined in section 7 of this act. These regionally established level of service standards for state highways and state ferries shall be developed jointly with the department of transportation, to encourage consistency across jurisdictions. In establishing level of service standards for state highways and state ferries, consideration shall be given for the necessary balance between providing for the free interjurisdictional movement of people and goods and the needs of local commuters using state facilities;

(d) Includes a financial plan demonstrating how the regional transportation plan can be implemented, indicating resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommending any innovative financing techniques to finance needed facilities, services, and programs;

(e) Assesses regional development patterns, capital investment and other measures necessary to:

(i) Ensure the preservation of the existing regional transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit, railroad systems and corridors, and nonmotorized facilities; and

(ii) Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods;

(f) Sets forth a proposed regional transportation approach, including capital investments, service improvements, programs, and transportation demand management measures to guide the development of the integrated, multimodal regional transportation system; and

(g) Where appropriate, sets forth the relationship of high capacity transportation providers and other public transit providers with regard to responsibility for, and the coordination between, services and facilities.

(2) The organization shall review the regional transportation plan biennially for currency and forward the adopted plan along with documentation of the biennial review to the state department of transportation.

(3) All transportation projects, programs, and transportation demand management measures within the region that have an impact upon regional facilities or services must be consistent with the plan and with the adopted regional growth and transportation strategies."

## MOTIONS

On motion of Senator Prince, the following title amendment was adopted:

On line 1 of the title, after "planning;" strike the remainder of the title and insert "amending RCW 36.70A.040, 36.70A.070, 36.70A.200, 36.70A.210, 47.05.021, 47.05.030, 47.80.023, and 47.80.030; and adding a new section to chapter 47.06 RCW."

On motion of Senator Prince, the rules were suspended, House Bill No. 1487, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1487, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1487, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Heavey, Patterson and Roach - 3. Absent: Senators Loveland and Schow - 2. HOUSE BILL NO. 1487, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1786, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives K. Schmidt, Fisher, Murray, Cooper, Mitchell, Hatfield, Sterk, Skinner, Blalock, Ogden, Robertson, DeBolt, Gardner, Johnson, Wood, Backlund, O'Brien, Scott, Zellinsky, Hankins, Chandler and Dyer)

Requiring the transportation improvement board to report to the legislative transportation committees.

The bill was read the second time.

## MOTION

On motion of Senator Wood, the following Committee on Transportation amendment was adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 47.26 RCW to read as follows:



Beginning February 1, 2000, and annually thereafter, the transportation improvement board shall submit to the transportation committees of the senate and the house of representatives, proposed lists of projects for which funds are being requested for appropriation from the following accounts: Transportation improvement account, urban arterial trust account, central Puget Sound public transportation account, public transportation systems account, small city account, and city hardship assistance account. The lists shall include, but not be limited to, lead agency, name of project, a brief description of the project, estimated expenditures by phase and biennium including prior biennium expenditures, funding requirements of other organizations, priority rating, anticipated start date by phase, applicable state route or road name, other impacted agencies, and legislative district. Recognizing there may be projects of an emergent nature outside of the normal funding cycle and the need to coordinate project funding with federal program cycles, the board has the authority to provide funding for such projects and upon approval shall notify the legislative transportation committee."

#### MOTIONS

On motion of Senator Wood, the following title amendment was adopted:

On page 1, line 2 of the title, after "requirements;" strike the remainder of the title and insert "and adding a new section to chapter 47.26 RCW."

On motion of Senator Wood, the rules were suspended, Substitute House Bill No. 1786, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Fraser, Senator Loveland was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1786, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1786, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Loveland - 1. SUBSTITUTE HOUSE BILL NO. 1786, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2141, by Representatives Cairnes and Scott (by request of Washington State Patrol)

Providing changes to terminal audit violation penalties.

The bill was read the second time.

#### MOTION

On motion of Senator Prince, the rules were suspended, House Bill No. 2141 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2141.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2141 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel,

Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Hargrove - 1. Excused: Senator Loveland - 1. HOUSE BILL NO. 2141, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 3070, by House Committee on Appropriations (originally sponsored by Representatives McCune and Mulliken)

Increasing penalties for drunk driving.

The bill was read the second time.

## MOTION

Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are each reenacted and amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within ~~((five))~~ ten years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within ~~((five))~~ ten years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of nine hundred days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within ~~((five))~~ ten years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock or other biological or technical device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is

suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8)(a) A "prior offense" means any of the following:

- (i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;
- (ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;
- (iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;
- (iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;
- (v) A conviction for a violation of RCW 46.61.5249 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;
- (vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;
- (vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or
- (viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(b) "Within (~~five~~) ten years" means that the arrest for a prior offense occurred within (~~five~~) ten years of the arrest for the current offense.

**Sec. 2.** RCW 46.61.5058 and 1995 c 332 s 6 are each amended to read as follows:

(1) Upon the arrest of a person or upon the filing of a complaint, citation, or information in a court of competent jurisdiction, based upon probable cause to believe that a person has violated RCW 46.61.502 or 46.61.504 or any similar municipal ordinance, if such person has a prior offense within (~~five~~) ten years as defined in RCW 46.61.5055, and where the person has been provided written notice that any transfer, sale, or encumbrance of such person's interest in the vehicle over which that person was actually driving or had physical control when the violation occurred, is unlawful pending either acquittal, dismissal, sixty days after conviction, or other termination of the charge, such person shall be prohibited from encumbering, selling, or transferring his or her interest in such vehicle, except as otherwise provided in (a), (b), and (c) of this subsection, until either acquittal, dismissal, sixty days after conviction, or other termination of the charge. The prohibition against transfer of title shall not be stayed pending the determination of an appeal from the conviction.

(a) A vehicle encumbered by a bona fide security interest may be transferred to the secured party or to a person designated by the secured party;

(b) A leased or rented vehicle may be transferred to the lessor, rental agency, or to a person designated by the lessor or rental agency; and

(c) A vehicle may be transferred to a third party or a vehicle dealer who is a bona fide purchaser or may be subject to a bona fide security interest in the vehicle unless it is established that (i) in the case of a purchase by a third party or vehicle dealer, such party or dealer had actual notice that the vehicle was subject to the prohibition prior to the purchase, or (ii) in the case of a security interest, the holder of the security interest had actual notice that the vehicle was subject to the prohibition prior to the encumbrance of title.

(2) On conviction for a violation of either RCW 46.61.502 or 46.61.504 or any similar municipal ordinance where the person convicted has a prior offense within (~~five~~) ten years as defined in RCW 46.61.5055, the motor vehicle the person was driving or over which the person had actual physical control at the time of the offense, if the person has a financial interest in the vehicle, is subject to seizure and forfeiture pursuant to this section.

(3) A vehicle subject to forfeiture under this chapter may be seized by a law enforcement officer of this state upon process issued by a court of competent jurisdiction. Seizure of a vehicle may be made without process if the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) Seizure under subsection (3) of this section automatically commences proceedings for forfeiture. The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized vehicle to be served within fifteen days after the seizure on the owner of the vehicle seized, on the person in charge of the vehicle, and on any person having a known right or interest in the vehicle, including a community property interest. The notice of seizure may be served by any method authorized by law or court rule, including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected on a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the vehicle is deemed forfeited.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the vehicle is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the vehicle involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the legal owner or the person claiming to have the lawful right to possession of the vehicle. The seizing law enforcement agency shall promptly return the vehicle to the claimant upon a determination by the administrative law judge or court that the claimant is the present legal owner under Title 46 RCW or is lawfully entitled to possession of the vehicle.

(7) When a vehicle is forfeited under this chapter the seizing law enforcement agency may sell the vehicle, retain it for official use, or upon application by a law enforcement agency of this state release the vehicle to that agency for the exclusive use of enforcing this title; provided, however, that the agency shall first satisfy any bona fide security interest to which the vehicle is subject under subsection (1) (a) or (c) of this section.

(8) When a vehicle is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the vehicle, the disposition of the vehicle, the value of the vehicle at the time of seizure, and the amount of proceeds realized from disposition of the vehicle.

(9) Each seizing agency shall retain records of forfeited vehicles for at least seven years.

(10) Each seizing agency shall file a report including a copy of the records of forfeited vehicles with the state treasurer each calendar quarter.

(11) The quarterly report need not include a record of a forfeited vehicle that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(12) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of vehicles forfeited during the preceding calendar year. Money remitted shall be deposited in the public safety and education account.

(13) The net proceeds of a forfeited vehicle is the value of the forfeitable interest in the vehicle after deducting the cost of satisfying a bona fide security interest to which the vehicle is subject at the time of seizure; and in the case of a sold vehicle, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(14) The value of a sold forfeited vehicle is the sale price. The value of a retained forfeited vehicle is the fair market value of the vehicle at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing. A seizing agency may, but need not, use an independent qualified appraiser to determine the value of retained vehicles. If an appraiser is used, the value of the vehicle appraised is net of the cost of the appraisal.

**Sec. 3.** RCW 46.01.260 and 1997 c 66 s 11 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director, in his or her discretion, may destroy applications for vehicle licenses, copies of vehicle licenses issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, records or supporting papers on file in his or her office which have been microfilmed or photographed or are more than five years old. If the applications for vehicle licenses are renewal applications, the director may destroy such applications when the computer record thereof has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.520 and 46.61.522 or records of deferred prosecutions granted under RCW 10.05.120 and shall maintain such records permanently on file.

(b) The director shall not, within ~~((ten))~~ fifteen years from the date of conviction~~((; or))~~ or adjudication~~((; or entry of deferred prosecution))~~, destroy records of the following:

(i) Convictions or adjudications of the following offenses: RCW 46.61.502 or 46.61.504; or

(ii) If the offense was originally charged as one of the offenses designated in (a) or (b)(i) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.5249 or any other violation that was originally charged as one of the offenses designated in (a) or (b)(i) of this subsection~~((; or))~~

~~((iii) Deferred prosecutions granted under RCW 10.05.120)).~~

(c) For purposes of RCW 46.52.100 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses.

**Sec. 4.** RCW 46.20.285 and 1996 c 199 s 5 are each amended to read as follows:

The department shall forthwith revoke the license of any driver for the period of one calendar year unless otherwise provided in this section, upon receiving a record of the driver's conviction of any of the following offenses, when the conviction has become final:

- (1) For vehicular homicide the period of revocation shall be two years. The revocation period shall be tolled during any period of total confinement for the offense;
- (2) Vehicular assault. The revocation period shall be tolled during any period of total confinement for the offense;
- (3) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle, ~~((upon a showing by the department's records that the conviction is the second such conviction for the driver within a period of five years. Upon a showing that the conviction is the third such conviction for the driver within a period of five years, the period of revocation shall be two years))~~ for the period prescribed in RCW 46.61.5055;
- (4) Any felony in the commission of which a motor vehicle is used;
- (5) Failure to stop and give information or render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another or resulting in damage to a vehicle that is driven or attended by another;
- (6) Perjury or the making of a false affidavit or statement under oath to the department under Title 46 RCW or under any other law relating to the ownership or operation of motor vehicles;
- (7) Reckless driving upon a showing by the department's records that the conviction is the third such conviction for the driver within a period of two years.

**Sec. 5.** RCW 46.61.503 and 1995 c 332 s 2 are each amended to read as follows:

- (1) Notwithstanding any other provision of this title, a person is guilty of driving a motor vehicle after consuming alcohol if the person operates a motor vehicle within this state and the person:
  - (a) Is under the age of twenty-one;
  - (b) Has, within two hours after operating the motor vehicle, an alcohol concentration of ~~((0.02 or more))~~ at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506.
- (2) It is an affirmative defense to a violation of subsection (1) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be ~~((0.02 or more))~~ in violation of subsection (1) of this section within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.
- (3) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration ~~((of 0.02 or more))~~ in violation of subsection (1) of this section.
- (4) A violation of this section is a misdemeanor.

**Sec. 6.** RCW 46.20.308 and 1995 c 332 s 1 are each amended to read as follows:

- (1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503.
- (2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility in which a breath testing instrument is not present or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(4). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that:
  - (a) His or her license, permit, or privilege to drive will be revoked or denied if he or she refuses to submit to the test;
  - (b) His or her license, permit, or privilege to drive will be suspended, revoked, denied, or placed in probationary status if the test is administered and the test indicates the alcohol concentration of the person's breath or blood is 0.10 or more, in the case of a person age twenty-one or over, or ~~((0.02 or more))~~ in violation of RCW 46.61.503 in the case of a person under age twenty-one; and
  - (c) His or her refusal to take the test may be used in a criminal trial.
- (3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest

results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.10 or more if the person is age twenty-one or over, or is ~~((0.02 or more))~~ in violation of RCW 46.61.503 if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, deny, or place in probationary status the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.10 or more if the person is age twenty-one or over, or was ~~((0.02 or more))~~ in violation of RCW 46.61.503 if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, deny, or place in probationary status the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, denial, or placement in probationary status to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within thirty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of one hundred dollars as part of the request. If the request is mailed, it must be postmarked within thirty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required one hundred dollar fee, the department shall afford the person an opportunity for a hearing. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503 and was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and

whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.10 or more if the person was age twenty-one or over at the time of the arrest, or was ~~((0.02 or more))~~ in violation of RCW 46.61.503 if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503 and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, denial, or placement in probationary status either be rescinded or sustained.

(9) If the suspension, revocation, denial, or placement in probationary status is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, denied, or placed in probationary status has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, denial, or placement in probationary status. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, denial, or placement in probationary status as expeditiously as possible. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, denial, or placement in probationary status it may impose conditions on such stay.

(10) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, denied, or placed in probationary status under subsection (7) of this section, other than as a result of a breath test refusal, and who has not committed an offense within the last five years for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, the court may direct the department to stay any actual or proposed suspension, revocation, denial, or placement in probationary status for at least forty-five days but not more than ninety days. If the court stays the suspension, revocation, denial, or placement in probationary status, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

A suspension, revocation, or denial imposed under this section, other than as a result of a breath test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

**Sec. 7.** RCW 46.20.3101 and 1995 c 332 s 3 are each amended to read as follows:

Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal within ~~((five))~~ ten years, where there has not been a previous incident within ~~((five))~~ ten years that resulted in administrative action under this section, revocation or denial for one year;

(b) For a second or subsequent refusal within ~~((five))~~ ten years, or for a first refusal where there has been one or more previous incidents within ~~((five))~~ ten years that have resulted in administrative action under this section, revocation or denial for two years or until the person reaches age twenty-one, whichever is longer. A revocation imposed under this subsection (1)(b) shall run consecutively to the period of any suspension, revocation, or denial imposed pursuant to a criminal conviction arising out of the same incident.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.10 or more:



(a) For a first incident within ~~((five))~~ ten years, where there has not been a previous incident within ~~((five))~~ ten years that resulted in administrative action under this section, placement in probationary status as provided in RCW 46.20.355;

(b) For a second or subsequent incident within ~~((five))~~ ten years, revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was ~~((0.02 or more))~~ in violation of RCW 46.61.503:

(a) For a first incident within ~~((five))~~ ten years, suspension or denial for ninety days;

(b) For a second or subsequent incident within ~~((five))~~ ten years, revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

**Sec. 8.** RCW 46.20.391 and 1995 c 332 s 12 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide or vehicular assault, may submit to the department an application for an occupational driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is engaged in an occupation or trade that makes it essential that the petitioner operate a motor vehicle, may issue an occupational driver's license and may set definite restrictions as provided in RCW 46.20.394. No person may petition for, and the department shall not issue, an occupational driver's license that is effective during the first thirty days of any suspension or revocation imposed for a violation of RCW 46.61.502 or 46.61.504. A person aggrieved by the decision of the department on the application for an occupational driver's license may request a hearing as provided by rule of the department.

(2) An applicant for an occupational driver's license is eligible to receive such license only if:

(a) Within one year immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not committed any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory; and

(b) Within ~~((five))~~ ten years immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not committed any of the following offenses: (i) Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor; (ii) vehicular homicide under RCW 46.61.520; or (iii) vehicular assault under RCW 46.61.522; and

(c) The applicant is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle; and

(d) The applicant files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

(3) The director shall cancel an occupational driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense that pursuant to chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

**NEW SECTION. Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

## MOTION

Senator Haugen moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 21, after line 9, insert the following:

**"NEW SECTION. Sec. 10.** This act takes effect January 1, 1999."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 21, after line 9, to the Committee on Law and Justice striking amendment to Second Substitute House Bill No. 3070.

The motion by Senator Haugen failed and the amendment to the committee striking amendment was not adopted.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment to Second Substitute House Bill No. 3070.

The motion by Senator Roach carried and the committee striking amendment was adopted.

## MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 1 of the title, after "influence;" strike the remainder of the title and insert "amending RCW 46.61.5058, 46.01.260, 46.20.285, 46.61.503, 46.20.308, 46.20.3101, and 46.20.391; reenacting and amending RCW 46.61.5055; creating a new section; and prescribing penalties."

On motion of Senator Roach, the rules were suspended, Second Substitute House Bill No. 3070, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Fairley: "Senator Roach, in the bill as it came over from the House, it had a null and void clause if funding wasn't available. Is that still in the bill?"

Senator Roach: "Senator Fairley, this bill was worked--I'm going to ask Senator Johnson to give Senator West a little tap on the shoulder--this bill was last seen in the Ways and Means Committee and perhaps you want to address Senator West with that."

#### POINT OF INQUIRY

Senator Fairley: "Senator West, the bill as it came over from the House, had a null and void clause for funding. Does it still contain that clause?"

Senator West: "To the best of my knowledge, it does. We did not take it out in Ways and Means."

Senator Fairley: "Thank you."

#### MOTION

On motion of Senator Johnson, and there being no objection, further consideration of Second Substitute House Bill No. 3070, as amended by the Senate, was deferred.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2491, by House Committee on Appropriations (originally sponsored by Representatives Carlson, H. Sommers, Ogden, Conway, Wolfe, Lambert, D. Sommers, O'Brien, Schoesler, Alexander and Gardner) (by request of Joint Committee on Pension Policy)

Sharing extraordinary investment gains.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, Engrossed Substitute House Bill No. 2491 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2491.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2491 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Deccio - 1. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2491, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2544, by House Committee on Appropriations (originally sponsored by Representatives H. Sommers, Sehlin, Ogden, D. Sommers, Carlson, Conway and O'Brien) (by request of Joint Committee on Pension Policy)

Funding the state retirement systems.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, Substitute House Bill No. 2544 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2544.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2544 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hochstatter, Horn, Jacobsen, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Roach, Rossi, Schow, Sellar, Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 31. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Hargrove, Haugen, Heavey, Kline, Kohl, Loveland, McAuliffe, Prentice, Prince, Rasmussen, Sheldon, B., Sheldon, T., Thibaudeau and Wojahn - 18. SUBSTITUTE HOUSE BILL NO. 2544, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 12:21 p.m., on motion of Senator Johnson, the Senate recessed until 1:30 p.m..

The Senate was called to order at 1:31 p.m. by President Owen

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9297, M. J. Hrdlicka, as a member of the Board of Trustees for Edmonds Community College District No. 23, was confirmed.

#### APPOINTMENT OF M. J. HRDLICKA

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 5; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Newhouse, Oke, Patterson, Prentice, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senators Deccio, Morton, Prince, Rasmussen and West - 5.

#### MOTION

On motion of Senator Hale, Senator Newhouse was excused.

#### MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9248, Sharon Hart, as a member of the Board of Trustees for Lower Columbia Community College District No. 13, was confirmed.

## APPOINTMENT OF SHARON HART

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Rasmussen - 1. Excused: Senator Newhouse - 1.

There being no objection, the President returned the Senate to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 5853,  
SUBSTITUTE SENATE BILL NO. 5873,  
SENATE BILL NO. 6118,  
ENGROSSED SENATE BILL NO. 6123,  
SUBSTITUTE SENATE BILL NO. 6129,  
SUBSTITUTE SENATE BILL NO. 6136,  
SENATE BILL NO. 6158,  
SENATE BILL NO. 6159,  
SENATE BILL NO. 6171,  
SENATE BILL NO. 6192,  
SENATE BILL NO. 6202,  
SUBSTITUTE SENATE BILL NO. 6285,  
SENATE BILL NO. 6303,  
SENATE BILL NO. 6483,  
SUBSTITUTE SENATE BILL NO. 6489,  
SUBSTITUTE SENATE BILL NO. 6507,  
SUBSTITUTE SENATE BILL NO. 6575,  
SENATE BILL NO. 6631, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk,

There being no objection, the President advanced the Senate to the sixth order of business.

## SECOND READING

ENGROSSED HOUSE BILL NO. 2894, by Representatives Huff, K. Schmidt, Robertson, Lisk, Carrell, Mastin, Sehlin, Dyer, Mitchell, Pennington, Talcott, Lambert, Buck, D. Schmidt, L. Thomas, Benson, Clements, Skinner, Ballasiotes, Delvin, Parlette, Cooke, Hickel, B. Thomas, Johnson, DeBolt, Hankins, Cairnes, Crouse, Wensman, Mielke, Sherstad, Honeyford, McCune, Koster, Dunn, McDonald, Reams, Sheahan, Sterk, Schoesler, D. Sommers, Bush, Chandler, McMorris, Boldt, Backlund, Mulliken, Van Luven, Radcliff, Alexander, Zellinsky and Thompson

Reallocating motor vehicle excise tax and general fund resources for the purpose of transportation and local criminal justice funding and tax reduction.

The bill was read the second time.

## MOTION

Senator West moved that the following amendment be adopted:

On page 1, strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The purpose of this act is to reallocate the general fund portion of the state's motor vehicle excise tax revenues among the taxpayers, local governments, and the state's transportation programs. By reallocating motor vehicle excise taxes, the state revenue portion can be dedicated to increased transportation funding purposes. Since the general fund currently has a budget surplus, due to a strong economy, the legislature feels that this reallocation is an appropriate short-term solution to the state's transportation needs and is a first step in meeting longer-term transportation funding needs. These reallocated funds must be used to provide relief from traffic congestion, improve freight mobility, and increase traffic safety.

In reallocating general fund resources, the legislature also ensures that other programs funded from the general fund are not adversely impacted by the reallocation of surplus general fund revenues. The legislature also adopts this act to continue the general fund revenue and expenditure limitations contained in chapter 43.135 RCW after this one-time transfer of funds.

In order to develop a long-term and comprehensive solution to the state's transportation problems, a joint committee will be created to study the state's transportation needs and the appropriate sources of revenue necessary to implement the state's long-term transportation needs as provided in section 22 of this act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 82.44 RCW to read as follows:

(1) Beginning with motor vehicle registrations that are due or become due in July 1999, a credit is authorized against the tax imposed under RCW 82.44.020(1) on each personal-use motor vehicle equal to the lesser of the tax otherwise due under RCW 82.44.020(1) or thirty dollars.

(2) For the purposes of this section, "personal-use motor vehicle" means a vehicle registered to a private individual, not owned by a business, and designated in one of the following use classes: (a) Passenger; (b) truck with a weight not to exceed six thousand pounds; or (c) motorcycle.

**Sec. 3.** RCW 82.44.020 and 1993 sp.s. c 23 s 61 are each amended to read as follows:

(1) An excise tax is imposed for the privilege of using in the state any motor vehicle, except those operated under reciprocal agreements, the provisions of RCW 46.16.160 (~~as now or hereafter amended~~), or dealer's licenses. The annual amount of such excise tax shall be two and two-tenths percent of the value of such vehicle.

~~((2)) (2) ((An additional excise tax is imposed, in addition to any other tax imposed by this section, for the privilege of using in the state any such motor vehicle, and the annual amount of such additional excise shall be two-tenths of one percent of the value of such vehicle.~~

~~((3)) (3) Effective with October 1992 motor vehicle registration expirations,)) A clean air excise tax is imposed in addition to any other tax imposed by this section for the privilege of using in the state any motor vehicle as defined in RCW 82.44.010, except that farm vehicles as defined in RCW 46.04.181 shall not be subject to the tax imposed by this subsection. The ~~((annual amount of the additional excise tax shall be two dollars and twenty-five cents. Effective with July 1994 motor vehicle registration expirations, the))~~ annual amount of additional excise tax shall be two dollars.~~

~~((4)) (3) An additional excise tax is imposed on truck-type power units that are used in combination with a trailer to transport loads in excess of forty thousand pounds combined gross weight. The annual amount of such additional excise tax shall be fifty-eight one-hundredths of one percent of the value of the vehicle.~~

The department shall distribute the additional tax collected under this subsection as follows:

(a) For each trailing unit subject to subsection ~~((5)) (4)~~ of this section, an amount equal to the clean air excise tax prescribed in subsection ~~((3)) (2)~~ of this section shall be distributed in the manner prescribed in RCW 82.44.110~~((3)) (2)~~;

(b) ~~((0))~~ The remainder of the additional excise tax collected under this subsection ~~((, ten percent shall be distributed in the manner prescribed in RCW 82.44.110(2) and ninety percent))~~ shall be distributed in the manner prescribed in RCW 82.44.110(1). This tax shall not apply to power units used exclusively for hauling logs.

~~((5)) (4) The excise taxes imposed by subsections (1) ~~((through (3)))~~ and (2) of this section shall not apply to trailing units which are used in combination with a power unit subject to the additional excise tax imposed by subsection ~~((4)) (3)~~ of this section. This subsection shall not apply to trailing units used for hauling logs.~~

~~((6)) (5) In no case shall the total tax be less than two dollars except for proportionally registered vehicles and except for vehicles on which a credit is granted under section 2 of this act.~~

~~((7)) (6) Washington residents, as defined in RCW 46.16.028, who license motor vehicles in another state or foreign country and avoid Washington motor vehicle excise taxes are liable for such unpaid excise taxes. The department of revenue may assess and collect the unpaid excise taxes under chapter 82.32 RCW, including the penalties and interest provided therein.~~

**Sec. 4.** RCW 82.44.041 and 1990 c 42 s 303 are each amended to read as follows:

(1) For the purpose of determining the tax under this chapter, the value of a truck-type power or trailing unit shall be the latest purchase price of the vehicle, excluding applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the following percentage based on year of service of the vehicle since last sale. The latest purchase year shall be considered the first year of service.

**YEAR OF SERVICE PERCENTAGE**

1	100
2	90
3	83
4	75
5	67
6	59
7	52
8	44
9	36
10	28
11	21
12	13
13 or older	10

(2) The reissuance of title and registration for a truck-type power or trailing unit because of the installation of body or special equipment shall be treated as a sale, and the value of the truck-type power or trailing unit at that time, as determined by the department from such information as may be available, shall be considered the latest purchase price.

(3) For the purpose of determining the tax under this chapter, the value of a motor vehicle other than a truck-type power or trailing unit shall be the manufacturer's base suggested retail price of the vehicle when first offered for sale as a new vehicle, excluding any optional equipment, applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the applicable percentage listed in this subsection based on year of service of the vehicle.

If the manufacturer's base suggested retail price is unavailable or otherwise unascertainable at the time of initial registration in this state, the department shall determine a value equivalent to a manufacturer's base suggested retail price as follows:

(a) The department shall determine a value using any information that may be available, including any guidebook, report, or compendium of recognized standing in the automotive industry or the selling price and year of sale of the vehicle. The department may use an appraisal by the county assessor. In valuing a vehicle for which the current value or selling price is not indicative of the value of similar vehicles of the same year and model, the department shall establish a value that more closely represents the average value of similar vehicles of the same year and model.

(b) The value determined in (a) of this subsection shall be divided by the applicable percentage listed in this subsection to establish a value equivalent to a manufacturer's base suggested retail price. The applicable percentage shall be based on the year of service of the vehicle for which the value is determined.

**YEAR OF SERVICE PERCENTAGE**

1	100
2	<del>((400))</del> <u>95</u>
3	<del>((94))</del> <u>89</u>
4	83
5	74
6	65
7	57
8	48
9	40
10	31
11	22
12	14
13 or older	10

(4) For purposes of this chapter, value shall exclude value attributable to modifications of a motor vehicle and equipment that are designed to facilitate the use or operation of the motor vehicle by a handicapped person.

**Sec. 5.** RCW 82.44.110 and 1997 c 338 s 68 are each amended to read as follows:

The county auditor shall regularly, when remitting license fee receipts, pay over and account to the director of licensing for the excise taxes collected under the provisions of this chapter. The director shall forthwith transmit the excise taxes to the state treasurer.

(1) The state treasurer shall deposit the excise taxes collected under RCW 82.44.020(1) as follows:

(a) ~~((1-60))~~ 1.455 percent into the motor vehicle fund through June 30, 1999, and 1.71 percent beginning July 1, 1999, to defray administrative and other expenses incurred by the department in the collection of the excise tax.

(b) ~~((8-15))~~ 7.409 percent into the Puget Sound capital construction account in the motor vehicle fund through June 30, 1999, and 8.712 percent beginning July 1, 1999.

(c) ~~((4-07))~~ 3.70 percent into the Puget Sound ferry operations account in the motor vehicle fund through June 30, 1999, and 4.351 percent beginning July 1, 1999.

(d) ~~((5-88))~~ 5.345 percent into the ~~((general fund to be distributed))~~ city police and fire protection assistance account under RCW 82.44.155 through June 30, 1999, and 6.286 percent beginning July 1, 1999.

(e) ~~((4-75))~~ 4.318 percent into the municipal sales and use tax equalization account ~~((in the general fund))~~ created in RCW 82.14.210 through June 30, 1999, and 5.628 percent beginning July 1, 1999.

(f) ~~((1-60))~~ 1.455 percent into the county sales and use tax equalization account ~~((in the general fund))~~ created in RCW 82.14.200 through June 30, 1999, and 1.71 percent beginning July 1, 1999.

(g) ~~((62.6440))~~ 13.573 percent into the general fund through June 30, ~~((1995, and 57.6440 percent into the general fund beginning July 1, 1995))~~ 1999.

(h) ~~((5))~~ 43.605 percent into the transportation fund created in RCW 82.44.180 through June 30, 1999, and 51.203 percent beginning July 1, ((1995)) 1999.

(i) ~~((5-968))~~ 5.426 percent into the county criminal justice assistance account created in RCW 82.14.310 through June 30, 1999, and 3.892 percent beginning July 1, 1999.

(j) ~~((1-1937))~~ 1.085 percent into the municipal criminal justice assistance account for distribution under RCW 82.14.320 through June 30, 1999, and 0.778 percent beginning July 1, 1999.

(k) ~~((1-1937))~~ 1.085 percent into the municipal criminal justice assistance account for distribution under RCW 82.14.330 through June 30, 1999, and 0.778 percent beginning July 1, 1999.

(l) ~~((2-95))~~ 2.682 percent into the county public health account created in RCW 70.05.125 through June 30, 1999, and 3.153 percent beginning July 1, 1999.

~~(m) 8.862 percent into the motor vehicle fund through June 30, 1999, and 10.422 percent beginning July 1, 1999.~~

~~(n) 1.377 percent into the distressed county assistance account under section 10 of this act beginning July 1, 1999.~~

Notwithstanding (i) through (k) of this subsection, ~~((no more than sixty million dollars shall be deposited into the accounts specified in (i) through (k) of this subsection for the period January 1, 1994, through June 30, 1995. Not more than five percent of the funds deposited to these accounts shall be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Motor vehicle excise tax funds appropriated for such enhancements shall not supplant existing funds from the state general fund. For the fiscal year ending June 30, 1998, and))~~ for each fiscal year ~~((thereafter))~~ through fiscal year 1999, the amounts deposited into the accounts specified in (i) through (k) of this subsection shall not increase by more than the amounts deposited into those accounts in the previous fiscal year increased by the implicit price deflator for the previous fiscal year. Any revenues in excess of this amount shall be deposited into the violence reduction and drug enforcement account.

~~(2) ((The state treasurer shall deposit the excise taxes collected under RCW 82.44.020(2) into the transportation fund.~~

~~(3))~~ The state treasurer shall deposit the excise tax imposed by RCW 82.44.020~~((3))~~ (2) into the air pollution control account created by RCW 70.94.015.

**Sec. 6.** RCW 82.44.150 and 1995 2nd sp.s. c 14 s 538 are each amended to read as follows:

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

The total amount of motor vehicle excise taxes remitted to the department, except those payable under RCW 82.44.020~~((3))~~ (2) and 82.44.030, from each county shall be multiplied by a fraction, the numerator of which is the population of the municipality residing in such county, and the denominator of which is the total population of the county in which such municipality or portion thereof is located. The product of this computation shall be the amount of excise taxes from motor vehicle owners residing within such municipality or portion thereof. Where the municipality levying a tax under RCW 35.58.273 is located in more than one county, the above computation shall be made by county, and the combined products shall provide the total amount of motor vehicle excise taxes from motor vehicle owners residing in the municipality as a whole. Population figures required for these computations shall be supplied to the director by the office of financial management, who shall adjust the fraction annually.

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

(a) To the high capacity transportation account created in RCW 47.78.010, a sum equal to four and five-tenths percent of the special excise tax levied under RCW 35.58.273 by those municipalities authorized to levy a special excise tax within each county that has a population of one hundred seventy-five thousand or more and has an interstate highway within its borders; except that in a case of a municipality located in a county that has a population of one hundred seventy-five thousand or more that does not have an interstate highway located within its borders, that sum shall be deposited in the passenger ferry account;

(b) To the central Puget Sound public transportation account created in RCW 82.44.180, ~~((for revenues distributed after December 31, 1992,))~~ within a county with a population of one million or more and a county with a population of from two hundred thousand to less than one million bordering a county with a population of one million or more, a sum equal to the difference between (i) the special excise tax levied and collected under RCW 35.58.273 by those municipalities authorized to levy and collect a special excise tax subject to the requirements of subsections (3) and (4) of this section and (ii) the special excise tax that the municipality would otherwise have been eligible to levy and collect at a tax rate of .815 percent and been able to match with locally generated tax revenues, other than the excise tax imposed under RCW 35.58.273, budgeted for any public transportation purpose. Before this deposit, the sum shall be reduced by an amount equal to the amount distributed under (a) of this subsection for each of the municipalities within the counties to which this subsection (2)(b) applies; however, any transfer under this subsection (2)(b) must be greater than zero; and

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

~~(d) To the general fund, for revenues distributed after June 30, 1993, and to the transportation fund, for revenues distributed after June 30, 1995, a sum equal to the difference between (i) the special excise tax levied and collected under RCW 35.58.273 by those municipalities authorized to levy and collect a special excise tax subject to the requirements of subsections (3) and (4) of this section and (ii) the special excise tax that the municipality would otherwise have been eligible to levy and collect at a tax rate of .815 percent notwithstanding the requirements set forth in subsections (3) through (6) of this section, reduced by an amount equal to distributions made under (a), (b), and (c) of this subsection and RCW 82.14.046)).~~

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

(a) The amount required to be remitted by the state treasurer to the treasurer of any municipality levying the tax shall not exceed in any calendar year the amount of locally-generated tax revenues, excluding (i) the excise tax imposed under RCW 35.58.273 for the purposes of this section, which shall have been budgeted by the municipality to be collected in such calendar year for any public transportation purposes including but not limited to operating costs, capital costs, and debt service on general obligation or revenue bonds issued for these purposes; and (ii) the sales and use tax equalization distributions provided under RCW 82.14.046; and

(b) In no event may the amount remitted in a single calendar quarter exceed the amount collected on behalf of the municipality under RCW 35.58.273 during the calendar quarter next preceding the immediately preceding quarter, excluding the sales and use tax equalization distributions provided under RCW 82.14.046.

(4) At the close of each calendar year accounting period, but not later than April 1, each municipality that has received motor vehicle excise taxes under subsection (3) of this section shall transmit to the director of licensing and the state auditor a written report showing by source the previous year's budgeted tax revenues for public transportation purposes as compared to actual collections. Any municipality that has not submitted the report by April 1 shall cease to be eligible to receive motor vehicle excise taxes under subsection (3) of this section until the report is received by the director of licensing. If a municipality has received more or less money under subsection (3) of this section for the period covered by the report than it is entitled to receive by reason of its locally-generated collected tax revenues, the director of licensing shall, during the next ensuing quarter that the municipality is eligible to receive motor vehicle excise tax funds, increase or decrease the amount to be remitted in an amount equal to the difference between the locally-generated budgeted tax revenues and the locally-generated collected tax revenues. In no event may the amount remitted for a calendar year exceed the amount collected on behalf of the municipality under RCW 35.58.273 during that same calendar year excluding the sales and use tax equalization distributions provided under RCW 82.14.046. At the time of the next fiscal audit of each municipality, the state auditor shall verify the accuracy of the report submitted and notify the director of licensing of any discrepancies.

(5) The motor vehicle excise taxes imposed under RCW 35.58.273 and required to be remitted under this section and RCW 82.14.046 shall be remitted without legislative appropriation.

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



**Sec. 7.** RCW 82.14.045 and 1991 c 363 s 158 are each amended to read as follows:

(1) The legislative body of any city pursuant to RCW 35.92.060, of any county which has created an unincorporated transportation benefit area pursuant to RCW 36.57.100 and 36.57.110, of any public transportation benefit area pursuant to RCW 36.57A.080 and 36.57A.090, of any county transportation authority established pursuant to chapter 36.57 RCW, and of any metropolitan municipal corporation within a county with a population of one million or more pursuant to chapter 35.58 RCW, may, by resolution or ordinance for the sole purpose of providing funds for the operation, maintenance, or capital needs of public transportation systems and in lieu of the excise taxes authorized by RCW 35.95.040, submit an authorizing proposition to the voters or include such authorization in a proposition to perform the function of public transportation and if approved by a majority of persons voting thereon, fix and impose a sales and use tax in accordance with the terms of this chapter: PROVIDED, That no such legislative body shall impose such a sales and use tax without submitting such an authorizing proposition to the voters and obtaining the approval of a majority of persons voting thereon: PROVIDED FURTHER, That where such a proposition is submitted by a county on behalf of an unincorporated transportation benefit area, it shall be voted upon by the voters residing within the boundaries of such unincorporated transportation benefit area and, if approved, the sales and use tax shall be imposed only within such area. Notwithstanding any provisions of this section to the contrary, any county in which a county public transportation plan has been adopted pursuant to RCW 36.57.070 and the voters of such county have authorized the imposition of a sales and use tax pursuant to the provisions of section 10, chapter 167, Laws of 1974 ex. sess., prior to July 1, 1975, shall be authorized to fix and impose a sales and use tax as provided in this section at not to exceed the rate so authorized without additional approval of the voters of such county as otherwise required by this section.

The tax authorized pursuant to this section shall be in addition to the tax authorized by RCW 82.14.030 and shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within such city, public transportation benefit area, county, or metropolitan municipal corporation as the case may be. The rate of such tax shall be one-tenth, two-tenths, three-tenths, four-tenths, five-tenths, or six-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The rate of such tax shall not exceed the rate authorized by the voters unless such increase shall be similarly approved.

(2)(a) In the event a metropolitan municipal corporation shall impose a sales and use tax pursuant to this chapter no city, county which has created an unincorporated transportation benefit area, public transportation benefit area authority, or county transportation authority wholly within such metropolitan municipal corporation shall be empowered to levy and/or collect taxes pursuant to RCW 35.58.273, 35.95.040, and/or 82.14.045, but nothing herein shall prevent such city or county from imposing sales and use taxes pursuant to any other authorization.

(b) In the event a county transportation authority shall impose a sales and use tax pursuant to this section, no city, county which has created an unincorporated transportation benefit area, public transportation benefit area, or metropolitan municipal corporation, located within the territory of the authority, shall be empowered to levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045.

(c) In the event a public transportation benefit area shall impose a sales and use tax pursuant to this section, no city, county which has created an unincorporated transportation benefit area, or metropolitan municipal corporation, located wholly or partly within the territory of the public transportation benefit area, shall be empowered to levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045.

(3) Any local sales and use tax revenue collected pursuant to this section by any city or by any county for transportation purposes pursuant to RCW 36.57.100 and 36.57.110 shall not be counted as locally generated tax revenues for the purposes of apportionment and distribution, in the manner prescribed by chapter 82.44 RCW, of the proceeds of the motor vehicle excise tax authorized pursuant to RCW 35.58.273, except that the local sales and use tax revenue collected under this section by a city with a population greater than sixty thousand that as of January 1, 1998, owns and operates a municipal public transportation system shall be counted as locally generated tax revenues for the purposes of apportionment and distribution, in the manner prescribed by chapter 82.44 RCW, of the proceeds of the motor vehicle excise tax authorized under RCW 35.58.273 as follows:

(a) For fiscal year 2000, revenues collected under this section shall be counted as locally generated tax revenues for up to 25 percent of the tax collected under RCW 35.58.273;

(b) For fiscal year 2001, revenues collected under this section shall be counted as locally generated tax revenues for up to 50 percent of the tax collected under RCW 35.58.273;

(c) For fiscal year 2002, revenues collected under this section shall be counted as locally generated tax revenues for up to 75 percent of the tax collected under RCW 35.58.273; and

(d) For fiscal year 2003 and thereafter, revenues collected under this section shall be counted as locally generated tax revenues for up to 100 percent of the tax collected under RCW 35.58.273.

**Sec. 8.** RCW 82.14.200 and 1997 c 333 s 2 are each amended to read as follows:

There is created in the state treasury a special account to be known as the "county sales and use tax equalization account." Into this account shall be placed a portion of all motor vehicle excise tax receipts as provided in RCW 82.44.110(~~(1)~~(~~4~~)). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for the unincorporated area of each county and the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, ~~((as now or hereafter amended,))~~ the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than one hundred fifty thousand dollars from the tax for the previous calendar year, an amount from the county sales and use tax equalization account sufficient, when added to the amount of revenues received the previous calendar year by the county, to equal one hundred fifty thousand dollars.

The department of revenue shall establish a governmental price index as provided in this subsection. The base year for the index shall be the end of the third quarter of 1982. Prior to November 1, 1983, and prior to each November 1st thereafter, the department of revenue shall establish another index figure for the third quarter of that year. The department of revenue may use the implicit price deflators for state and local government purchases of goods and services calculated by the United States department of commerce to establish the governmental price index. Beginning on January 1, 1984, and each January 1st thereafter, the one hundred fifty thousand dollar base figure in this subsection shall be adjusted in direct proportion to the percentage change in the governmental price index from 1982 until the year before the adjustment. Distributions made under this subsection for 1984 and thereafter shall use this adjusted base amount figure.

(3) Subsequent to the distributions under subsection (2) of this section and at such times as distributions are made under RCW 82.44.150, ~~((as now or hereafter amended,))~~ the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties as determined by the department of revenue under subsection (1) of this section, an amount from the county sales and use tax equalization account sufficient, when added to the per capita level of revenues for the unincorporated area received the previous calendar year by the county, to equal seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties determined under subsection (1) of this section, subject to reduction under subsections (6) and (7) of this section. When computing distributions under this section, any distribution under subsection (2) of this section shall be considered revenues received from the tax imposed under RCW 82.14.030(1) for the previous calendar year.

(4) Subsequent to the distributions under subsection (3) of this section and at such times as distributions are made under RCW 82.44.150, ~~((as now or hereafter amended,))~~ the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (2) of this section, a third distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (2) of this section, subject to the reduction under subsections (6) and (7) of this section. To qualify for the total distribution under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) Subsequent to the distributions under subsection (4) of this section and at such times as distributions are made under RCW 82.44.150, ~~((as now or hereafter amended,))~~ the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a fourth distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (3) of this section, subject to the reduction under subsections (6) and (7) of this section. To qualify for the distributions under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(6) Revenues distributed under subsections (2) through (5) of this section in any calendar year shall not exceed an amount equal to seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties during the previous calendar year. If distributions under subsections (3) through (5) of this section cannot be made because of this limitation, then distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties.

(7) If inadequate revenues exist in the county sales and use tax equalization account to make the distributions under subsections (3) through (5) of this section, then the distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties. At such time during the year as additional funds accrue to the county sales and use tax equalization account, additional distributions shall be made under subsections (3) through (5) of this section to the counties.

(8) If the level of revenues in the county sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (5) of this section, at such times as distributions are made under RCW 82.44.150, the state treasurer shall apportion an amount to the county public health account created in RCW 70.05.125 equal to the adjustment under RCW 70.05.125(2)(b).

(9) If the level of revenues in the county sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (5) and (8) of this section, then the additional revenues shall be credited and transferred ~~((to the state general fund))~~ as follows:

(a) Fifty percent to the public facilities construction loan revolving account under RCW 43.160.080; and

(b) Fifty percent to the distressed county public facilities construction loan account under section 9 of this act, or so much thereof as will not cause the balance in the account to exceed twenty-five million dollars. Any remaining funds shall be deposited into the public facilities construction loan revolving account.

NEW SECTION. Sec. 9. A new section is added to chapter 43.160 RCW to read as follows:

The distressed county public facilities construction loan account is created in the state treasury. All funds provided under RCW 82.14.200 shall be deposited in the account. Moneys in the account may be spent only after appropriation. Moneys in the account shall only be used to provide financial assistance under this chapter to distressed counties that have experienced extraordinary costs due to the location of a major new business facility or the substantial expansion of an existing business facility in the county.

For purposes of this section, the term "distressed counties" includes any county in which the average level of unemployment for the three years before the year in which an application for financial assistance is filed exceeds the average state employment for those years by twenty percent.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.14 RCW to read as follows:

(1) The distressed county assistance account is created in the state treasury. Into this account shall be placed a portion of all motor vehicle excise tax receipts as provided in RCW 82.44.110. At such times as distributions are made under RCW 82.44.150, the state treasurer shall distribute the funds in the distressed county assistance account to each county imposing the sales and use tax authorized under RCW 82.14.370 in the same proportions as distributions of the tax imposed under RCW 82.14.370 for the previous quarter.

(2) Funds distributed from the distressed county assistance account shall be expended by the counties for criminal justice and other purposes.

**Sec. 11.** RCW 82.14.310 and 1995 c 398 s 11 are each amended to read as follows:

(1) The county criminal justice assistance account is created in the state treasury. Beginning in fiscal year 2000, the state treasurer shall transfer into the county criminal justice assistance account from the general fund the sum of twenty-three million two hundred thousand dollars divided into four equal deposits occurring on July 1, October 1, January 1, and April 1. For each fiscal year thereafter, the state treasurer shall increase the total transfer by the fiscal growth factor, as defined in RCW 43.135.025, forecast for that fiscal year by the office of financial management in November of the preceding year.

(2) The moneys deposited in the county criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under ((RCW 82.44.110)) subsection (4) of this section, shall be distributed at such times as distributions are made under RCW 82.44.150 and on the relative basis of each county's funding factor as determined under this subsection.

(a) A county's funding factor is the sum of:

(i) The population of the county, divided by one thousand, and multiplied by two-tenths;

(ii) The crime rate of the county, multiplied by three-tenths; and

(iii) The annual number of criminal cases filed in the county superior court, for each one thousand in population, multiplied by five-tenths.

(b) Under this section and RCW 82.14.320 and 82.14.330:

(i) The population of the county or city shall be as last determined by the office of financial management;

(ii) The crime rate of the county or city is the annual occurrence of specified criminal offenses, as calculated in the most recent annual report on crime in Washington state as published by the Washington association of sheriffs and police chiefs, for each one thousand in population;

(iii) The annual number of criminal cases filed in the county superior court shall be determined by the most recent annual report of the courts of Washington, as published by the office of the administrator for the courts;

(iv) Distributions and eligibility for distributions in the 1989-91 biennium shall be based on 1988 figures for both the crime rate as described under (ii) of this subsection and the annual number of criminal cases that are filed as described under (iii) of this subsection. Future distributions shall be based on the most recent figures for both the crime rate as described under (ii) of this subsection and the annual number of criminal cases that are filed as described under (iii) of this subsection.

(3) Moneys distributed under this section shall be expended exclusively for criminal justice purposes and shall not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures. (4) Not more than five percent of the funds deposited to the county criminal justice assistance account shall be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Funds appropriated from this account for such enhancements shall not supplant existing funds from the state general fund.

**Sec. 12.** RCW 82.14.320 and 1995 c 398 s 12 and 1995 c 312 s 84 are each reenacted and amended to read as follows:

(1) The municipal criminal justice assistance account is created in the state treasury. Beginning in fiscal year 2000, the state treasurer shall transfer into the municipal criminal justice assistance account for distribution under this section from the general fund the sum of four million six hundred thousand dollars divided into four equal deposits occurring on July 1, October 1, January 1, and April 1. For each fiscal year

thereafter, the state treasurer shall increase the total transfer by the fiscal growth factor, as defined in RCW 43.135.025, forecast for that fiscal year by the office of financial management in November of the preceding year.

(2) No city may receive a distribution under this section from the municipal criminal justice assistance account unless:

(a) The city has a crime rate in excess of one hundred twenty-five percent of the state-wide average as calculated in the most recent annual report on crime in Washington state as published by the Washington association of sheriffs and police chiefs;

(b) The city has levied the tax authorized in RCW 82.14.030(2) at the maximum rate or the tax authorized in RCW 82.46.010(3) at the maximum rate; and

(c) The city has a per capita yield from the tax imposed under RCW 82.14.030(1) at the maximum rate of less than one hundred fifty percent of the state-wide average per capita yield for all cities from such local sales and use tax.

(3) The moneys deposited in the municipal criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under ~~((RCW 82.44.110))~~ subsection (7) of this section, shall be distributed at such times as distributions are made under RCW 82.44.150. The distributions shall be made as follows:

(a) Unless reduced by this subsection, thirty percent of the moneys shall be distributed ratably based on population as last determined by the office of financial management to those cities eligible under subsection (2) of this section that have a crime rate determined under subsection (2)(a) of this section which is greater than one hundred seventy-five percent of the state-wide average crime rate. No city may receive more than fifty percent of any moneys distributed under this subsection (a) but, if a city distribution is reduced as a result of exceeding the fifty percent limitation, the amount not distributed shall be distributed under (b) of this subsection.

(b) The remainder of the moneys, including any moneys not distributed in subsection (2)(a) of this section, shall be distributed to all cities eligible under subsection (2) of this section ratably based on population as last determined by the office of financial management.

(4) No city may receive more than thirty percent of all moneys distributed under subsection (3) of this section.

(5) Notwithstanding other provisions of this section, the distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), shall be made to the county in which the city is located.

(6) Moneys distributed under this section shall be expended exclusively for criminal justice purposes and shall not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020, and publications and public educational efforts designed to provide information and assistance to parents in dealing with runaway or at-risk youth. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(7) Not more than five percent of the funds deposited to the municipal criminal justice assistance account shall be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Funds appropriated from this account for such enhancements shall not supplant existing funds from the state general fund.

**Sec. 13.** RCW 82.14.330 and 1995 c 398 s 13 are each amended to read as follows:

(1) Beginning in fiscal year 2000, the state treasurer shall transfer into the municipal criminal justice assistance account for distribution under this section from the general fund the sum of four million six hundred thousand dollars divided into four equal deposits occurring on July 1, September 1, January 1, and March 1. For each fiscal year thereafter, the state treasurer shall increase the total transfer by the fiscal growth factor, as defined in RCW 43.135.025, forecast for that fiscal year by the office of financial management in November of the preceding year. The moneys deposited in the municipal criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under ~~((RCW 82.44.110))~~ subsection (4) of this section, shall be distributed to the cities of the state as follows:

(a) Twenty percent appropriated for distribution shall be distributed to cities with a three-year average violent crime rate for each one thousand in population in excess of one hundred fifty percent of the state-wide three-year average violent crime rate for each one thousand in population. The three-year average violent crime rate shall be calculated using the violent crime rates for each of the preceding three years from the annual reports on crime in Washington state as published by the Washington association of sheriffs and police chiefs. Moneys shall be distributed under this subsection (1)(a) ratably based on population as last determined by the office of financial management, but no city may receive more than one dollar per capita. Moneys remaining undistributed under this subsection at the end of each calendar year shall be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with ten or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

(b) Sixteen percent shall be distributed to cities ratably based on population as last determined by the office of financial management, but no city may receive less than one thousand dollars.

The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection shall be distributed at such times as distributions are made under RCW 82.44.150.

Moneys distributed under this subsection shall be expended exclusively for criminal justice purposes and shall not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(2) In addition to the distributions under subsection (1) of this section:

(a) Fourteen percent shall be distributed to cities that have initiated innovative law enforcement strategies, including alternative sentencing and crime prevention programs. No city may receive more than one dollar per capita under this subsection (2)(a).

(b) Twenty percent shall be distributed to cities that have initiated programs to help at-risk children or child abuse victim response programs. No city may receive more than fifty cents per capita under this subsection (2)(b).

(c) Twenty percent shall be distributed to cities that have initiated programs designed to reduce the level of domestic violence within their jurisdictions or to provide counseling for domestic violence victims. No city may receive more than fifty cents per capita under this subsection (2)(c).

(d) Ten percent shall be distributed to cities that contract with another governmental agency for a majority of the city's law enforcement services.

Moneys distributed under this subsection shall be distributed to those cities that submit funding requests under this subsection to the department of community, trade, and economic development based on criteria developed under RCW 82.14.335. Allocation of funds shall be in proportion to the population of qualified jurisdictions, but the distribution to a city shall not exceed the amount of funds requested. Cities shall submit requests for program funding to the department of community, trade, and economic development by November 1 of each year for funding the following year. The department shall certify to the state treasurer the cities eligible for funding under this subsection and the amount of each allocation.

The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection, less any moneys appropriated for purposes under ((RCW 82.44.110)) subsection (4) of this section, shall be distributed at the times as distributions are made under RCW 82.44.150. Moneys remaining undistributed under this subsection at the end of each calendar year shall be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with ten or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

If a city is found by the state auditor to have expended funds received under this subsection in a manner that does not comply with the criteria under which the moneys were received, the city shall be ineligible to receive future distributions under this subsection until the use of the moneys are justified to the satisfaction of the director or are repaid to the state general fund. The director may allow noncomplying use of moneys received under this subsection upon a showing of hardship or other emergent need.

(3) Notwithstanding other provisions of this section, the distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), shall be made to the county in which the city is located.

(4) Not more than five percent of the funds deposited to the municipal criminal justice assistance account shall be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Funds appropriated from this account for such enhancements shall not supplant existing funds from the state general fund.

**NEW SECTION. Sec. 14.** A new section is added to chapter 43.135 RCW to read as follows:

(1) Initiative Measure No. 601 (chapter 43.135 RCW, as amended by chapter . . ., Laws of 1998 (this act) and the amendatory changes enacted by section 6, chapter 2, Laws of 1994) is hereby reenacted and reaffirmed. The legislature also adopts this act to continue the general fund revenue and expenditure limitations contained in this chapter 43.135 RCW after this one-time transfer of funds.

(2) RCW 43.135.035(4) does not apply to sections 5 through 13, chapter . . ., Laws of 1998 (sections 5 through 13 of this act).

**Sec. 15.** RCW 43.135.060 and 1994 c 2 s 5 are each amended to read as follows:

(1) After July 1, 1995, the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed ((by specific appropriation)) by the state for the costs of the new programs or increases in service levels. Reimbursement by the state may be made by: (a) A specific appropriation; or (b) increases in state distributions of revenue to political subdivisions occurring after January 1, 1998.

(2) If by order of any court, or legislative enactment, the costs of a federal or local government program are transferred to or from the state, the otherwise applicable state expenditure limit shall be increased or decreased, as the case may be, by the dollar amount of the costs of the program.

(3) The legislature, in consultation with the office of financial management or its successor agency, shall determine the costs of any new programs or increased levels of service under existing programs imposed on any political subdivision or transferred to or from the state.

(4) Subsection (1) of this section does not apply to the costs incurred for voting devices or machines under RCW 29.04.200.

**NEW SECTION. Sec. 16.** In order to provide funds necessary for the location, design, right of way, and construction of state and local highway improvements, there shall be issued and sold upon the request of the Washington state transportation commission a maximum of one billion nine hundred million dollars of general obligation bonds of the state of Washington.

**NEW SECTION. Sec. 17.** Upon the request of the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by sections 16 through 21 of this act in accordance with chapter 39.42 RCW. Bonds authorized by sections 16 through 21 of this act shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

**NEW SECTION. Sec. 18.** The proceeds from the sale of bonds authorized by sections 16 through 21 of this act shall be deposited in the motor vehicle fund. The proceeds shall be available only for the purposes enumerated in section 16 of this act, for the payment of bond anticipation notes, if any, and for the payment of bond issuance costs, including the costs of underwriting.

**NEW SECTION. Sec. 19.** Bonds issued under the authority of sections 16 through 21 of this act shall distinctly state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal and interest on the bonds shall be first payable in the manner provided in sections 16 through 21 of this act from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapters 82.36 and 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of sections 16 through 21 of this act, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of sections 16 through 21 of this act.

**NEW SECTION. Sec. 20.** Both principal and interest on the bonds issued for the purposes of sections 16 through 21 of this act shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by sections 16 through 21 of this act shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and which is, or may be, appropriated to the department of transportation for state highway purposes. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues to the state, counties, cities and towns unless the amount arising from excise taxes on motor vehicle and special fuels distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes that are distributable to the state, counties, cities and towns, shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes distributed to the motor vehicle fund not required for bond retirement or interest on the bonds.

**NEW SECTION. Sec. 21.** Bonds issued under the authority of sections 16 through 20 of this act and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes.

**NEW SECTION. Sec. 22.** (1) A joint committee is created to study the long-term transportation funding needs in the state. The committee shall consist of twenty members as follows:

(a) The chairpersons of the house transportation policy and budget committee and the senate transportation committee shall each appoint four of the members of their respective committees to serve on the joint committee. Of these, the chairpersons shall each appoint two members to represent the majority caucus and two members to represent the minority caucus. The chairpersons of the senate ways and means committee and the house appropriations committee shall each appoint one of the members of their respective committees to serve on the joint committee.

(b) The governor shall appoint one member to serve on the joint committee.

(c) The association of Washington counties shall appoint two members to the committee. One member shall be appointed to represent small counties and one member shall be appointed to represent large counties.

(d) The association of Washington cities shall appoint two members to the committee. One member shall be appointed to represent small cities and towns and one member shall be appointed to represent large cities.

(e) The majority and minority leaders of the house of representatives and the senate shall each appoint two members to represent business and the governor shall appoint one member to represent business for a total of five members representing business.

The members of the joint committee shall elect a chairperson from the membership of the committee.

(2) The committee shall study the transportation needs of state and local government with the objective of developing a fair and predictable long-term funding system for state and local transportation needs, including any appropriate reforms and reprioritizations. The study may address differential funding sources for urban congestion districts, local option funding including possible modifications to the current local option taxing authority of counties and cities, public-private partnerships for new transportation projects, improvements to freight mobility, streamlining categorical funding mechanisms to emphasize high priority projects, and increased certainty from setting time limits on permitting processes.

(3) The office of financial management, the department of licensing, the department of community, trade and economic development, and the department of transportation shall provide assistance to the joint committee as needed.

(4) The joint committee shall provide an interim progress report to the governor and the house and senate fiscal committees by December 1, 1998. The joint committee shall provide a final report of its findings and recommendations to the governor and the house and senate fiscal committees by December 1, 1999.

**Sec. 23.** RCW 82.50.410 and 1991 c 199 s 225 are each amended to read as follows:

The rate and measure of tax imposed by RCW 82.50.400 for each registration year shall be one and one-tenth percent (~~(and a surcharge of one-tenth of one percent,))~~ of the value of the travel trailer or camper, as determined in the manner provided in this chapter: PROVIDED, That the excise tax upon a travel trailer or camper licensed for the first time in this state after the last day of any registration month may only be levied for the remaining months of the registration year including the month in which the travel trailer or camper is first licensed: PROVIDED FURTHER, That the minimum amount of tax payable shall be two dollars: PROVIDED FURTHER, That every dealer in mobile homes or travel trailers, for the privilege of using any mobile home or travel trailer eligible to be used under a dealer's license plate, shall pay an excise tax of two dollars, and such tax shall be collected upon the issuance of each original dealer's license plate, and also a similar tax shall be collected upon the issuance of each dealer's duplicate license plate, which taxes shall be in addition to any tax otherwise payable under this chapter.

A travel trailer or camper shall be deemed licensed for the first time in this state when such vehicle was not previously licensed by this state for the registration year or any part thereof immediately preceding the registration year in which application for license is made or when it has been registered in another jurisdiction subsequent to any prior registration in this state.

**Sec. 24.** RCW 82.50.510 and 1991 c 199 s 227 are each amended to read as follows:

The county auditor shall regularly, when remitting motor vehicle excise taxes, pay to the state treasurer the excise taxes imposed by RCW 82.50.400. The treasurer shall then distribute such funds quarterly on the first day of the month of January, April, July and October of each year in the following amount:

(1) (~~(For the one percent tax imposed under RCW 82.50.410, fifteen))~~ 13.64 percent to cities and towns for the use thereof apportioned ratably among such cities and towns on the basis of population; (~~(fifteen))~~)

(2) 13.64 percent to counties for the use thereof to be apportioned ratably among such counties on the basis of moneys collected in such counties from the excise taxes imposed under this chapter; (~~(and seventy))~~)

(3) 63.64 percent for schools to be deposited in the state general fund; and

(~~(2) for the one-tenth of one percent surcharge imposed under RCW 82.50.410, one hundred))~~ (4) 9.08 percent to the transportation fund created in RCW 82.44.180.

**Sec. 25.** RCW 35.58.273 and 1992 c 194 s 11 are each amended to read as follows:

(1) (~~(Through June 30, 1992, any municipality, as defined in this subsection, is authorized to levy and collect a special excise tax not exceeding .7824 percent and beginning July 1, 1992, .725 percent on the value, as determined under chapter 82.44 RCW, of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to RCW 82.44.150 (3) and (4), the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020(1). As used in this subsection, the term "municipality" means a municipality that is located within (a) each county with a population of two hundred ten thousand or more and (b) each county with a population of from one hundred twenty five thousand to less than two hundred ten thousand except for those counties that do not border a county with a population as described under subsection (a) of this subsection.~~)

(2) ~~(Through June 30, 1992, any other))~~ A municipality is authorized to levy and collect a special excise tax not exceeding (~~(.815 percent, and beginning July 1, 1992,))~~ .725 percent on the value, as determined under chapter 82.44 RCW, of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to RCW 82.44.150 (3) and (4), the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020(1). Before utilization of any excise tax moneys collected under authorization of this section for acquisition of right of way or construction of a mass transit facility on a separate right of way the municipality shall adopt rules affording the public an opportunity for

"corridor public hearings" and "design public hearings" as herein defined, which rule shall provide in detail the procedures necessary for public participation in the following instances: (a) Prior to adoption of location and design plans having a substantial social, economic or environmental effect upon the locality upon which they are to be constructed or (b) on such mass rapid transit systems operating on a separate right of way whenever a substantial change is proposed relating to location or design in the adopted plan. In adopting rules the municipality shall adhere to the provisions of the Administrative Procedure Act.

~~((3))~~ (2) A "corridor public hearing" is a public hearing that: (a) Is held before the municipality is committed to a specific mass transit route proposal, and before a route location is established; (b) is held to afford an opportunity for participation by those interested in the determination of the need for, and the location of, the mass rapid transit system; (c) provides a public forum that affords a full opportunity for presenting views on the mass rapid transit system route location, and the social, economic and environmental effects on that location and alternate locations: PROVIDED, That such hearing shall not be deemed to be necessary before adoption of an overall mass rapid transit system plan by a vote of the electorate of the municipality.

~~((4))~~ (3) A "design public hearing" is a public hearing that: (a) Is held after the location is established but before the design is adopted; and (b) is held to afford an opportunity for participation by those interested in the determination of major design features of the mass rapid transit system; and (c) provides a public forum to afford a full opportunity for presenting views on the mass rapid transit system design, and the social, economic, environmental effects of that design and alternate designs.

~~((5))~~ (4) A municipality imposing a tax under subsection (1) ~~((or (2)))~~ of this section may also impose a sales and use tax, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the municipality that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall not exceed 1.944 percent. The rate of tax imposed under this subsection shall bear the same ratio to the 1.944 percent rate authorized that the rate imposed under ~~((RCW 82.08.020(2) as the excise tax rate imposed under))~~ subsection (1) of this section bears to the ~~((excise tax))~~ rate ~~((imposed under RCW 82.44.020 (1) and (2)))~~ authorized under subsection (1) of this section. The base of the tax shall be the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax. The tax imposed under this section shall be deducted from the amount of tax otherwise due under RCW 82.08.020(2). The revenue collected under this subsection shall be distributed in the same manner as special excise taxes under subsection~~((s))~~ (1) ~~((and (2)))~~ of this section.

**Sec. 26.** RCW 35.58.410 and 1993 c 240 s 11 are each amended to read as follows:

(1) On or before the third Monday in June of each year, each metropolitan municipal corporation shall adopt a budget for the following calendar year. Such budget shall include a separate section for each authorized metropolitan function. Expenditures shall be segregated as to operation and maintenance expenses and capital and betterment outlays. Administrative and other expense general to the corporation shall be allocated between the authorized metropolitan functions. The budget shall contain an estimate of all revenues to be collected during the following budget year, including any surplus funds remaining unexpended from the preceding year. The metropolitan council shall not be required to confine capital or betterment expenditures made from bond proceeds or emergency expenditures to items provided in the budget. The affirmative vote of three-fourths of all members of the metropolitan council shall be required to authorize emergency expenditures.

(2) Subsection (1) of this section shall not apply to a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW. This subsection (2) shall apply only to each county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW.

Each county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW shall, on or before the third Monday in June of each year, prepare an estimate of all revenues to be collected during the following calendar year, including any surplus funds remaining unexpended from the preceding year for each authorized metropolitan function.

By June 30 of each year, the county shall adopt the rate for sewage disposal that will be charged to component cities and sewer districts during the following budget year.

As long as any general obligation indebtedness remains outstanding that was issued by the metropolitan municipal corporation prior to the assumption by the county, the county shall continue to impose the taxes authorized by RCW 82.14.045 and 35.58.273~~((5))~~ (4) at the maximum rates and on all of the taxable events authorized by law. If, despite the continued imposition of those taxes, the estimate of revenues made on or before the third Monday in June shows that estimated revenues will be insufficient to make all debt service payments falling due in the following calendar year on all general obligation indebtedness issued by the metropolitan municipal corporation prior to the assumption by the county of the rights, powers, functions, and obligations of the metropolitan municipal corporation, the remaining amount required to make the debt service payments shall be designated as "supplemental income" and shall be obtained from component cities and component counties as provided under RCW 35.58.420.

The county shall prepare and adopt a budget each year in accordance with applicable general law or county charter. If supplemental income has been designated under this subsection, the supplemental income shall be reflected in the budget that is adopted. If during the budget year the actual tax revenues from the taxes imposed under the authority of RCW 82.14.045 and 35.58.273~~((5))~~ (4) exceed the estimates upon which the supplemental income was based, the difference shall be refunded to the component cities and component counties g29 proportion to their payments promptly after the end of the budget year. A county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW shall not be required to confine capital or betterment expenditures for authorized metropolitan functions from bond proceeds or emergency expenditures to items provided in the budget.



**Sec. 27.** RCW 43.160.070 and 1997 c 235 s 721 are each amended to read as follows:

Public facilities financial assistance, when authorized by the board, is subject to the following conditions:

(1) The moneys in the public facilities construction loan revolving ~~((fund))~~ account and the distressed county public facilities construction loan account shall be used solely to fulfill commitments arising from financial assistance authorized in this chapter or, during the 1989-91 fiscal biennium, for economic development purposes as appropriated by the legislature. The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the funds. The total amount of outstanding financial assistance in Pierce, King, and Snohomish counties shall never exceed sixty percent of the total amount of outstanding financial assistance disbursed by the board under this chapter without reference to financial assistance provided under section 9 of this act.

(2) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans as the board determines. The loans shall not exceed twenty years in duration.

(3) Repayments of loans made from the public facilities construction loan revolving account under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving ~~((fund))~~ account. Repayments of loans made from the distressed county public facilities construction loan account under the contracts for public facilities construction loans shall be paid into the distressed county public facilities construction loan account. Repayments of loans from moneys from the new appropriation from the public works assistance account for the fiscal biennium ending June 30, 1999, shall be paid into the public works assistance account.

(4) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist.

**Sec. 28.** RCW 43.160.076 and 1997 c 367 s 9 are each amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter without reference to financial assistance provided under section 9 of this act, the board shall spend at least seventy-five percent for financial assistance for projects in distressed counties or rural natural resources impact areas. For purposes of this section, the term "distressed counties" includes any county, in which the average level of unemployment for the three years before the year in which an application for financial assistance is filed, exceeds the average state employment for those years by twenty percent.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties or rural natural resources impact areas are clearly insufficient to use up the seventy-five percent allocation under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in distressed counties or rural natural resources impact areas.

**Sec. 29.** 1997 c 367 s 10 (uncodified) is each amended to read as follows:

RCW 43.160.076 and section 28 of this act, 1997 c 367 s 10, 1991 c 314 § 24, & 1985 c 446 s 6 are each repealed effective June 30, 2000.

**Sec. 30.** RCW 43.160.080 and 1992 c 235 s 10 are each amended to read as follows:

There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter, except moneys of the board collected in connection with the issuance of industrial development revenue bonds and moneys deposited in the distressed county public facilities construction loan account under section 9 of this act, and any moneys appropriated to it by law: PROVIDED, That seventy-five percent of all principal and interest payments on loans made with the proceeds deposited in the account under section 901, chapter 57, Laws of 1983 1st ex. sess. shall be deposited in the general fund as reimbursement for debt service payments on the bonds authorized in RCW 43.83.184. Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW.

**Sec. 31.** RCW 43.160.210 and 1996 c 290 s 1 and 1996 c 51 s 10 are each reenacted and amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance under this chapter without reference to financial assistance provided under section 9 of this act, the board shall designate at least twenty percent for financial assistance for projects in distressed counties. For purposes of this section, the term "distressed counties" includes any county, in which: (a) The average level of unemployment for the three years before the year in which an application for financial assistance is filed, exceeds the average state employment for those years by twenty percent; or (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties are clearly insufficient to use up the twenty percent allocation under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance for projects not located in distressed counties.

**Sec. 32.** RCW 46.16.068 and 1993 c 123 s 4 are each amended to read as follows:

Trailing units which are subject to RCW 82.44.020~~((5))~~ (4) shall, upon application, be issued a permanent license plate that is valid until the vehicle is sold, permanently removed from the state, or otherwise disposed of by the registered owner. The fee for this license plate is

thirty-six dollars. Upon the sale, permanent removal from the state, or other disposition of a trailing unit bearing a permanent license plate the registered owner is required to return the license plate and registration certificate to the department. Violations of this section or misuse of a permanent license plate may subject the registered owner to prosecution or denial, or both, of future permanent registration of any trailing units. This section does not apply to any trailing units subject to the annual excise taxes prescribed in RCW 82.44.020. The department is authorized to adopt rules to implement this section for leased vehicles and other applications as necessary.

**Sec. 33.** RCW 70.94.015 and 1993 c 252 s 1 are each amended to read as follows:

(1) The air pollution control account is established in the state treasury. All receipts collected by or on behalf of the department from RCW 70.94.151(2), and receipts from nonpermit program sources under RCW 70.94.152(1) and 70.94.154(7), and all receipts from RCW 70.94.650, 70.94.660, 82.44.020(~~((3))~~) (2), and 82.50.405 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to develop and implement the provisions of chapters 70.94 and 70.120 RCW.

(2) The amounts collected and allocated in accordance with this section shall be expended upon appropriation except as otherwise provided in this section and in accordance with the following limitations:

Portions of moneys received by the department of ecology from the air pollution control account shall be distributed by the department to local authorities based on:

(a) The level and extent of air quality problems within such authority's jurisdiction;

(b) The costs associated with implementing air pollution regulatory programs by such authority; and

(c) The amount of funding available to such authority from other sources, whether state, federal, or local, that could be used to implement such programs.

(3) The air operating permit account is created in the custody of the state treasurer. All receipts collected by or on behalf of the department from permit program sources under RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7) shall be deposited into the account. Expenditures from the account may be used only for the activities described in RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7). Moneys in the account may be spent only after appropriation.

**Sec. 34.** RCW 81.100.060 and 1992 c 194 s 12 are each amended to read as follows:

A county with a population of one million or more and a county with a population of from two hundred ten thousand to less than one million that is adjoining a county with a population of one million or more, having within their boundaries existing or planned high occupancy vehicle lanes on the state highway system may, with voter approval, impose a local surcharge of not more than (~~(fifteen))~~ 13.64 percent on the state motor vehicle excise tax paid under RCW 82.44.020(1) on vehicles registered to a person residing within the county and on the state sales and use taxes paid under the rate in RCW 82.08.020(2) on retail car rentals within the county. No surcharge may be imposed on vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, (~~(46.16.080,))~~ 46.16.085, or 46.16.090.

Counties imposing a tax under this section shall contract, before the effective date of the resolution or ordinance imposing a surcharge, administration and collection to the state department of licensing, and department of revenue, as appropriate, which shall deduct an amount, as provided by contract, for administration and collection expenses incurred by the department. All administrative provisions in chapters 82.03, 82.32, and 82.44 RCW shall, insofar as they are applicable to state motor vehicle excise taxes, be applicable to surcharges imposed under this section. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW shall, insofar as they are applicable to state sales and use taxes, be applicable to surcharges imposed under this section.

If the tax authorized in RCW 81.100.030 is also imposed by the county, the total proceeds from tax sources imposed under this section and RCW 81.100.030 each year shall not exceed the maximum amount which could be collected under this section.

**Sec. 35.** RCW 81.104.160 and 1992 c 194 s 13 and 1992 c 101 s 27 are each reenacted and amended to read as follows:

(1) Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, and regional transit authorities may submit an authorizing proposition to the voters, and if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding eighty one-hundredths of one percent on the value, under chapter 82.44 RCW, of every motor vehicle owned by a resident of the taxing district, solely for the purpose of providing high capacity transportation service. In any county imposing a motor vehicle excise tax surcharge pursuant to RCW 81.100.060, the maximum tax rate under this section shall be reduced to a rate equal to eighty one-hundredths of one percent on the value less the equivalent motor vehicle excise tax rate of the surcharge imposed pursuant to RCW 81.100.060. This rate shall not apply to vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, (~~(46.16.080,))~~ 46.16.085, or 46.16.090.

(2) An agency imposing a tax under subsection (1) of this section may also impose a sales and use tax solely for the purpose of providing high capacity transportation service, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the agency's jurisdiction that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall not exceed 2.172 percent. The rate of tax imposed under this subsection shall bear the same ratio to the 2.172 percent rate authorized that the rate imposed under (~~(RCW 82.08.020(2) as the excise tax rate imposed under~~) subsection (1) of this section bears to the (~~(excise tax))~~ rate (~~(imposed under RCW 82.44.020 (1) and (2))~~) authorized under subsection (1) of this section. The base of the tax shall be the selling price in the case of a sales tax or the rental value of the

vehicle used in the case of a use tax. The revenue collected under this subsection shall be used in the same manner as excise taxes under subsection (1) of this section.

**Sec. 36.** RCW 82.08.020 and 1992 c 194 s 9 are each amended to read as follows:

(1) There is levied and there shall be collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) There is levied and there shall be collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. ~~((Ninety-one percent of))~~ The revenue collected under this subsection shall be deposited and distributed in the same manner as motor vehicle excise tax revenue collected under RCW 82.44.020(1). ~~((Nine percent of the revenue collected under this subsection shall be deposited in the transportation fund and distributed in the same manner as motor vehicle excise tax revenue collected under RCW 82.44.020(2).))~~

(3) The taxes imposed under this chapter shall apply to successive retail sales of the same property.

(4) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

**Sec. 37.** RCW 82.14.046 and 1995 c 298 s 1 are each amended to read as follows:

Beginning with distributions made to municipalities under RCW 82.44.150 on January 1, 1996, municipalities as defined in RCW 35.58.272 imposing local transit taxes, which for purposes of this section include the sales and use tax under RCW 82.14.045, the business and occupation tax under RCW 35.95.040, and excise taxes under RCW 35.95.040, shall be eligible for sales and use tax equalization payments from motor vehicle excise taxes distributed under RCW 82.44.150 as follows:

(1) Prior to January 1st of each year the department of revenue shall determine the total and the per capita levels of revenues for each municipality imposing local transit taxes and the state-wide weighted average per capita level of sales and use tax revenues imposed under chapters 82.08 and 82.12 RCW for the previous calendar year calculated for a sales and use tax rate of one-tenth percent. For purposes of this section, the department of revenue shall determine a local transit tax rate for each municipality for the previous calendar year. The tax rate shall be equivalent to the sales and use tax rate for the municipality that would have generated an amount of revenue equal to the amount of local transit taxes collected by the municipality.

(2) For each tenth of one percent of the local transit tax rate, the state treasurer shall apportion to each municipality receiving less than eighty percent of the state-wide weighted average per capita level of sales and use tax revenues imposed under chapters 82.08 and 82.12 RCW as determined by the department of revenue under subsection (1) of this section, an amount when added to the per capita level of revenues received the previous calendar year by the municipality, to equal eighty percent of the state-wide weighted average per capita level of revenues determined under subsection (1) of this section. In no event may the sales and use tax equalization distribution to a municipality in a single calendar year exceed: (a) Fifty percent of the amount of local transit taxes collected during the prior calendar year; or (b) the maximum amount of revenue that could have been collected at a local transit tax rate of three-tenths percent in the prior calendar year.

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

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

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

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

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

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

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

(i) Estimate the per capita amount of revenues from local transit taxes that the new municipality would have received had the municipality received revenues from the tax the entire calendar year;

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

(iii) Prorate the amount determined under (b)(ii) of this subsection by the number of months the local transit taxes have been imposed.

(c) The department of revenue shall advise the state treasurer of the amounts calculated under (b) of this subsection and the state treasurer shall distribute these amounts to the new municipality from the motor vehicle excise tax ~~((distributed under RCW 82.44.150(2)(d)))~~ deposited into the transportation fund under RCW 82.44.110.

(4) A municipality whose governing body implements a tax change that reduces its local transit tax rate after January 1, 1994, may not receive distributions under this section.

**Sec. 38.** RCW 82.44.023 and 1994 c 227 s 3 are each amended to read as follows:

Rental cars as defined in RCW 46.04.465 are exempt from the taxes imposed in RCW 82.44.020(1) ~~((and (2)))~~. When a rental car ceases to be used for rental car purposes and at the time of its retail sale, the excise tax imposed in RCW 82.44.020(1) ~~((and (2)))~~ shall be imposed in an amount equal to one-twelfth of the annual excise tax then in effect, for each full month remaining in the vehicle's registration year.

**Sec. 39.** RCW 82.44.025 and 1996 c 139 s 3 are each amended to read as follows:

Motor vehicles licensed under RCW 46.16.374 are exempt from the ~~((taxes))~~ tax imposed in RCW 82.44.020(1) ~~((and (2)))~~. When the motor vehicle ceases to be used for the purposes of RCW 46.16.374 or at the time of its retail sale, the excise tax imposed in RCW 82.44.020(1) ~~((and (2)))~~ must be imposed for twelve full months from the date of application of the new owner.

**Sec. 40.** RCW 82.44.155 and 1993 c 492 s 254 are each amended to read as follows:

The city police and fire protection assistance account is created in the state treasury. When distributions are made under RCW 82.44.150, the state treasurer shall apportion and distribute the motor vehicle excise taxes deposited into the ~~((general fund))~~ city police and fire protection assistance account under RCW 82.44.110~~((1)(d)))~~ to the cities and towns ratably on the basis of population as last determined by the office of financial management. When so apportioned, the amount payable to each such city and town shall be transmitted to the city treasurer thereof, and shall be used by the city or town for the purposes of police and fire protection in the city or town, and not otherwise. If it is adjudged that revenue derived from the excise ~~((taxes))~~ tax imposed by RCW 82.44.020(1) ~~((and (2)))~~ cannot lawfully be apportioned or distributed to cities or towns, all moneys directed by this section to be apportioned and distributed to cities and towns shall be credited and transferred to the state general fund.

**Sec. 41.** RCW 82.44.180 and 1995 c 269 s 2601 are each amended to read as follows:

(1) The transportation fund is created in the state treasury. Revenues under RCW ~~((82.44.020 (1) and (2)))~~ 82.44.110~~((, 82.44.150))~~ and ~~((the surcharge under RCW))~~ 82.50.510 shall be deposited into the fund as provided in those sections.

Moneys in the fund may be spent only after appropriation. Expenditures from the fund may be used only for transportation purposes and activities and operations of the Washington state patrol not directly related to the policing of public highways and that are not authorized under Article II, section 40 of the state Constitution.

(2) There is hereby created the central Puget Sound public transportation account within the transportation fund. Moneys deposited into the account under RCW 82.44.150(2)(b) shall be appropriated to the transportation improvement board and allocated by the transportation improvement board to public transportation projects within the region from which the funds are derived, solely for:

- (a) Planning;
- (b) Development of capital projects;
- (c) Development of high capacity transportation systems as defined in RCW 81.104.015;
- (d) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020; and
- (e) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board from other fund sources.

(3) There is hereby created the public transportation systems account within the transportation fund. Moneys deposited into the account under RCW 82.44.150(2)(c) shall be appropriated to the transportation improvement board and allocated by the transportation improvement board to public transportation projects submitted by the public transportation systems from which the funds are derived, solely for:

- (a) Planning;
- (b) Development of capital projects;
- (c) Development of high capacity transportation systems as defined in RCW 81.104.015;
- (d) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020;
- (e) Other public transportation system-related roadway projects on state highways, county roads, or city streets; and
- (f) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board from other fund sources.

**Sec. 42.** RCW 84.44.050 and 1993 c 123 s 3 are each amended to read as follows:

The personal property of automobile transportation companies owning, controlling, operating or managing any motor propelled vehicle used in the business of transporting persons and/or property for compensation over any public highway in this state between fixed termini or over a regular route, shall be listed and assessed in the various counties where such vehicles are operated, in proportion to the mileage of their operations in such counties: PROVIDED, That vehicles subject to chapter 82.44 RCW and trailer units exempt under RCW 82.44.020~~((5))~~ (4) shall not be listed or assessed for ad valorem taxation so long as chapter 82.44 RCW remains in effect. All vessels of every class which are by law required to be registered, licensed or enrolled, must be assessed and the taxes thereon paid only in the county of their actual situs:

PROVIDED, That such interest shall be taxed but once. All boats and small craft not required to be registered must be assessed in the county of their actual situs.

NEW SECTION. Sec. 43. Within ten days of the effective date of this section, the state treasurer shall lend twenty-five million dollars from the state general fund to the motor vehicle fund to be used for engineering, design, and right-of-way acquisition related to road construction projects. The loan shall be repaid by July 1, 2001, from motor vehicle excise tax revenues deposited into the motor vehicle fund.

NEW SECTION. Sec. 44. Sections 16 through 21 of this act are each added to chapter 47.10 RCW.

NEW SECTION. Sec. 45. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 46. (1) Sections 1 through 3, 5 through 21, 44, and 45 of this act take effect January 1, 1999.

(2) Section 4 of this act takes effect July 1, 1999, and applies to registrations that are due or become due in July 1999, and thereafter.

NEW SECTION. Sec. 47. (1) Section 22 of this act takes effect ninety days after the end of the legislative session as provided in Article 2, section 1 of the state Constitution.

(2) Sections 23 through 30 and 32 through 42 of this act take effect January 1, 1999, and section 31 of this act takes effect June 30, 2000, if sections 1 through 21 and 44 through 46 of this act are validly submitted to and are approved and ratified by the voters at a general election held in November 1998. If sections 1 through 21 and 44 through 46 of this act are not approved and ratified, sections 23 through 42 of this act are null and void in their entirety.

NEW SECTION. Sec. 48. Section 43 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 49. The secretary of state shall submit sections 1 through 21 and 44 through 46 of this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation.

NEW SECTION. Sec. 50. Sections 23 through 42 of this act are technical only and do not result in any substantive change in the law. Therefore, to conserve costs, the secretary of state shall not publish sections 23 through 42 of this act in the voter's pamphlet in conjunction with sections 1 through 21 and 44 through 46 of this act."

#### MOTION

Senator McAuliffe moved that the following amendment to the striking amendment by Senator West be adopted:

On page 24, after line 4 of the striking amendment, insert the following:

"NEW SECTION. Sec. 15. A new section is added to chapter 43.135 RCW to read as follows:

The legislature intends that the transfer of revenues from the state general fund in this act shall not reduce resources available for support of the common schools and higher education.

In any fiscal year in which state general fund revenues are forecast to be less than the state expenditure limit under chapter 43.135 RCW, the state treasurer shall transfer to the general fund, on a quarterly basis, moneys from the emergency reserve fund in amounts sufficient to support state general fund appropriations made for the support of the common schools and higher education."

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

Senator Johnson demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator McAuliffe on page 24, after line 4, to the striking amendment by Senator West to Engrossed House Bill No. 2894.

Further debate ensued.

#### ROLL CALL

The Secretary called the roll and the amendment to the striking amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.

#### MOTION

Senator Loveland moved that the following amendment to the striking amendment by Senator West be adopted:

On page 24, line 14 of the striking amendment, after "1998 " insert ", other than the distributions set forth in sections 11 through 13, chapter ..... Laws of 1998 (sections 11 through 13 of this act)"

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Loveland on page 24, after line 14, to the striking amendment by Senator West to Engrossed House Bill No. 2894.

#### ROLL CALL

The Secretary called the roll and the amendment to the striking amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.

#### MOTION

Senator Brown moved that the following amendment to the striking amendment by Senator West be adopted:

On page 26, after line 24 of the striking amendment, insert the following:

"NEW SECTION. Sec. 21. A new section is added to chapter 39.42 RCW to read as follows:

The aggregate debt contracted by the state motor vehicle fund shall not exceed that amount for which payments of principal and interest in any fiscal year would require the state motor vehicle fund to expend more than twenty-one percent of the arithmetic mean of its state fuel tax revenues for the three immediately preceding fiscal years as certified by the treasurer. The term "fiscal year" means that period of time commencing July 1 of any year and ending on June 30 of the following year. As used in this section, the term "state motor vehicle fund" means the state's share of the motor fuel tax deposited into the motor vehicle fund."

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

#### MOTION

Senators McCaslin, Johnson and West demanded the previous question and the demand was sustained.

Senator Brown demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the demand for the previous question.

#### ROLL CALL

The Secretary called the roll and the demand for the previous question carried by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Brown on page 26, after line 24, to the striking amendment by Senator West to Engrossed House Bill No. 2894.

#### ROLL CALL

The Secretary called the roll and the amendment to the striking amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald,

Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.

#### MOTION

Senator West moved that the following amendment to the striking amendment by Senator West be adopted:

On page 27, line 18 of the striking amendment, strike "two members" and insert "one member"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator West on page 27, line 18, to the striking amendment by Senator West to Engrossed House Bill No. 2894.

The motion by Senator West carried and the amendment to the striking amendment was adopted.

#### MOTION

Senator Kohl moved that the following amendment to the striking amendment by Senator West be adopted:

On page 44, line 5 of the striking amendment, after "fund." insert "If sections 1 through 21 and 44 through 66 of this act are not adopted and ratified by the people pursuant to section 49 of this act, the loan, plus interest, shall be repaid by July 1, 1999, from money in the motor vehicle fund."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Kohl on page 44, line 5, to the striking amendment by Senator West to Engrossed House Bill No. 2894.

#### ROLL CALL

The Secretary called the roll and the amendment to the striking amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.

#### MOTION

Senator Tim Sheldon moved that the following amendment to the striking amendment by Senator West be adopted:

On page 45, after line 3 of the amendment, strike all the material down to and including "act." on page 45, line 8

Renumber the sections consecutively and correct any internal references accordingly

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Tim Sheldon on page 45, after line 3, to the striking amendment by Senator West to Engrossed House Bill No. 2894.

#### ROLL CALL

The Secretary called the roll and the amendment to the striking amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.

## MOTION

Senator Snyder moved that the following amendment by Senators Snyder and Goings to the striking amendment by Senator West be adopted:

On page 45, after line 3 of the striking amendment, insert the following:

"NEW SECTION. **Sec. 49.** This act shall be null and void if the secretary of state submits Initiative 691 to the people at the November 1998 general election in accordance with Article II, section 1 of the state Constitution and laws adopted to facilitate its operation."

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

## MOTION

Senators Johnson, McDonald and Horn demanded the previous question and the demand was sustained.

Senator Heavey demanded a roll call and the demand was sustained.

## RULING BY THE PRESIDENT

President Owen: "The President must admit that in the inquiry by Senator Brown earlier as to whether or not she could close debate, we found that there are conflicting rules, between Reed's Rules and the Senate Rules. The Senate Rules supercede the Reed's Rules and do allow for the opener to close debate. Therefore, if this motion passes, it will be appropriate for the maker of the motion to close debate."

The President declared the question before the Senate to be the roll call on the demand for the previous question.

## ROLL CALL

The Secretary called the roll and the demand for the previous question carried by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senators Snyder and Goings on page 45, after line 3, to the striking amendment by Senator West to Engrossed House Bill No. 2894.

Debate ensued.

## ROLL CALL

The Secretary called the roll and the amendment to the striking amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.

The President declared the question before the Senate to be the adoption of the striking amendment, by Senator West, as amended, to Engrossed House Bill No. 2894.

Senator Snyder demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the striking amendment by Senator West, as amended, to Engrossed House Bill No. 2894.

Debate ensued.



## ROLL CALL

The Secretary called the roll and the striking amendment, as amended, was adopted by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23.

## MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, on line 3 of the title, after "reduction;", strike the remainder of the title and insert "amending RCW 82.44.020, 82.44.041, 82.44.110, 82.44.150, 82.14.045, 82.14.200, 82.14.310, 82.14.330, 43.135.060, 82.50.410, 82.50.510, 35.58.273, 35.58.410, 43.160.070, 43.160.076, 43.160.080, 46.16.068, 70.94.015, 81.100.060, 82.08.020, 82.14.046, 82.44.023, 82.44.025, 82.44.155, 82.44.180, and 84.44.050; amending 1997 c 367 s 10 (uncodified); reenacting and amending RCW 82.14.320, 43.160.210, and 81.104.160; adding a new section to chapter 82.44 RCW; adding a new section to chapter 43.160 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 43.135 RCW; adding new sections to chapter 47.10 RCW; creating new sections; providing effective dates; providing a contingent effective date; providing for submission of certain sections of this act to a vote of the people; and declaring an emergency."

On motion of Senator West, the rules were suspended, Engrossed House Bill No. 2894, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

## POINT OF ORDER

Senator Snyder: "I rise to a point of order, Mr. President. Senate Rule 25 says that no measure shall include more than one subject and that is based on Article II, Section 19 of the Constitution. Now, this measure has appropriations, it has taxes, it has a reaffirm of 601, it has a bond sale, and I could go on and on.

"Now, I want to refer you to 1951--the Senate Journal--the Eighth Day. A conference committee reported back a budget bill and in that budget bill, it included a tax measure. When the point of order was raised, Victor Aloysius Meyers, the President of the Senate at that time, agreed with the Senator that challenged and said that there were two subjects in that bill. But, the Senate appealed his ruling and they overrode his ruling. They did not sustain his ruling and went on and passed that legislation. One of the aggrieved people went to the Supreme Court of the state of Washington. The Supreme Court said, 'Yes, Victor Aloysius Meyers, you were correct.' The budget that they passed with a tax measure was thrown out. The state was broke. There was a special session within four days to right the wrong that was done at that time.

"So, I maintain that there are several subjects in this measure and, therefore, we cannot and should not vote on it."

Debate ensued.

## MOTION

On motion of Senator Johnson, and there being no objection, further consideration of Engrossed House Bill No. 2894 was deferred.

Vice President Pro Tempore Morton assumed the Chair.

There being no objection, the Vice President Pro Tempore reverted the Senate to the first order of business.

## REPORTS OF STANDING COMMITTEES

March 5, 1998

EHB 2410 Prime Sponsor, Representative Dyer: Establishing the department of social and health services as the sole administrator for boarding homes. Reported by Committee on Health and Long-Term Care

MAJORITY Recommendation: Do pass as amended. Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley, Franklin and Wojahn.

MINORITY Recommendation: Do not pass as amended. Signed by Senators Benton and Strannigan.

Passed to Committee on Rules for second reading.

March 4, 1998

ESHB 2417 Prime Sponsor, House Committee on Transportation Policy and Budget: Authorizing local vehicle license fees adopted to fund transportation projects. Reported by Committee on Transportation

MAJORITY Recommendation: Do pass as amended. Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Horn, Morton, Newhouse, Oke and Sellar.

MINORITY Recommendation: Do not pass. Signed by Senators Goings, Haugen, Patterson, Prentice and Rasmussen.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Johnson, the Senate advanced to the sixth order of business.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2885, by House Committee on Law and Justice (originally sponsored by Representatives Mulliken, Sheahan, Costa, McDonald, Backlund, Mielke, Smith, Boldt and Thompson)

Providing additional penalty options for drunk driving.

The bill was read the second time.

#### MOTION

Senator Kohl moved that the following amendment by Senators Kohl, Fairley, Heavey and Kline be adopted:

On page 7, beginning on line 31, strike all of sections 2 and 3.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Kohl, Fairley, Heavey and Kline on page 7, beginning on line 31, to Substitute House Bill No. 2885.

The motion by Senator Kohl carried and the amendment was adopted on a rising vote.

#### MOTION

On motion of Senator Loveland, the following amendment was adopted on a rising vote.

On page 9, after line 2, insert the following:

**"NEW SECTION. Sec. 4.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

#### MOTIONS

On motion of Senator Loveland, the following title amendments were considered simultaneously and were adopted:

On page 1, line 1 of the title, after "amending" strike all material through "680;" and on line 2, after "5055;" strike "creating a new section;"

On page 1, line 2 of the title, after "creating" strike "a new section" and insert "new sections"

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 2885, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.  
Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Deccio was excused.  
The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2885, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2885, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Deccio - 1. SUBSTITUTE HOUSE BILL NO. 2885, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Vice President Pro Tempore advanced the Senate to the seventh order of business.

There being no objection, the Senate resumed consideration of Second Substitute House Bill No. 3070, as amended by the Senate, deferred on third reading earlier today.

#### MOTION

On motion of Senator Swecker, Senators Finkbeiner and Schow were excused.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Second Substitute House Bill No. 3070, as amended by the Senate, was returned to second reading and read the second time.

#### MOTION

Senator Roach moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are each reenacted and amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within ~~((five))~~ seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within (~~five~~) seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of nine hundred days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within (~~five~~) seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock or other biological or technical device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8)(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(b) "Within (~~five~~) seven years" means that the arrest for a prior offense occurred within (~~five~~) seven years of the arrest for the current offense.

**Sec. 2.** RCW 46.61.5058 and 1995 c 332 s 6 are each amended to read as follows:

(1) Upon the arrest of a person or upon the filing of a complaint, citation, or information in a court of competent jurisdiction, based upon probable cause to believe that a person has violated RCW 46.61.502 or 46.61.504 or any similar municipal ordinance, if such person has a prior offense within (~~five~~) seven years as defined in RCW 46.61.5055, and where the person has been provided written notice that any transfer, sale, or encumbrance of such person's interest in the vehicle over which that person was actually driving or had physical control when the violation occurred, is unlawful pending either acquittal, dismissal, sixty days after conviction, or other termination of the charge, such person shall be prohibited from encumbering, selling, or transferring his or her interest in such vehicle, except as otherwise provided in (a), (b), and (c) of this subsection, until either acquittal, dismissal, sixty days after conviction, or other termination of the charge. The prohibition against transfer of title shall not be stayed pending the determination of an appeal from the conviction.

(a) A vehicle encumbered by a bona fide security interest may be transferred to the secured party or to a person designated by the secured party;

(b) A leased or rented vehicle may be transferred to the lessor, rental agency, or to a person designated by the lessor or rental agency; and

(c) A vehicle may be transferred to a third party or a vehicle dealer who is a bona fide purchaser or may be subject to a bona fide security interest in the vehicle unless it is established that (i) in the case of a purchase by a third party or vehicle dealer, such party or dealer had actual notice that the vehicle was subject to the prohibition prior to the purchase, or (ii) in the case of a security interest, the holder of the security interest had actual notice that the vehicle was subject to the prohibition prior to the encumbrance of title.

(2) On conviction for a violation of either RCW 46.61.502 or 46.61.504 or any similar municipal ordinance where the person convicted has a prior offense within (~~five~~) seven years as defined in RCW 46.61.5055, the motor vehicle the person was driving or over which the person had actual physical control at the time of the offense, if the person has a financial interest in the vehicle, is subject to seizure and forfeiture pursuant to this section.

(3) A vehicle subject to forfeiture under this chapter may be seized by a law enforcement officer of this state upon process issued by a court of competent jurisdiction. Seizure of a vehicle may be made without process if the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) Seizure under subsection (3) of this section automatically commences proceedings for forfeiture. The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized vehicle to be served within fifteen days after the seizure on the owner of the vehicle seized, on the person in charge of the vehicle, and on any person having a known right or interest in the vehicle, including a community property interest. The notice of seizure may be served by any method authorized by law or court rule, including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected on a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the vehicle is deemed forfeited.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the vehicle is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the vehicle involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the legal owner or the person claiming to have the lawful right to possession of the vehicle. The seizing law enforcement agency shall promptly return the vehicle to the claimant upon a determination by the administrative law judge or court that the claimant is the present legal owner under Title 46 RCW or is lawfully entitled to possession of the vehicle.

(7) When a vehicle is forfeited under this chapter the seizing law enforcement agency may sell the vehicle, retain it for official use, or upon application by a law enforcement agency of this state release the vehicle to that agency for the exclusive use of enforcing this title; provided, however, that the agency shall first satisfy any bona fide security interest to which the vehicle is subject under subsection (1) (a) or (c) of this section.

(8) When a vehicle is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the vehicle, the disposition of the vehicle, the value of the vehicle at the time of seizure, and the amount of proceeds realized from disposition of the vehicle.

(9) Each seizing agency shall retain records of forfeited vehicles for at least seven years.

(10) Each seizing agency shall file a report including a copy of the records of forfeited vehicles with the state treasurer each calendar quarter.

(11) The quarterly report need not include a record of a forfeited vehicle that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(12) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of vehicles forfeited during the preceding calendar year. Money remitted shall be deposited in the public safety and education account.

(13) The net proceeds of a forfeited vehicle is the value of the forfeitable interest in the vehicle after deducting the cost of satisfying a bona fide security interest to which the vehicle is subject at the time of seizure; and in the case of a sold vehicle, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(14) The value of a sold forfeited vehicle is the sale price. The value of a retained forfeited vehicle is the fair market value of the vehicle at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing. A seizing agency may, but need not, use an independent qualified appraiser to determine the value of retained vehicles. If an appraiser is used, the value of the vehicle appraised is net of the cost of the appraisal.

**Sec. 3.** RCW 46.01.260 and 1997 c 66 s 11 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director, in his or her discretion, may destroy applications for vehicle licenses, copies of vehicle licenses issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, records or supporting papers on file in his or her office which have been microfilmed or photographed or are more than five years old. If the applications for vehicle licenses are renewal applications, the director may destroy such applications when the computer record thereof has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.520 and 46.61.522 or records of deferred prosecutions granted under RCW 10.05.120 and shall maintain such records permanently on file.

(b) The director shall not, within ~~((ten))~~ fifteen years from the date of conviction~~((;))~~ or adjudication~~((; or entry of deferred prosecution))~~, destroy records of the following:

(i) Convictions or adjudications of the following offenses: RCW 46.61.502 or 46.61.504; or

(ii) If the offense was originally charged as one of the offenses designated in (a) or (b)(i) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.5249 or any other violation that was originally charged as one of the offenses designated in (a) or (b)(i) of this subsection~~((; or~~

~~((iii) Deferred prosecutions granted under RCW 10.05.120)).~~

(c) For purposes of RCW 46.52.100 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses.

**Sec. 4.** RCW 46.20.285 and 1996 c 199 s 5 are each amended to read as follows:

The department shall forthwith revoke the license of any driver for the period of one calendar year unless otherwise provided in this section, upon receiving a record of the driver's conviction of any of the following offenses, when the conviction has become final:

(1) For vehicular homicide the period of revocation shall be two years. The revocation period shall be tolled during any period of total confinement for the offense;

(2) Vehicular assault. The revocation period shall be tolled during any period of total confinement for the offense;

(3) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle, ~~((upon a showing by the department's records that the conviction is the second such conviction for the driver within a period of five years. Upon a showing that the conviction is the third such conviction for the driver within a period of five years, the period of revocation shall be two years))~~ for the period prescribed in RCW 46.61.5055;

(4) Any felony in the commission of which a motor vehicle is used;

(5) Failure to stop and give information or render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another or resulting in damage to a vehicle that is driven or attended by another;

(6) Perjury or the making of a false affidavit or statement under oath to the department under Title 46 RCW or under any other law relating to the ownership or operation of motor vehicles;

(7) Reckless driving upon a showing by the department's records that the conviction is the third such conviction for the driver within a period of two years.

**Sec. 5.** RCW 46.61.503 and 1995 c 332 s 2 are each amended to read as follows:

(1) Notwithstanding any other provision of this title, a person is guilty of driving a motor vehicle after consuming alcohol if the person operates a motor vehicle within this state and the person:

(a) Is under the age of twenty-one;

(b) Has, within two hours after operating the motor vehicle, an alcohol concentration of ~~((0.02 or more))~~ at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506.

(2) It is an affirmative defense to a violation of subsection (1) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be ~~((0.02 or more))~~ in violation of subsection (1) of this section within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(3) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration ~~((of 0.02 or more))~~ in violation of subsection (1) of this section.

(4) A violation of this section is a misdemeanor.

**Sec. 6.** RCW 46.20.308 and 1995 c 332 s 1 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility in which a breath testing instrument is not present or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(4). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that:

(a) His or her license, permit, or privilege to drive will be revoked or denied if he or she refuses to submit to the test;

(b) His or her license, permit, or privilege to drive will be suspended, revoked, denied, or placed in probationary status if the test is administered and the test indicates the alcohol concentration of the person's breath or blood is 0.10 or more, in the case of a person age twenty-one or over, or ~~((0.02 or more))~~ in violation of RCW 46.61.502, 46.61.503, or 46.61.504 in the case of a person under age twenty-one; and

(c) His or her refusal to take the test may be used in a criminal trial.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.10 or more if the person is age twenty-one or over, or is ~~((0.02 or more))~~ in violation of RCW 46.61.502, 46.61.503, or 46.61.504 if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, deny, or place in probationary status the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.10 or more if the



person is age twenty-one or over, or was ~~((0.02 or more))~~ in violation of RCW 46.61.502, 46.61.503, or 46.61.504 if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, deny, or place in probationary status the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, denial, or placement in probationary status to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within thirty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of one hundred dollars as part of the request. If the request is mailed, it must be postmarked within thirty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required one hundred dollar fee, the department shall afford the person an opportunity for a hearing. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503 and was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.10 or more if the person was age twenty-one or over at the time of the arrest, or was ~~((0.02 or more))~~ in violation of RCW 46.61.502, 46.61.503, or 46.61.504 if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503 and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, denial, or placement in probationary status either be rescinded or sustained.

(9) If the suspension, revocation, denial, or placement in probationary status is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, denied, or placed in probationary status has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, denial, or placement in probationary status. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, denial, or placement in probationary status as expeditiously as possible. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, denial, or placement in probationary status it may impose conditions on such stay.

(10) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, denied, or placed in probationary status under subsection (7) of this section, other than as a result of a breath test refusal, and who has not committed an offense within the last five years for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, the court may direct the department to stay any actual or proposed suspension, revocation, denial, or placement in probationary status for at least forty-five

days but not more than ninety days. If the court stays the suspension, revocation, denial, or placement in probationary status, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

A suspension, revocation, or denial imposed under this section, other than as a result of a breath test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

**Sec. 7.** RCW 46.20.3101 and 1995 c 332 s 3 are each amended to read as follows:

Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal within ~~((five))~~ seven years, where there has not been a previous incident within ~~((five))~~ seven years that resulted in administrative action under this section, revocation or denial for one year;

(b) For a second or subsequent refusal within ~~((five))~~ seven years, or for a first refusal where there has been one or more previous incidents within ~~((five))~~ seven years that have resulted in administrative action under this section, revocation or denial for two years or until the person reaches age twenty-one, whichever is longer. A revocation imposed under this subsection (1)(b) shall run consecutively to the period of any suspension, revocation, or denial imposed pursuant to a criminal conviction arising out of the same incident.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.10 or more:

(a) For a first incident within ~~((five))~~ seven years, where there has not been a previous incident within ~~((five))~~ seven years that resulted in administrative action under this section, placement in probationary status as provided in RCW 46.20.355;

(b) For a second or subsequent incident within ~~((five))~~ seven years, revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was ~~((0.02 or more))~~ in violation of RCW 46.61.503:

(a) For a first incident within ~~((five))~~ seven years, suspension or denial for ninety days;

(b) For a second or subsequent incident within ~~((five))~~ seven years, revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

**Sec. 8.** RCW 46.20.391 and 1995 c 332 s 12 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide or vehicular assault, may submit to the department an application for an occupational driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is engaged in an occupation or trade that makes it essential that the petitioner operate a motor vehicle, may issue an occupational driver's license and may set definite restrictions as provided in RCW 46.20.394. No person may petition for, and the department shall not issue, an occupational driver's license that is effective during the first thirty days of any suspension or revocation imposed for a violation of RCW 46.61.502 or 46.61.504. A person aggrieved by the decision of the department on the application for an occupational driver's license may request a hearing as provided by rule of the department.

(2) An applicant for an occupational driver's license is eligible to receive such license only if:

(a) Within one year immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not committed any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory; and

(b) Within ~~((five))~~ seven years immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not committed any of the following offenses: (i) Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor; (ii) vehicular homicide under RCW 46.61.520; or (iii) vehicular assault under RCW 46.61.522; and

(c) The applicant is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle; and

(d) The applicant files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

(3) The director shall cancel an occupational driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense that pursuant to chapter 46.20 RCW would warrant suspension or

revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

NEW SECTION. Sec. 9. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 10. This act takes effect January 1, 1999."

#### MOTION

Senator Fairley moved that the following amendment to the striking amendment by Senator Roach be adopted:

On page 12, after line 29 of the amendment, insert the following:

"NEW SECTION. Sec. 6. A new section is added to chapter 46.61 RCW to read as follows:

(1) A defendant who is arrested for an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) A defendant who is charged by citation, complaint, or information with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, and who is not arrested, shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3) At the time of an appearance required by this section, the court shall determine the necessity of imposing conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment.

(4) Appearances required by this section are mandatory and may not be waived."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 12, after line 29, to the striking amendment by Senator Roach to Second Substitute House Bill No. 3070.

The motion by Senator Fairley carried and the amendment to the striking amendment was adopted.

#### MOTION

Senator Loveland moved that the following amendment to the striking amendment by Senator Roach be adopted:

On page 21, after line 9, insert the following:

"NEW SECTION. Sec. 10. If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Loveland on page 21, after line 9, to the striking amendment by Senator Roach to Second Substitute House Bill No. 3070.

The motion by Senator Loveland carried and the amendment to the striking amendment was adopted.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Roach, as amended, to Second Substitute House Bill No. 3070.

The motion by Senator Roach carried and the striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On page 1, line 1 of the title, after "influence;" strike the remainder of the title and insert "amending RCW 46.61.5058, 46.01.260, 46.20.285, 46.61.503, 46.20.308, 46.20.3101, and 46.20.391; reenacting and amending RCW 46.61.5055; creating a new section; prescribing penalties; and providing an effective date."

On page 21, line 17 of the title amendment, after "46.61.5055;" insert "adding a new section to chapter 46.61 RCW;"

On page 21, line 17 of the title amendment, after "creating" strike "a new section" and insert "new sections"

On motion of Senator Johnson, the rules were suspended, Second Substitute House Bill No. 3070, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 3070, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3070, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Deccio, Finkbeiner and Schow - 3. SECOND SUBSTITUTE HOUSE BILL NO. 3070, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Vice President Pro Tempore returned the Senate to the sixth order of business.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2166, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Huff, K. Schmidt, Clements, Buck, Talcott, Johnson, Mitchell, Carlson, Delvin, Cooke and Chandler)

Encouraging coordinated transportation services.

The bill was read the second time.

#### MOTION

On motion of Senator Wood, the following Committee on Transportation amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that transportation systems for persons with special needs are not operated as efficiently as possible. Lack of coordination produces irrational situations, such as several different vehicles arriving simultaneously at the same location to pick up several different persons with special needs. When separate vehicles arrive within minutes of each other to transport individuals with special needs to similar destinations, resources are wasted and fewer people are being served. In some cases, programs established by the legislature to assist persons with special needs can not be accessed due to these inefficiencies.

It is the intent of the legislature that public transportation agencies, private nonprofit transportation providers, and other public agencies sponsoring programs that require transportation services coordinate those transportation services. Through coordination of transportation services, programs will achieve increased efficiencies and will expand services to a greater number of persons with special needs.

**NEW SECTION. Sec. 2.** (1) The agency council on coordinated transportation is created. The council is composed of nine voting members and eight nonvoting, legislative members.

(2) The nine voting members are the superintendent of public instruction or a designee, the secretary of transportation or a designee, the secretary of the department of social and health services or a designee, and six members appointed by the governor as follows:

- (a) One representative from the office of the governor;
- (b) Two persons who are consumers of special needs transportation services;
- (c) One representative from the Washington association of pupil transportation;
- (d) One representative from the Washington state transit association; and
- (e) One of the following:
  - (i) A representative from the community transportation association of the Northwest; or
  - (ii) A representative from the community action council association.

(3) The eight nonvoting members are legislators as follows:

(a) Four members from the house of representatives, two from each of the two largest caucuses, appointed by the speaker of the house of representatives, two who are members of the house transportation policy and budget committee and two who are members of the house appropriations committee; and

(b) Four members from the senate, two from each of the two largest caucuses, appointed by the president of the senate, two members of the transportation committee and two members of the ways and means committee.

(4) Gubernatorial appointees of the council will serve two-year terms. Members may not receive compensation for their service on the council, but will be reimbursed for actual and necessary expenses incurred in performing their duties as members as set forth in RCW 43.03.220.

(5) The secretary of transportation or a designee shall serve as the chair.

(6) The department of transportation shall provide necessary staff support for the council.

(7) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17.710.

**NEW SECTION. Sec. 3.** The council shall:

(1) Develop standards and strategies for coordinating special needs transportation;

(2) Identify and develop, fund as resources are made available, and monitor coordinated transportation pilot projects;

(3) Disseminate and encourage the widespread implementation of successful demonstration projects;

(4) Identify and address barriers to transportation coordination;

(5) Recommend to the legislature changes in law to assist coordination of transportation services;

(6) Act as an information clearinghouse and advocate for coordinated transportation;

(7) Petition the office of financial management to make whatever changes are deemed necessary to identify transportation costs in all executive agency budgets;

(8) Report to the legislature by December 1, 1998, on council activities including, but not limited to, what demonstration projects have been undertaken, how coordination affected service levels, and whether these efforts produced savings that allowed expansion of services. Reports must be made once every two years thereafter, and other times as the council deems necessary.

**Sec. 4.** RCW 81.66.030 and 1979 c 111 s 6 are each amended to read as follows:

The commission shall regulate every private, nonprofit transportation provider in this state but has authority only as follows: To issue certificates to such providers; to set forth insurance requirements; to adopt reasonable rules to insure that any vehicles used by such providers will be adequate for the proposed service; and to inspect the vehicles and otherwise regulate the safety of operations of each provider (~~and to regulate in accordance with the procedures set forth in chapter 81.04 RCW any rates, fares, or charges proposed by such providers~~). The commission may charge fees to private, nonprofit transportation providers, which shall be approximately the same as the reasonable cost of regulating such providers.

**NEW SECTION. Sec. 5.** Sections 1 through 3, 6, and 7 of this act constitute a new chapter in Title 47 RCW.

**NEW SECTION. Sec. 6.** The agency council on coordinated transportation is terminated on June 30, 2003, as provided in section 7 of this act.

**NEW SECTION. Sec. 7.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2004:

(1) RCW 47.--- and 1998 c . . . s 1 (section 1 of this act);

(2) RCW 47.--- and 1998 c . . . s 2 (section 2 of this act); and

(3) RCW 47.--- and 1998 c . . . s 3 (section 3 of this act)."

#### MOTIONS

On motion of Senator Wood, the following title amendment was adopted:

On line 1 of the title, after "services;" strike the remainder of the title and insert "amending RCW 81.66.030; and adding a new chapter to Title 47 RCW."

On motion of Senator Wood, the rules were suspended, Substitute House Bill No. 2166, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2166, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2166, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Deccio and

Finkbeiner - 2. SUBSTITUTE HOUSE BILL NO. 2166, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3057, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Chandler and Linville)

Allowing trademarks or business logos on adopt-a-highway signs.

The bill was read the second time.

#### MOTION

On motion of Senator Wood, the rules were suspended, Substitute House Bill No. 3057 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3057.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3057 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 19; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Fraser, Goings, Hale, Haugen, Hochstatter, Horn, Jacobsen, Long, McCaslin, McDonald, Oke, Prentice, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wojahn and Wood - 27. Voting nay: Senators Brown, Fairley, Franklin, Hargrove, Heavey, Johnson, Kline, Kohl, Loveland, McAuliffe, Morton, Patterson, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Zarelli - 19. Absent: Senator Newhouse - 1. Excused: Senators Deccio and Finkbeiner - 2. SUBSTITUTE HOUSE BILL NO. 3057, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Newhouse was excused.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 3089, by House Committee on Appropriations (originally sponsored by Representatives McDonald, Sheahan, Kessler, Bush, Robertson and Boldt)

Limiting eligibility for the deferred prosecution program to once in a lifetime.

The bill was read the second time.

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Loveland be adopted:

On page 3, after line 2, insert the following:

**"NEW SECTION. Sec. 6.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

#### POINT OF INQUIRY

Senator Roach: "Senator Haugen, the New Section--Section 5 of this bill, has a null and void clause. It reads in short, and I'll read it only because it is one sentence--'If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.' I was wondering if , because this null and void clause is in this piece of legislation, you would consider withdrawing your amendment? Another way of doing that, however, would be to strike Section 5--New Section 5--which I have no problem doing and then adopting your amendment."

Senator Haugen: "Well, thank you, but I think we need both of them, actually. Section 5 deals with state funding; we are interested in local government funding. We think even if there is no funding for the state, there probably would be funding for the local. So, we need to make sure that stays in place, because we really are talking about the local government, not state government, where the other one talks about state expenses."

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Loveland on page 3, after line 2, to Second Substitute House Bill No. 3089.

The motion by Senator Haugen carried and the amendment was adopted.

#### MOTION

On motion of Senator Roach, the following amendment was adopted:

On page 3, after line 2, insert the following:

"NEW SECTION. Sec. 6. This act takes effect January 1, 1999."

#### MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On page 1, line 2 of the title, after "10.05.160;" strike "and" and after "section" insert "; and providing an effective date"

On page 1, line 2 of the title, after "160;" strike the remainder of the title and insert "and creating new sections."

On motion of Senator Roach, the rules were suspended, Second Substitute House Bill No. 3089, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 3089, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3089, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Deccio, Finkbeiner and Newhouse - 3. SECOND SUBSTITUTE HOUSE BILL NO. 3089, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Betti Sheldon, Senator Fairley was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2315, by House Committee on Finance (originally sponsored by Representatives Thompson, Mulliken, B. Thomas and Dunshee) (by request of Department of Revenue)

Making technical corrections to excise and property tax statutes.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute House Bill No. 2315 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2315.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2315 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Fairley and Newhouse - 2. SUBSTITUTE HOUSE BILL NO. 2315, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2922, by House Committee on Appropriations (originally sponsored by Representatives Carlson, H. Sommers, Alexander and Huff) (by request of Department of Retirement Systems)

Administering the deferred compensation plan.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute House Bill No. 2922 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2922.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2922 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Voting nay: Senator Heavey - 1. Excused: Senators Fairley and Newhouse - 2. SUBSTITUTE HOUSE BILL NO. 2922, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Loveland: "I rise for a point of personal privilege. I would like to recognize a friend of mine and probably a friend of all of yours, too--Vicki Chiechi. She just arrived and is sitting up in the gallery. For those of you who have worked with her--I'll give you a little bit of background. She has been lobbying since 1980. She's worked with us and again' us a few times. She's worked with us on agricultural issues, from agriculture to gold mines to baseball stadiums. Her wonderful family has been and will continue to be a longtime pillar of the Legislature, so we will still have some of your family here with us, Vicki.



"Vicki is moving to LaPaz Bolivia, with her husband, Brant, and I want to invite all of you to join us in the State Room for a reception for Vicki and her family. We have family over here; we have your family in the wings. All the Senate members, the House members, all of your colleagues and friends--we are all going to join you in the State Room for a little food and beverage and relaxation. Vicki, we are going to miss you! Have a good time! We'll see you in the State Room in a few minutes."

#### MOTION

At 5:08 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 7:09 p.m. by Vice President Pro Tempore Morton.

#### SECOND READING

HOUSE BILL NO. 2499, by Representatives Sheahan, Appelwick, McMorris, Radcliff, Alexander, Grant, O'Brien, Doumit, Ogden and Thompson

Extending the long arm statute to district court civil cases.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 2499 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the final passage of House Bill No. 2499.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2499 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47.

Absent: Senators Anderson and Hargrove - 2. HOUSE BILL NO. 2499, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

President Owen assumed the Chair.

#### SECOND READING

HOUSE BILL NO. 2500, by Representatives Sheahan, Appelwick, McMorris, Radcliff, Alexander, Grant, O'Brien, Doumit, Ogden and Thompson

Amending uniform act on fresh pursuit.

The bill was read the second time.

#### MOTION

Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 10.89.010 and 1943 c 261 s 1 are each amended to read as follows:

Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest ~~((him))~~ the person on the ground that he or she is believed to have committed a felony in such other state~~((s))~~ or a violation of the laws of such other state relating to driving while intoxicated, driving under the influence of drugs or alcohol, driving while impaired, or reckless driving shall have the same authority to arrest and hold such person in custody as has any member of any duly organized state, county or municipal peace unit of this state, to arrest and hold in custody a person on the ground that he or she is believed to have committed a felony or a violation of the laws of such other state relating to driving while intoxicated, driving under the influence of drugs or alcohol, driving while impaired, or reckless driving in this state.

Sec. 2. RCW 10.89.050 and 1943 c 261 s 5 are each amended to read as follows:

The term "fresh pursuit" as used in this chapter, shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who reasonably is suspected of having committed a felony or a violation of such other state relating to driving while intoxicated, driving under the influence of drugs or alcohol, driving while impaired, or reckless driving. It shall also include the pursuit of a person suspected of having committed a supposed felony, or a supposed violation of the laws relating to driving while intoxicated, driving under the influence of drugs or alcohol, driving while impaired, or reckless driving, though no felony or violation of the laws relating to driving while intoxicated, driving under the influence of drugs or alcohol, driving while impaired, or reckless driving actually has been committed, if there is reasonable ground for believing that a felony or a violation of the laws relating to driving while intoxicated, driving under the influence of drugs or alcohol, driving while impaired, or reckless driving has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay."

Debate ensued.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment to House Bill No. 2500.

The motion by Senator Roach carried and the committee striking amendment was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 1 of the title, after "pursuit;" strike the remainder of the title and insert "and amending RCW 10.89.010 and 10.89.050."

On motion of Senator Roach, the rules were suspended, House Bill No. 2500, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Kohl: "Senator McCaslin, will it be hot pursuit?"

Senator McCaslin: "At my age, it will be warm."

#### POINT OF INQUIRY

Senator Deccio: "Senator McCaslin, what did you do?"

Senator McCaslin: "When?"

Senator Deccio: "Anytime?"

Senator McCaslin. "Not much."

#### MOTION

On motion of Senator Goings, Senator Brown was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2500, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2500, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton,

Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Brown - 1. HOUSE BILL NO. 2500, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2313, by House Committee on Commerce and Labor (originally sponsored by Representatives Wood, Boldt and Conway) (by request of Department of Labor and Industries)

Revising the regulation of elevators, escalators, and other conveyances.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the following amendment was adopted:

On page 7, beginning on line 30, strike all material through "approval." on page 7, line 33.

#### MOTIONS

On motion of Senator Schow, the following title amendment was adopted:

On page 1, on line 3 of the title, after "120;" delete all material through "RCW;"

On motion of Senator Schow, the rules were suspended, Engrossed Substitute House Bill No. 2313, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2313, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2313, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Brown - 1. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2313, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1072, by House Committee on Law and Justice (originally sponsored by Representatives Sterk, Sheahan, Hickel and Delvin)

Regulating interception of communications.

The bill was read the second time.

#### MOTION

Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 9.73 RCW to read as follows:

(1) As used in this section:

(a) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications, and such term includes any electronic storage of such communication.

(b) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include:

- (i) Any wire or oral communication;
- (ii) Any communication made through a tone-only paging device; or
- (iii) Any communication from a tracking device.

(c) "Electronic communication service" means any service that provides to users thereof the ability to send or receive wire or electronic communications.

(d) "Pen register" means a device that records or decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

(e) "Trap and trace device" means a device that captures the incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication was transmitted.

(2) No person may install or use a pen register or trap and trace device without a prior court order issued under this section except as provided under subsection (6) of this section or RCW 9.73.070.

(3) A law enforcement officer may apply for and the superior court may issue orders and extensions of orders authorizing the installation and use of pen registers and trap and trace devices as provided in this section. The application shall be under oath and shall include the identity of the officer making the application and the identity of the law enforcement agency conducting the investigation. The applicant must certify that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

(4) If the court finds that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation and finds that there is probable cause to believe that the pen register or trap and trace device will lead to obtaining evidence of a crime, contraband, fruits of crime, things criminally possessed, weapons, or other things by means of which a crime has been committed or reasonably appears about to be committed, or will lead to learning the location of a person who is unlawfully restrained or reasonably believed to be a witness in a criminal investigation or for whose arrest there is probable cause, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device. The order shall specify:

(a) The identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;

(b) The identity, if known, of the person who is the subject of the criminal investigation;

(c) The number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and

(d) A statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates.

The order shall direct, if the applicant has requested, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device. An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed sixty days. An extension of the original order may only be granted upon: A new application for an order under subsection (3) of this section; and a showing that there is a probability that the information or items sought under this subsection are more likely to be obtained under the extension than under the original order. No extension beyond the first extension shall be granted unless: There is a showing that there is a high probability that the information or items sought under this subsection are much more likely to be obtained under the second or subsequent extension than under the original order; and there are extraordinary circumstances such as a direct and immediate danger of death or serious bodily injury to a law enforcement officer. The period of extension shall be for a period not to exceed sixty days.

An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that the order be sealed until otherwise ordered by the court and that the person owning or leasing the line to which the pen register or trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber or to any other person, unless or until otherwise ordered by the court.

(5) Upon the presentation of an order, entered under subsection (4) of this section, by an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords

the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in subsection (4) of this section.

Upon the request of an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such law enforcement officer all additional information, facilities, and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in subsection (4) of this section. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this subsection shall be reasonably compensated by the law enforcement agency that requests the facilities or assistance for such reasonable expenses incurred in providing such facilities and assistance.

No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this section. A good faith reliance on a court order under this section, a request pursuant to this section, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

(6)(a) Notwithstanding any other provision of this chapter, a law enforcement officer and a prosecuting attorney or deputy prosecuting attorney who jointly and reasonably determine that there is probable cause to believe that an emergency situation exists that involves immediate danger of death or serious bodily injury to any person that requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can, with due diligence, be obtained, and there are grounds upon which an order could be entered under this chapter to authorize such installation and use, may have installed and use a pen register or trap and trace device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with subsection (4) of this section. In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier. If an order approving the installation or use is not obtained within forty-eight hours, any information obtained is not admissible as evidence in any legal proceeding. The knowing installation or use by any law enforcement officer of a pen register or trap and trace device pursuant to this subsection without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter and be punishable as a gross misdemeanor. A provider of a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this subsection shall be reasonably compensated by the law enforcement agency that requests the facilities or assistance for such reasonable expenses incurred in providing such facilities and assistance.

(b) A law enforcement agency that authorizes the installation of a pen register or trap and trace device under this subsection (6) shall file a monthly report with the administrator for the courts. The report shall indicate the number of authorizations made, the date and time of each authorization, whether a court authorization was sought within forty-eight hours, and whether a subsequent court authorization was granted.

**Sec. 2.** RCW 9.73.095 and 1996 c 197 s 1 are each amended to read as follows:

(1) RCW 9.73.030 through 9.73.080 and section 1 of this act shall not apply to employees of the department of corrections in the following instances: Intercepting, recording, or divulging any telephone calls from an inmate or resident of a state correctional facility; or intercepting, recording, or divulging any monitored nontelephonic conversations in inmate living units, cells, rooms, dormitories, and common spaces where inmates may be present. For the purposes of this section, "state correctional facility" means a facility that is under the control and authority of the department of corrections, and used for the incarceration, treatment, or rehabilitation of convicted felons.

(2) All personal calls made by inmates shall be collect calls only. The calls will be "operator announcement" type calls. The operator shall notify the receiver of the call that the call is coming from a prison inmate, and that it will be recorded and may be monitored.

(3) The department of corrections shall adhere to the following procedures and restrictions when intercepting, recording, or divulging any telephone calls from an inmate or resident of a state correctional facility as provided for by this section. The department shall also adhere to the following procedures and restrictions when intercepting, recording, or divulging any monitored nontelephonic conversations in inmate living units, cells, rooms, dormitories, and common spaces where inmates may be present:

(a) Unless otherwise provided for in this section, after intercepting or recording any conversation, only the superintendent and his or her designee shall have access to that recording.

(b) The contents of any intercepted and recorded conversation shall be divulged only as is necessary to safeguard the orderly operation of the correctional facility, in response to a court order, or in the prosecution or investigation of any crime.

(c) All conversations that are recorded under this section, unless being used in the ongoing investigation or prosecution of a crime, or as is necessary to assure the orderly operation of the correctional facility, shall be destroyed one year after the intercepting and recording.

(4) So as to safeguard the sanctity of the attorney-client privilege, the department of corrections shall not intercept, record, or divulge any conversation between an inmate or resident and an attorney. The department shall develop policies and procedures to implement this section. The department's policies and procedures implemented under this section shall also recognize the privileged nature of confessions made

by an offender to a member of the clergy or a priest in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs as provided in RCW 5.60.060(3).

(5) The department shall notify in writing all inmates, residents, and personnel of state correctional facilities that their nontelephonic conversations may be intercepted, recorded, or divulged in accordance with the provisions of this section.

(6) The department shall notify all visitors to state correctional facilities who may enter inmate living units, cells, rooms, dormitories, or common spaces where inmates may be present, that their conversations may be intercepted, recorded, or divulged in accordance with the provisions of this section. The notice required under this subsection shall be accomplished through a means no less conspicuous than a general posting in a location likely to be seen by visitors entering the facility.

**Sec. 3.** RCW 9.73.120 and 1989 c 271 s 207 are each amended to read as follows:

(1) Within thirty days after the expiration of an authorization or an extension or renewal thereof issued pursuant to RCW 9.73.090(2) as now or hereafter amended, the issuing or denying judge shall make a report to the administrator for the courts stating that:

- (a) An authorization, extension or renewal was applied for;
- (b) The kind of authorization applied for;
- (c) The authorization was granted as applied for, was modified, or was denied;
- (d) The period of recording authorized by the authorization and the number and duration of any extensions or renewals of the authorization;
- (e) The offense specified in the authorization or extension or renewal of authorization;
- (f) The identity of the person authorizing the application and of the investigative or law enforcement officer and agency for whom it was made;
- (g) Whether an arrest resulted from the communication which was the subject of the authorization; and
- (h) The character of the facilities from which or the place where the communications were to be recorded.

(2) In addition to reports required to be made by applicants pursuant to federal law, all judges of the superior court authorized to issue authority pursuant to this chapter shall make annual reports on the operation of this chapter to the administrator for the courts. The reports made under this subsection must include information on authorizations for the installation and use of pen registers and trap and trace devices under section 1 of this act. The reports by the judges shall contain (a) the number of applications made; (b) the number of authorizations issued; (c) the respective periods of such authorizations; (d) the number and duration of any renewals thereof; (e) the crimes in connection with which the communications or conversations were sought; (f) the names of the applicants; and (g) such other and further particulars as the administrator for the courts may require, except that the administrator for the courts shall not require the reporting of information that might lead to the disclosure of the identity of a confidential informant.

The chief justice of the supreme court shall annually report to the governor and the legislature on such aspects of the operation of this chapter as ~~(he deems)~~ appropriate including any recommendations ~~(he may care to make)~~ as to legislative changes or improvements to effectuate the purposes of this chapter and to assure and protect individual rights."

#### MOTION

Senator Loveland moved that the following amendment to the Committee on Law and Justice striking amendment be adopted:

On page 8, after line 15, insert the following:

**"NEW SECTION. Sec. 4.** If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Loveland on page 8, after line 15, to the Committee on Law and Justice striking amendment to Substitute House Bill No. 1072.

The motion by Senator Loveland carried and the amendment to the committee striking amendment was adopted.

The President declared the question before the Senate to be the adoption of the Committee on Law and Justice striking amendment, as amended, to Substitute House Bill No. 1072.

The motion by Senator Roach carried and the committee striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Roach, the following title amendments were considered simultaneously and were adopted:

On page 1, line 2 of the title, after "communications;" strike the remainder of the title and insert "amending RCW 9.73.095 and 9.73.120; adding a new section to chapter 9.73 RCW; and prescribing penalties."

On page 8, line 21 of the title amendment, after "RCW;" strike all material through "penalties" and insert "prescribing penalties; and creating a new section"

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 1072, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1072, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1072, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Brown - 1. SUBSTITUTE HOUSE BILL NO. 1072, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives D. Sommers, Costa, Benson, Sterk, Gombosky and O'Brien)

Providing for traffic safety education.

The bill was read the second time.

#### MOTION

Senator Benton moved that the following Committee on Transportation amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** This act may be known and cited as the Cooper Jones Act.

**Sec. 2.** RCW 43.59.010 and 1967 ex.s. c 147 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to establish a new agency of state government to be known as the Washington traffic safety commission. The functions and purpose of this commission shall be to find solutions to the problems that have been created as a result of the tremendous increase of motor vehicles on our highways and the attendant traffic death and accident tolls; to plan and supervise programs for the prevention of accidents on streets and highways including but not limited to educational campaigns designed to reduce traffic accidents in cooperation with all official and unofficial organizations interested in traffic safety; to coordinate the activities at the state and local level in the development of state-wide and local traffic safety programs; to promote a uniform enforcement of traffic safety laws and establish standards for investigation and reporting of traffic accidents; to promote and improve driver education; and to authorize the governor to perform all functions required to be performed by him under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731).

(2) The legislature finds and declares that bicycling and walking are becoming increasingly popular in Washington as clean and efficient modes of transportation, as recreational activities, and as organized sports. Future plans for the state's transportation system will require increased access and safety for bicycles and pedestrians on our common roadways, and federal transportation legislation and funding programs have created strong incentives to implement these changes quickly. As a result, many more people are likely to take up bicycling in Washington both as a leisure activity and as a convenient, inexpensive form of transportation. Bicyclists are more vulnerable to injury and accident than motorists, and should be as knowledgeable as possible about traffic laws, be highly visible and predictable when riding in traffic, and be encouraged to wear bicycle safety helmets. Hundreds of bicyclists and pedestrians are seriously injured every year in accidents, and millions of dollars are spent on health care costs associated with these accidents. There is clear evidence that organized training in the rules and techniques of safe and effective cycling can significantly reduce the incidence of serious injury and accidents, increase cooperation among road users, and significantly increase the incidence of bicycle helmet use, particularly among minors.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.59 RCW to read as follows:

(1) The Washington state traffic safety commission shall establish a program for improving bicycle and pedestrian safety, and shall cooperate with the state criminal justice training commission, bicycle federation of America, the league of American bicyclists, state and local

bicycling organizations, local governments, public school districts, or other appropriate public and private organizations in developing and operating programs to improve bicycle and pedestrian safety.

(2) The commission shall prescribe minimum qualifications for the grant recipients.

(3) The commission will form an advisory group of bicycle and pedestrian safety stakeholders to assist the director in:

(a) Establishing standards and criteria for traffic safety grants and reviewing the merits of grant applications submitted;

(b) Determining the most effective programs available to improve bicycle and pedestrian safety; and

(c) Establishing state pedestrian and bicycle safety goals and performance measures.

(4) Upon successful completion of a safety training program, participants will receive a bicycle or pedestrian safety education certificate signed by an authorized instructor. The certificate is evidence of compliance with this section.

(5) State agencies, political subdivisions of the state, and nonprofit organizations, including but not limited to bicycling groups and community and civic organizations, are eligible for grant funds on a matching basis under the program established in subsection (1) of this section. All entities receiving matching funds must provide a regularly scheduled program complying with standards established by the traffic safety commission. Bicycle organizations are encouraged to make donations to the matching grant program.

**Sec. 4.** RCW 48.02.190 and 1987 c 505 s 54 are each amended to read as follows:

(1) As used in this section:

(a) "Organization" means every insurer, as defined in RCW 48.01.050, having a certificate of authority to do business in this state and every health care service contractor registered to do business in this state. "Class one" organizations shall consist of all insurers as defined in RCW 48.01.050. "Class two" organizations shall consist of all organizations registered under provisions of chapter 48.44 RCW.

(b) "Receipts" means (i) net direct premiums consisting of direct gross premiums, as defined in RCW 48.18.170, paid for insurance written or renewed upon risks or property resident, situated, or to be performed in this state, less return premiums and premiums on policies not taken, dividends paid or credited to policyholders on direct business, and premiums received from policies or contracts issued in connection with qualified plans as defined in RCW 48.14.021, and (ii) prepayments to health care service contractors as set forth in RCW 48.44.010(3) less experience rating credits, dividends, prepayments returned to subscribers, and payments for contracts not taken.

(2) The annual cost of operating the office of insurance commissioner shall be determined by legislative appropriation. A pro rata share of the cost shall be charged to all organizations. Each class of organization shall contribute sufficient in fees to the insurance commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating that class of organization.

(3) Fees charged shall be calculated separately for each class of organization. The fee charged each organization shall be that portion of the cost of operating the insurance commissioner's office, for that class of organization, for the ensuing fiscal year that is represented by the organization's portion of the receipts collected or received by all organizations within that class on business in this state during the previous calendar year: PROVIDED, That the fee shall not exceed one-eighth of one percent of receipts: PROVIDED FURTHER, That the minimum fee shall be one thousand dollars.

(4) The commissioner shall annually, on or before June 1, calculate and bill each organization for the amount of its fee. Fees shall be due and payable no later than June 15 of each year: PROVIDED, That if the necessary financial records are not available or if the amount of the legislative appropriation is not determined in time to carry out such calculations and bill such fees within the time specified, the commissioner may use the fee factors for the prior year as the basis for the fees and, if necessary, the commissioner may impose supplemental fees to fully and properly charge the organizations. The penalties for failure to pay fees when due shall be the same as the penalties for failure to pay taxes pursuant to RCW 48.14.060. The fees required by this section are in addition to all other taxes and fees now imposed or that may be subsequently imposed.

(5) All moneys collected shall be deposited in the insurance commissioner's regulatory account in the state treasury which is hereby created.

(6) Appropriations may be made from the insurance commissioner's regulatory account for the purposes of bicycle and pedestrian safety programs under section 3 of this act.

(7) Unexpended funds in the insurance commissioner's regulatory account at the close of a fiscal year shall be carried forward in the insurance commissioner's regulatory account to the succeeding fiscal year and shall be used to reduce future fees.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.59 RCW to read as follows:

The traffic safety commission, acting jointly with the department of licensing and the superintendent of public instruction, shall develop a curriculum for bicycle safety education. The commission may develop a video presentation to accompany this curriculum.

**NEW SECTION. Sec. 6.** A new section is added to chapter 46.20 RCW to read as follows:

The department of licensing shall incorporate a section on bicycle safety and sharing the road into its instructional publications for drivers and shall include questions in the written portion of the driver's license examination on bicycle safety and sharing the road with bicycles.

**Sec. 7.** RCW 46.20.095 and 1986 c 93 s 3 are each amended to read as follows:

The department shall include information on the proper use of the left-hand lane by motor vehicles on multilane highways and on bicyclists' and pedestrians' rights and responsibilities in its instructional publications for drivers.

**Sec. 8.** RCW 46.82.430 and 1986 c 93 s 5 are each amended to read as follows:



Instructional material used in driver training schools shall include information on the proper use of the left-hand lane by motor vehicles on multilane highways and on bicyclists' and pedestrians' rights and responsibilities and suggested riding procedures in common traffic situations.

**Sec. 9.** RCW 46.83.040 and 1961 c 12 s 46.83.040 are each amended to read as follows:

It shall be the purpose of every traffic school which may be established hereunder to instruct, educate, and inform all persons appearing for training in the proper, lawful, and safe operation of motor vehicles, including but not limited to rules of the road and the limitations of persons, vehicles, and bicycles and roads, streets, and highways under varying conditions and circumstances.

**Sec. 10.** RCW 46.52.070 and 1967 c 32 s 57 are each amended to read as follows:

(1) Any police officer of the state of Washington or of any county, city, town or other political subdivision, present at the scene of any accident or in possession of any facts concerning any accident whether by way of official investigation or otherwise shall make report thereof in the same manner as required of the parties to such accident and as fully as the facts in his possession concerning such accident will permit.

(2) The police officer shall report to the department, on a form prescribed by the director: (a) When an accident has occurred that results in a fatality or serious injury; (b) the identity of the operator of a vehicle involved in the accident when the officer has reasonable grounds to believe the operator who caused the fatality or serious injury may not be competent to operate a motor vehicle; and (c) the reason or reasons for such belief.

**Sec. 11.** RCW 46.52.100 and 1995 c 219 s 3 are each amended to read as follows:

Every district court, municipal court, and clerk of superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to the court or a traffic violations bureau, and shall keep a record of every official action by the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or penalty resulting from every traffic complaint, citation, or notice of infraction deposited with or presented to the district court, municipal court, superior court, or traffic violations bureau.

The Monday following the conviction, forfeiture of bail, or finding that a traffic infraction was committed for violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, every magistrate of the court or clerk of the court of record in which such conviction was had, bail was forfeited, or the finding made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the record of the court covering the case, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any finding involving the illegal parking or standing of a vehicle.

The abstract must be made upon a form or forms furnished by the director and shall include the name and address of the party charged, the number, if any, of the party's driver's or chauffeur's license, the registration number of the vehicle involved if required by the director, the nature of the offense, the date of hearing, the plea, the judgment, whether the offense was an alcohol-related offense as defined in RCW 46.01.260(2), whether the incident that gave rise to the offense charged resulted in any fatality, whether bail forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty as the case may be.

Every court of record shall also forward a like report to the director upon the conviction of any person of a felony in the commission of which a vehicle was used.

The failure of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

The director shall keep all abstracts received hereunder at the director's office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all district courts shall be before one of the two nearest district judges in incorporated cities and towns nearest to the point the violation allegedly occurred: PROVIDED, That in counties with populations of one hundred twenty-five thousand or more such cases may be tried in the county seat at the request of the defendant.

It shall be the duty of the officer, prosecuting attorney, or city attorney signing the charge or information in any case involving a charge of driving under the influence of intoxicating liquor or any drug immediately to make request to the director for an abstract of convictions and forfeitures which the director shall furnish.

**Sec. 12.** RCW 46.52.120 and 1993 c 501 s 12 are each amended to read as follows:

(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident and whether or not the accident resulted in any fatality. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents.

(2) The records shall be for the confidential use of the director, the chief of the Washington state patrol, the director of the Washington traffic safety commission, and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license.

(3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. The director shall also suspend a person's driver's license if the person fails to attend or complete a driver improvement interview or fails to abide by conditions of probation under RCW 46.20.335. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law.

**Sec. 13.** RCW 46.52.130 and 1997 c 66 s 12 are each amended to read as follows:

A certified abstract of the driving record shall be furnished only to the individual named in the abstract, an employer or prospective employer or an agent acting on behalf of an employer or prospective employer, the insurance carrier that has insurance in effect covering the employer or a prospective employer, the insurance carrier that has insurance in effect covering the named individual, the insurance carrier to which the named individual has applied, an alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment, or city and county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment. The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies. Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years. Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract or to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual. The abstract, whenever possible, shall include an enumeration of motor vehicle accidents in which the person was driving; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether the vehicles were occupied at the time of the accident; whether the accident resulted in any fatality; any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law; and the status of the person's driving privilege in this state. The enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer. Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(b)(i).

The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

The director shall collect for each abstract the sum of four dollars and fifty cents which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer receiving the certified abstract shall use it exclusively for his or her own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon the public highways of this state and shall not divulge any information contained in it to a third party.

Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

Release of a certified abstract of the driving record of an employee or prospective employee requires a statement signed by: (1) The employee or prospective employee that authorizes the release of the record, and (2) the employer attesting that the information is necessary to determine whether the licensee should be employed to operate a commercial vehicle or school bus upon the public highways of this state. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

Any violation of this section is a gross misdemeanor.

**Sec. 14.** RCW 46.20.291 and 1997 c 58 s 806 are each amended to read as follows:

The department is authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

- (1) Has committed an offense for which mandatory revocation or suspension of license is provided by law;
- (2) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any person or serious property damage;
- (3) Has been convicted of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways;
- (4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3);
- (5) Has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289;
- (6) Is subject to suspension under RCW 46.20.305;
- (7) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.336; or
- ~~((7))~~ (8) Has been certified by the department of social and health services as a person who is not in compliance with a child support order or a residential or visitation order as provided in RCW 74.20A.320.

**Sec. 15.** RCW 46.20.305 and 1965 ex.s. c 121 s 26 are each amended to read as follows:

(1) The department, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed may upon notice require him or her to submit to an examination.

(2) The department shall require a driver reported under RCW 46.52.070(2), when a fatality occurred, to submit to an examination. The examination must be completed no later than one hundred twenty days after the accident report required under RCW 46.52.070(2) is received by the department unless the department, at the request of the operator, extends the time for examination.

(3) The department may require a driver reported under RCW 46.52.070(2) to submit to an examination, or suspend the person's license subject to RCW 46.20.322, when a serious injury occurred. The examination must be completed no later than one hundred twenty days after the accident report required under RCW 46.52.070(2) is received by the department.

(4) The department may in addition to an examination under this section require such person to obtain a certificate showing his or her condition signed by a licensed physician or other proper authority designated by the department.

(5) Upon the conclusion of ~~((such))~~ an examination under this section the department shall take driver improvement action as may be appropriate and may suspend or revoke the license of such person or permit him or her to retain such license, or may issue a license subject to restrictions as permitted under RCW 46.20.041. The department may suspend or revoke the license of such person who refuses or neglects to submit to such examination.

(6) The department may require payment of a fee by a person subject to examination under this section. The department shall set the fee in an amount that is sufficient to cover the additional cost of administering examinations required by this section.

NEW SECTION. **Sec. 16.** The department of licensing may adopt rules as necessary to implement this act.

NEW SECTION. **Sec. 17.** Sections 10 through 16 of this act take effect January 1, 1999.

**Sec. 18.** RCW 46.37.280 and 1987 c 330 s 713 are each amended to read as follows:

(1) During the times specified in RCW 46.37.020, any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps, warning lamps authorized by the state patrol and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(2) Except as required in RCW 46.37.190 no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof.

(3) Flashing lights are prohibited except as required in RCW 46.37.190, 46.37.200, 46.37.210, 46.37.215, and 46.37.300, ~~((and))~~ warning lamps authorized by the state patrol, and light-emitting diode flashing taillights on bicycles.

**Sec. 19.** RCW 46.61.780 and 1987 c 330 s 746 are each amended to read as follows:

(1) Every bicycle when in use during the hours of darkness as defined in RCW 46.37.020 shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the state patrol which shall be visible from all distances ~~((from one hundred feet))~~ up to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector. A light-emitting diode flashing taillight visible from a distance of five hundred feet to the rear may also be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement."

## MOTION

On motion of Senator Benton, the following amendments by Senators Benton and Brown to the Committee on Transportation striking amendment were considered simultaneously and adopted:

On page 2, line 16 of the striking amendment, delete "(1)"

On page 2, line 18 of the striking amendment, after "the" strike everything through "safety." on line 23, and insert the following: "stakeholders and independent representatives to form an advisory committee to develop programs and create public private partnerships which promote bicycle and pedestrian safety. The traffic safety commission shall report and make recommendations to the legislative transportation committee and the fiscal committees of the house of representatives and the senate by December 1, 1998, regarding the conclusions of the advisory committee."

On page 2, beginning on line 24 of the striking amendment, remove subsections (2), (3), and (4).

On page 3, line 1 of the striking amendment, remove subsection (5).

On page 4, line 29 of the striking amendment, remove Section 5.

Renumber the sections consecutively and correct any internal references accordingly.

The President declared the question before the Senate to be the adoption of the Committee on Transportation striking amendment, as amended, to Engrossed Substitute House Bill No. 2439.

The motion by Senator Benton carried and the committee striking amendment, as amended, was adopted.

## MOTIONS

On motion of Senator Benton, the following title amendments were considered simultaneously and were adopted:

On line 1 of the title, after "education;" strike the remainder of the title and insert "amending RCW 43.59.010, 48.02.190, 46.20.095, 46.82.430, 46.83.040, 46.52.070, 46.52.100, 46.52.120, 46.52.130, 46.20.291, 46.20.305, 46.37.280, and 46.61.780; adding new sections to chapter 43.59 RCW; adding a new section to chapter 46.20 RCW; creating new sections; prescribing penalties; and providing an effective date."

On page 13, line 33 of the title amendment, after "creating" delete "new sections" and insert "a new section"

On motion of Senator Benton, the rules were suspended, Engrossed Substitute House Bill No. 2439, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2439, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2439, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2858, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Zellinsky and Fisher)

Reflecting current practice for payment of taxes on rental cars.

The bill was read the second time.

## MOTION

Senator Prince moved that the following Committee on Transportation amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.44.023 and 1994 c 227 s 3 are each amended to read as follows:

Rental cars as defined in RCW 46.04.465 are exempt from the taxes imposed in RCW 82.44.020 (1) and (2). When a rental car ceases to be used for rental car purposes (~~and at the time of its retail sale, the excise tax imposed in RCW 82.44.020 (1) and (2) shall be imposed in an amount equal to one-twelfth of the annual excise tax then in effect, for each full month remaining in the vehicle's registration year)~~) the year and month tabs on the license plates shall be altered by the rental car company in such a manner as to render the plate void of any designation of month and year. The department of licensing shall, by rule, set forth the process of alteration and shall provide at no cost to the rental car company, any materials necessary to render the plate void of any designation of the month and year tabs. At the time of retail sale, motor vehicle excise tax and applicable licensing fees will be collected for a full twelve months.

**NEW SECTION. Sec. 2.** The vehicle services division of the department of licensing shall convene a study group to include representatives from the department of licensing, the department of revenue, the rental car industry, and the franchised vehicle dealers industry. The study group shall conduct an assessment of the registration year impact during the period of January 1, 1997, through July 1, 1999, upon the requirements of RCW 46.16.006, 82.08.020, and chapter 82.44 RCW and whether the tax rate currently set on car rental transactions provides revenue neutrality. The study group shall report its findings and recommendations, if any, to the transportation committees of the house of representatives and senate by December 31, 1998.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Debate ensued.

The President declared the question before the Senate to be the adoption of the Committee on Transportation striking amendment to Substitute House Bill No. 2858.

The motion by Senator Prince carried and the committee striking amendment was adopted.

#### MOTIONS

On motion of Senator Prince, the following title amendment was adopted:

On line 1 of the title, after "cars;" strike the remainder of the title and insert "amending RCW 82.44.023; creating a new section; and declaring an emergency."

On motion of Senator Prince, the rules were suspended, Substitute House Bill No. 2858, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2858, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2858, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE HOUSE BILL NO. 2858, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2386, by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Appelwick, Constantine, Kenney and Costa)

Creating the revised uniform partnership act.

The bill was read the second time.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Substitute House Bill No. 2386 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Heavey: Senator Johnson, it says, 'The limitation on the personal liability of a partnership and the limited liability partnership is extended to include any obligation of the partnership.' I assume that would not apply if the limited liability partnership had personally signed or pledged his credit in a matter."

Senator Johnson: "That is correct. Nor does it apply to torts of individual partners."

Senator Heavey: "Thank you."

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2386.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2386 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 45. Voting nay: Senators Fairley, Long and Prentice - 3. Absent: Senator Zarelli - 1. SUBSTITUTE HOUSE BILL NO. 2386, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2553, by Representatives Crouse, Morris, DeBolt, Kessler, Cooper, Benson, Mielke, Dunshee, Hankins, Delvin, Zellinsky, Constantine, Kastama, O'Brien, Conway, Dickerson and Mason

Extending the prohibition on filing for a tariff on mandatory measured telecommunications service.

The bill was read the second time.

#### MOTION

On motion of Senator Finkbeiner, the rules were suspended, House Bill No. 2553 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2553.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2553 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senators Anderson and Hargrove - 2. HOUSE BILL NO. 2553, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of Substitute House Bill No. 2556 and the pending amendment by Senators Zarelli, Long, Hargrove and Kohl on page 27, after line 12, to the Committee on Human Services and Corrections striking amendment, deferred March 4, 1998.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Wojahn to the amendment by Senators Zarelli, Long, Hargrove and Kohl on page 27, after line 12, to the Committee on Human Services and Corrections striking amendment, the President finds that Substitute House Bill No. 2556 is a measure which makes several substantive and procedural changes designed to provide greater prevention against child abuse, including: (1) Declaring that a child's health and safety shall be the paramount concern of the Department of Social and Health Services when dealing with child abuse complaints; (2) Providing that reasonable efforts to reunify a family are not required if a parent has been convicted of specified crimes; and (3) Requiring that a petition for termination of parental rights must be filed for abandoned infants.

"The amendment to the committee amendment would create citizen review panels to evaluate whether agencies are effectively discharging duties related to child abuse prevention.

"The President, therefore, finds that the proposed amendment to the committee amendment does not change the scope and object of the bill and the point of order is not well taken."

The amendment on page 27, after line 12, by Senators Zarelli, Long, Hargrove and Kohl to the Committee on Human Services and Corrections striking amendment to Substitute House Bill No. 2556 was ruled in order.

The President declared the question before the Senate to be the adoption of the amendment by Senators Zarelli, Long, Hargrove and Kohl on page 27, after line 12, to the Committee on Human Services and Corrections striking amendment.

Debate ensued.

Senator Wojahn demanded a roll call, but the demand was not sustained.

The amendment on page 27, after line 12, to the Committee on Human Services and Corrections striking amendment to Substitute House Bill No. 2556 was adopted.

#### MOTION

On motion of Senator Long, the following amendment by Senators Anderson, Long, Hargrove and Franklin to the Committee on Human Services and Corrections striking amendment was adopted:

On page 27, after line 12 of the amendment, insert the following:

"**Sec. 15.** RCW 70.47.060 and 1997 c 337 s 2, 1997 c 335 s 2, 1997 c 245 s 6, and 1997 c 231 s 206 are each reenacted and amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may, to the extent that funds are available, offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for groups of subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW ((48.42.080)) 48.47.030, and such other factors as the administrator deems appropriate.

However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that the services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (9) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (10) of this section.

(b) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

(c) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator.

(d) To develop, as an offering by every health carrier providing coverage identical to the basic health plan, as configured on January 1, 1996, a basic health plan model plan with uniformity in enrollee cost-sharing requirements.

(3) To design and implement a structure of enrollee cost sharing due a managed health care system from subsidized and nonsubsidized enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(4) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists.

(5) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(6) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(7) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(8) To receive periodic premiums from or on behalf of subsidized and nonsubsidized enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(9) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized or nonsubsidized enrollees, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. Funds received by a family as part of participation in the adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward a family's current gross family income for the purposes of this chapter. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If, as a result of an eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee knowingly failed to inform the plan of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the federal poverty level. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(10) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.



(11) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(12) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(13) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(14) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(15) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

(16) In consultation with appropriate state and local government agencies, to establish criteria defining eligibility for persons confined or residing in government-operated institutions."

Renumber the remaining sections consecutively and correct any internal references accordingly.

#### MOTIONS

On motion of Senator Long, the following title amendments were considered simultaneously and were adopted:

On page 1, line 2 of the title, after "families act;" strike the remainder of the title and insert "amending RCW 13.34.020, 13.34.130, 13.34.180, 13.34.190, 74.15.130, 26.44.100, 70.190.010, 70.190.060, and 70.190.130; reenacting and amending RCW 13.34.145, 26.44.020, and 74.13.031; adding a new section to chapter 13.34 RCW; adding a new section to chapter 26.44 RCW; and providing an effective date."

On page 27, beginning on line 19 of the title, after "RCW" strike the remainder of the title amendment and insert "13.34.020, 13.34.130, 13.34.180, 13.34.190, 74.15.130, 26.44.100, 70.190.010, 70.190.060, 70.190.130, and 44.04.220; reenacting and amending RCW 13.34.145, 26.44.020, 74.13.031, and 13.50.010; adding a new section to chapter 13.34 RCW; adding a new section to chapter 26.44 RCW; creating new sections; prescribing penalties; and providing effective dates."

On page 27, line 21 of the title amendment, after "26.44.020," strike "and" and on page 27, line 22 of the title amendment, after "74.13.031" insert ", and 70.47.060"

On motion of Senator Long, the rules were suspended, Substitute House Bill No. 2556, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Loveland: "Senator Long, I hope I wasn't asleep at the switch here. I was just reading a summary of the bill and it talks about local government impacts and it states that DCTED, whatever we call it now, is to reexamine the fiscal note for local governments. Are there provisions to reimburse local governments for any additional costs?"

Senator Long: "I can't answer your question, Senator Loveland. I know that the dollar amounts that are here are significant that the state would lose. At this point, my assumption would be that any costs that would be incurred would come out of that money, but I would be happy to check and get back to you on it."

Senator Loveland: "Thank you."

Further debate ensued

. The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2556, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2556, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 46. Voting nay: Senators Loveland, Prentice and Wojahn - 3. SUBSTITUTE HOUSE BILL NO. 2556, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the seventh order of business.

There being no objection, the Senate resumed consideration of Engrossed House Bill No. 2894, as amended by the Senate, deferred on third reading earlier today.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Snyder under Senate Rule 25, concerning whether Engrossed House Bill No. 2894, as amended by the Senate, contains two subjects. The President finds that this rule is taken verbatim from Article II, Section 19 of the State Constitution.

"The President does not normally respond to constitutional questions. However, the President cannot avoid interpreting a Senate Rule. The President would note that the two subject rule has been invoked only rarely. The precedent raised by Senator Snyder appears to be the only other time the rule has been raised in the past fifty years.

"In interpreting Senate Rule 25, the President believes it appropriate to rely on decisions by the Supreme Court interpreting Article II, Section 19. In interpreting the two subject rule, the Supreme Court maintains several premises, including: (1) That the statute is presumed to be constitutional; (2) that the challenger of the statute maintains a heavy burden to overcome the presumption; (3) That the constitutional requirement is to be liberally construed so as not to impose hampering restrictions upon the Legislature; and (4) That all that is required is that there be some 'rational unity' between the general subject and the incidental subdivisions. The President believes that he should not be more restrictive in interpreting Senate Rule 25 than is the Supreme Court in interpreting Article II, Section 19.

"Engrossed House Bill No. 2894, as amended by the Senate, is an Act relating to the reallocation of motor vehicle excise tax and general fund resources for the purpose of providing transportation funding, local criminal justice funding and tax reduction. The bill contains several incidental subjects, including authorizing bonds for highway construction, and making changes to Initiative 601 to accommodate the reallocation of MVET funds. The President cannot find under the existing Supreme Court precedents that any of these incidental subjects is wholly unrelated or without rational unity to the general subject of the measure.

"The President, therefore, finds that the measure does not violate Senate Rule 25, and that the point of order is not well taken."

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2894, as amended by the Senate.

Debate ensued.

#### MOTION

Senators Sellar, McDonald and West demanded the previous question and the demand was sustained.

The President declared the question before the Senate to be shall the main question be now put.

The motion failed on a rising vote, the President voting 'nay.'

Debate continued on the final passage of Engrossed House Bill No. 2894.

Further debate ensued.

Senators West, McDonald and Johnson demanded the previous question and the demand was sustained.

Senator Johnson demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on shall the main question be now put.

#### ROLL CALL

The Secretary called the roll and the demand for the previous question carried by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 29. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel and Thibaudeau - 20. The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2894, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2894, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 25. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Prince, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 24. ENGROSSED HOUSE BILL NO. 2894, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, Engrossed House Bill No. 2894, as amended by the Senate, was ordered to be immediately transmitted to the House of Representatives.

#### SECOND READING

HOUSE BILL NO. 2779, by Representatives Dunn and Morris

Extending the Washington economic development finance authority.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, House Bill No. 2779 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2779.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2779 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 7; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 42. Absent: Senators Horn, Loveland, McCaslin, McDonald, Newhouse, Strannigan and West - 7. HOUSE BILL NO. 2779, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 9:12 p.m., Senator Fairley moved to adjourn until Friday, March 6, 1998.

Senator Johnson demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the motion by Senator Fairley to adjourn until Friday, March 6, 1998.

## ROLL CALL

The Secretary called the roll and the motion to adjourn failed by the following vote: Yeas, 23; Nays, 25; Absent, 1; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn -

23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli -

25. Absent: Senator McCaslin - 1. SECOND READING

ENGROSSED HOUSE BILL NO. 3003, by Representatives Honeyford, Crouse, Mielke, Wensman, Benson, Clements, Schoesler and Bush

Exempting computer wires and fiber optic cables from electrical wiring requirements.

The bill was read the second time.

## MOTION

On motion of Senator Finkbeiner, the following Committee on Commerce and Labor amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.28.010 and 1993 c 275 s 2 are each amended to read as follows:

(1) All wires and equipment, and installations thereof, that convey electric current and installations of equipment to be operated by electric current, in, on, or about buildings or structures, except for noncomposite fiber optic cables, telephone, telegraph, radio, and television wires and equipment, and television antenna installations, signal strength amplifiers, and coaxial installations pertaining thereto shall be in strict conformity with this chapter, the statutes of the state of Washington, and the rules issued by the department, and shall be in conformity with approved methods of construction for safety to life and property. All wires and equipment that fall within section 90.2(b)(5) of the National Electrical Code, 1981 edition, are exempt from the requirements of this chapter. The regulations and articles in the National Electrical Code, the national electrical safety code, and other installation and safety regulations approved by the national fire protection association, as modified or supplemented by rules issued by the department in furtherance of safety to life and property under authority hereby granted, shall be prima facie evidence of the approved methods of construction. All materials, devices, appliances, and equipment used in such installations shall be of a type that conforms to applicable standards or be indicated as acceptable by the established standards of any electrical product testing laboratory which is accredited by the department. Industrial control panels, utilization equipment, and their components do not need to be listed, labeled, or otherwise indicated as acceptable by an accredited electrical product testing laboratory unless specifically required by the National Electrical Code, 1993 edition.

(2) Residential buildings or structures moved into or within a county, city, or town are not required to comply with all of the requirements of this chapter, if the original occupancy classification of the building or structure is not changed as a result of the move. This subsection shall not apply to residential buildings or structures that are substantially remodeled or rehabilitated.

(3) This chapter shall not limit the authority or power of any city or town to enact and enforce under authority given by law, any ordinance, rule, or regulation requiring an equal, higher, or better standard of construction and an equal, higher, or better standard of materials, devices, appliances, and equipment than that required by this chapter. A city or town shall require that its electrical inspectors meet the qualifications provided for state electrical inspectors in accordance with RCW 19.28.070. In a city or town having an equal, higher, or better standard the installations, materials, devices, appliances, and equipment shall be in accordance with the ordinance, rule, or regulation of the city or town. Electrical equipment associated with spas, hot tubs, swimming pools, and hydromassage bathtubs shall not be offered for sale or exchange unless the electrical equipment is certified as being in compliance with the applicable product safety standard by bearing the certification mark of an approved electrical products testing laboratory.

(4) Nothing in this chapter may be construed as permitting the connection of any conductor of any electric circuit with a pipe that is connected with or designed to be connected with a waterworks piping system, without the consent of the person or persons legally responsible for the operation and maintenance of the waterworks piping system.

"**Sec. 2.** RCW 19.28.200 and 1992 c 240 s 1 are each amended to read as follows:

(1) No license under the provision of this chapter shall be required from any utility or any person, firm, partnership, corporation, or other entity employed by a utility because of work in connection with the installation, repair, or maintenance of lines, wires, apparatus, or equipment owned by or under the control of a utility and used for transmission or distribution of electricity from the source of supply to the point

of contact at the premises and/or property to be supplied and service connections and meters and other apparatus or appliances used in the measurement of the consumption of electricity by the customer.

(2) No license under the provisions of this chapter shall be required from any utility because of work in connection with the installation, repair, or maintenance of the following:

(a) Lines, wires, apparatus, or equipment used in the lighting of streets, alleys, ways, or public areas or squares;

(b) Lines, wires, apparatus, or equipment owned by a commercial, industrial, or public institution customer that are an integral part of a transmission or distribution system, either overhead or underground, providing service to such customer and located outside the building or structure: PROVIDED, That a utility does not initiate the sale of services to perform such work;

(c) Lines and wires, together with ancillary apparatus, and equipment, owned by a customer that is an independent power producer who has entered into an agreement for the sale of electricity to a utility and that are used in transmitting electricity from an electrical generating unit located on premises used by such customer to the point of interconnection with the utility's system.

(3) Any person, firm, partnership, corporation, or other entity licensed under RCW 19.28.120 may enter into a contract with a utility for the performance of work under subsection (2) of this section.

(4) No license under the provisions of this chapter shall be required from any person, firm, partnership, corporation, or other entity because of the work of installing and repairing ignition or lighting systems for motor vehicles.

(5) No license under the provisions of this chapter shall be required from any person, firm, partnership, corporation, or other entity because of work in connection with the installation, repair, or maintenance of wires and equipment, and installations thereof, exempted in RCW 19.28.010.

(6) No license under the provisions of this chapter shall be required from any person, firm, partnership, corporation, or other entity because of work in connection with the installation, repair, or maintenance of structured communication cabling. For purposes of this section, "structured communication cabling" means twisted pair copper and coaxial cables designed to support analog and digital voice applications, data, local area networks, and video. "Structured communication cabling" does not include the following, all of which are subject to this chapter: Fire protection signaling systems, intrusion alarms, patient monitoring systems, and energy management control systems. Installation of structured communications cabling is subject to adopted electrical installations standards and inspections under RCW 19.28.210.

**Sec. 3.** RCW 19.28.610 and 1994 c 157 s 1 are each amended to read as follows:

Nothing in RCW 19.28.510 through 19.28.620 shall be construed to require that a person obtain a license or a certified electrician in order to do electrical work at his or her residence or farm or place of business or on other property owned by him or her unless the electrical work is on the construction of a new building intended for rent, sale, or lease. However, if the construction is of a new residential building with up to four units intended for rent, sale, or lease, the owner may receive an exemption from the requirement to obtain a license or use a certified electrician if he or she provides a signed affidavit to the department stating that he or she will be performing the work and will occupy one of the units as his or her principal residence. The owner shall apply to the department for this exemption and may only receive an exemption once every twenty-four months. It is intended that the owner receiving this exemption shall occupy the unit as his or her principal residence for twenty-four months after completion of the units. Nothing in RCW 19.28.510 through 19.28.620 shall be intended to derogate from or dispense with the requirements of any valid electrical code enacted by a city or town pursuant to RCW 19.28.010(3), except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the electrical construction trade. RCW 19.28.510 through 19.28.620 shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees. Nothing in RCW 19.28.510 through 19.28.620 shall be deemed to apply to the installation or maintenance of telephone, telegraph, radio, or television wires and equipment; nor to any electrical utility or its employees in the installation, repair, and maintenance of electrical wiring, circuits, and equipment by or for the utility, or comprising a part of its plants, lines or systems. The licensing provisions of RCW 19.28.510 through 19.28.620 shall not apply to:

(1) Persons making electrical installations on their own property or to regularly employed employees working on the premises of their employer, unless the electrical work is on the construction of a new building intended for rent, sale, or lease; or

(2) Employees of an employer while the employer is performing utility type work of the nature described in RCW 19.28.200 so long as such employees have registered in the state of Washington with or graduated from a state-approved outside lineman apprenticeship course that is recognized by the department and that qualifies a person to perform such work; or

(3) Persons, firms, partnerships, corporations, or other entities engaged in the installation, repair, or maintenance of structured communication cabling as defined in RCW 19.28.200(6).

Nothing in RCW 19.28.510 through 19.28.620 shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative or other person when none of the individuals doing the electrical installation hold themselves out as engaged in the trade or business of electrical installations. Nothing precludes any person who is exempt from the licensing requirements of this chapter under this section from obtaining a journeyman or specialty certificate of competency if they otherwise meet the requirements of this chapter.

**NEW SECTION. Sec. 4.** The department of labor and industries shall convene an advisory committee to study the inclusion of telecommunications infrastructure in the requirements of chapter 19.28 RCW, including licensure and certification. The committee shall include

representatives of the groups and entities affected and shall present recommendations on alternatives by January 1, 1999, to the commerce and labor committees of the house of representatives and the senate."

#### MOTIONS

On motion of Senator Finkbeiner, the following title amendment was adopted:

On page 1, beginning on line 2 of the title, after "requirements;" strike the remainder of the title and insert "amending RCW 19.28.010, 19.28.200, and 19.28.610; and creating a new section."

On motion of Senator Finkbeiner, the rules were suspended, Engrossed House Bill No. 3003, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator McCaslin was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 3003, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3003, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 20; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Long, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Wood and Zarelli - 27.

Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Heavey, Kline, Kohl, Loveland, McAuliffe, Patterson, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau, Winsley and Wojahn - 20.

Absent: Senator Prentice - 1.

Excused: Senator McCaslin - 1.

ENGROSSED HOUSE BILL NO. 3003, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2560, by House Committee on Financial Institutions and Insurance (originally sponsored by Representatives L. Thomas and Wolfe) (by request of Department of Financial Institutions)

Regulating trust companies.

The bill was read the second time.

#### MOTION

On motion of Senator Winsley, the rules were suspended, Substitute House Bill No. 2560 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2560.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2560 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48.

Excused: Senator McCaslin - 1. SUBSTITUTE HOUSE BILL NO. 2560, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1746, by House Committee on Commerce and Labor (originally sponsored by Representatives Sherstad, Morris, Radcliff, Hatfield, D. Schmidt, Grant, Pennington, Sullivan, Koster, Mulliken, Wood, L. Thomas, Scott, Carrell, Doumit, Sheahan, Huff, Kastama, Boldt, Hickel, McMorris, Thompson, Cooke and Dunshee)

Making minor possession of tobacco a class 3 civil infraction and clarifying penalties for violation of current laws regarding youth access to tobacco.

The bill was read the second time.

### MOTION

Senator Schow moved that the following Committee on Commerce and Labor amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the protection of adolescents' health requires a strong set of comprehensive health and law enforcement interventions. We know that youth are deterred from using alcohol in public because of existing laws making possession illegal. However, while the purchase of tobacco by youth is clearly prohibited, the possession of tobacco is not. It is the legislature's intent that youth hear consistent messages from public entities, including law enforcement, about public opposition to their illegal use of tobacco products.

**Sec. 2.** RCW 70.155.080 and 1993 c 507 s 9 are each amended to read as follows:

(1) A person under the age of eighteen who purchases or attempts to purchase, possesses, or obtains or attempts to obtain cigarettes or tobacco products commits a class 3 civil infraction under chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80 RCW or participation in up to four hours of community service, or both. The court may also require participation in a smoking cessation program(~~(-or both)~~). This provision does not apply if a person under the age of eighteen, with parental authorization, is participating in a controlled purchase as part of a liquor control board, law enforcement, or local health department activity.

(2) Municipal and district courts within the state have jurisdiction for enforcement of this section.

**Sec. 3.** RCW 70.155.100 and 1993 c 507 s 11 are each amended to read as follows:

(1) The liquor control board may suspend or revoke a retailer's license held by a business at any location, or may impose a monetary penalty as set forth in subsection (2) of this section, if the liquor control board finds that the licensee has violated RCW 26.28.080(~~((4))~~), (~~(e)~~) 70.155.020, 70.155.030, 70.155.040, 70.155.050, 70.155.060, 70.155.070, or 70.155.090.

(2) The sanctions that the liquor control board may impose against a person licensed under RCW 82.24.530 and 70.155.050 and 70.155.060 based upon one or more findings under subsection (1) of this section may not exceed the following:

(a) For violation of RCW 26.28.080(~~((4))~~) or 70.155.020:

(i) A monetary penalty of one hundred dollars for the first violation within any two-year period;

(ii) A monetary penalty of three hundred dollars for the second violation within any two-year period;

(iii) A monetary penalty of one thousand dollars and suspension of the license for a period of six months for the third violation within any two-year period;

(iv) A monetary penalty of one thousand five hundred dollars and suspension of the license for a period of twelve months for the fourth violation within any two-year period;

(v) Revocation of the license with no possibility of reinstatement for a period of five years for the fifth or more violation within any two-year period;

(b) For violations of RCW 70.155.030, a monetary penalty in the amount of one hundred dollars for each day upon which such violation occurred;

(c) For violations of RCW 70.155.040 occurring on the licensed premises:

(i) A monetary penalty of one hundred dollars for the first violation within any two-year period;

(ii) A monetary penalty of three hundred dollars for the second violation within any two-year period;

(iii) A monetary penalty of one thousand dollars and suspension of the license for a period of six months for the third violation within any two-year period;

(iv) A monetary penalty of one thousand five hundred dollars and suspension of the license for a period of twelve months for the fourth violation within any two-year period;

(v) Revocation of the license with no possibility of reinstatement for a period of five years for the fifth or more violation within any two-year period;

(d) For violations of RCW 70.155.050 and 70.155.060, a monetary penalty in the amount of three hundred dollars for each violation;

(e) For violations of RCW 70.155.070, a monetary penalty in the amount of one thousand dollars for each violation.

(3) The liquor control board may impose a monetary penalty upon any person other than a licensed cigarette retailer or licensed sampler if the liquor control board finds that the person has violated RCW 26.28.080(~~((4))~~), (~~(e)~~) 70.155.020, 70.155.030, 70.155.040, 70.155.050, 70.155.060, 70.155.070, or 70.155.090.

(4) The monetary penalty that the liquor control board may impose based upon one or more findings under subsection (3) of this section may not exceed the following:

(a) For violation of RCW 26.28.080(~~((4))~~) or 70.155.020, fifty dollars for the first violation and one hundred dollars for each subsequent violation;

(b) For violations of RCW 70.155.030, one hundred dollars for each day upon which such violation occurred;

(c) For violations of RCW 70.155.040, one hundred dollars for each violation;

(d) For violations of RCW 70.155.050 and 70.155.060, three hundred dollars for each violation;

(e) For violations of RCW 70.155.070, one thousand dollars for each violation.

(5) The liquor control board may develop and offer a class for retail clerks and use this class in lieu of a monetary penalty for the clerk's first violation.

(6) The liquor control board may issue a cease and desist order to any person who is found by the liquor control board to have violated or intending to violate the provisions of this chapter, RCW 26.28.080(~~((4))~~) or 82.24.500, requiring such person to cease specified conduct that is in violation. The issuance of a cease and desist order shall not preclude the imposition of other sanctions authorized by this statute or any other provision of law.

(7) The liquor control board may seek injunctive relief to enforce the provisions of RCW 26.28.080(~~((4))~~) or 82.24.500 or this chapter. The liquor control board may initiate legal action to collect civil penalties imposed under this chapter if the same have not been paid within thirty days after imposition of such penalties. In any action filed by the liquor control board under this chapter, the court may, in addition to any other relief, award the liquor control board reasonable attorneys' fees and costs.

(8) All proceedings under subsections (1) through (6) of this section shall be conducted in accordance with chapter 34.05 RCW.

(9) The liquor control board may reduce or waive either the penalties or the suspension or revocation of a license, or both, as set forth in this chapter where the elements of proof are inadequate or where there are mitigating circumstances. Mitigating circumstances may include, but are not limited to, an exercise of due diligence by a retailer. Further, the board may exceed penalties set forth in this chapter based on aggravating circumstances."

Debate ensued.

The President declared the question before the Senate to be the adoption of the Committee on Commerce and Labor striking amendment to Second Engrossed Substitute House Bill No. 1746.

The motion by Senator Schow carried and the committee striking amendment was adopted.

## MOTIONS

On motion of Senator Schow, the following title amendment was adopted:

On page 1, line 3 of the title, after "tobacco;" strike the remainder of the title and insert "amending RCW 70.155.080 and 70.155.100; creating a new section; and prescribing penalties."

On motion of Senator Schow, the rules were suspended, Second Engrossed Substitute House Bill No. 1746, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Engrossed Substitute House Bill No. 1746, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute House Bill No. 1746, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Long, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, T., Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 34. Voting nay: Senators Brown, Fairley, Franklin, Heavey, Kline, Kohl, Loveland, McAuliffe, Roach, Sheldon, B., Snyder, Thibaudeau and Wojahn - 13. Absent: Senator Newhouse - 1. Excused: Senator McCaslin - 1. SECOND ENGROSSED SUBSTITUTE HOUSE BILL



NO. 1746, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2596, by House Government Reform and Land Use (originally sponsored by Representatives Chandler, Reams, Gardner, Lantz and Mulliken)

Clarifying that master planned resorts may obtain facilities, utilities, and services from outside service providers.

The bill was read the second time.

## MOTION

Senator Hale moved that the following Committee on Government Operations amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The primary intent of this act is to give effect to recommendations by the 1994 department of community, trade, and economic development's master planned resort task force by clarifying that master planned resorts may make use of capital facilities, utilities, and services provided by outside service providers, and may enter into agreements for shared facilities with such providers, when all costs directly attributable to the resort, including capacity increases, are fully borne by the resort.

**Sec. 2.** RCW 36.70A.360 and 1991 sp.s. c 32 s 17 are each amended to read as follows:

(1) Counties that are required or choose to plan under RCW 36.70A.040 may permit master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.

~~(2) Capital facilities, utilities, and services, including those related to sewer, water, storm water, security, fire suppression, and emergency medical, provided on-site shall be limited to meeting the needs of the master planned resort. Such facilities, utilities, and services may be provided to a master planned resort by outside service providers, including municipalities and special purpose districts, provided that all costs associated with service extensions and capacity increases directly attributable to the master planned resort are fully borne by the resort. A master planned resort and service providers may enter into agreements for shared capital facilities and utilities, provided that such facilities and utilities serve only the master planned resort or urban growth areas.~~

~~Nothing in this subsection may be construed as: Establishing an order of priority for processing applications for water right permits, for granting such permits, or for issuing certificates of water right; altering or authorizing in any manner the alteration of the place of use for a water right; or affecting or impairing in any manner whatsoever an existing water right.~~

~~All waters or the use of waters shall be regulated and controlled as provided in chapters 90.03 and 90.44 RCW and not otherwise.~~

(3) A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

(4) A master planned resort may be authorized by a county only if:

~~((1))~~ (a) The comprehensive plan specifically identifies policies to guide the development of master planned resorts;

~~((2))~~ (b) The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the master planned resort, except in areas otherwise designated for urban growth under RCW 36.70A.110;

~~((3))~~ (c) The county includes a finding as a part of the approval process that the land is better suited, and has more long-term importance, for the master planned resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forest land or agricultural land under RCW 36.70A.170;

~~((4))~~ (d) The county ensures that the resort plan is consistent with the development regulations established for critical areas; and

~~((5))~~ (e) On-site and off-site infrastructure and service impacts are fully considered and mitigated."

Debate ensued.

The President declared the question before the Senate to be the adoption of the Committee on Government Operation striking amendment to Engrossed Substitute House Bill No. 2596.

The motion by Senator Hale carried and the committee striking amendment was adopted.

## MOTIONS

On motion of Senator Hale, the following title amendment was adopted:

On page 1, line 1 of the title, after "resorts;" strike the remainder of the title and insert "amending RCW 36.70A.360; and creating a new section."

On motion of Senator Hale, the rules were suspended, Engrossed Substitute House Bill No. 2596, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2596, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2596, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 42. Voting nay: Senators Fairley, Fraser, Kline, Kohl, Thibaudeau and Wojahn - 6. Excused: Senator McCaslin - 1. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2596, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Franklin: "I rise to a point of personal privilege. We have had some very intense debates tonight and everyone looks so tired. Mr. President, with your permission, may I read from this book?"

#### REPLY BY THE PRESIDENT

President Owen: "With permission of the Senate, you may read."

Senator Franklin: "Thank you, Mr. President. It says, 'President Cleveland was always fighting with the Senate, but he got along very well with the House of Representatives. One night when he was fast asleep, Mrs. Cleveland shook him awake. There are thieves in the House she whispered. No, my dear, the President answered. Thieves in the Senate, maybe, but not in the House.'"

#### MOTION

At 9:59 p.m., on motion of Senator Johnson, the Senate adjourned until 8:30 a.m., Friday, March 6, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

FIFTY-THIRD DAY, MARCH 5, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

#### FIFTY-FOURTH DAY

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MORNING SESSION  
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Senate Chamber, Olympia, Friday, March 6, 1998

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Bauer, Patterson and Sellar. On motion of Senator Franklin, Senators Bauer and Patterson were excused. On motion of Senator Hale, Senator Sellar was excused.

The Sergeant at Arms Color Guard, consisting of Pages Jillian Larsen and Shad Hail presented the Colors. Reverend Sandra Lee, pastor of the Unitarian Universalist Church of Olympia, offered the prayer.

#### MOTION

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

#### MESSAGES FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has concurred in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 2894 and passed the bill as amended by the Senate.

TIMOTHY A. MARTIN, Chief Clerk

March 5, 1998

MR. PRESIDENT:

The House failed to pass ENGROSSED SUBSTITUTE SENATE BILL NO. 6431.

TIMOTHY A. MARTIN, Chief Clerk

March 4, 1998

MR. PRESIDENT:

The Speaker signed:  
SUBSTITUTE SENATE BILL NO. 5517,  
SECOND SUBSTITUTE SENATE BILL NO. 5727,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5936,  
SENATE BILL NO. 6169,  
SENATE BILL NO. 6223,  
SUBSTITUTE SENATE BILL NO. 6258,  
SUBSTITUTE SENATE BILL NO. 6297,  
SENATE BILL NO. 6299,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6323,  
SENATE BILL NO. 6353,  
SENATE BILL NO. 6398,  
SENATE BILL NO. 6441,  
SUBSTITUTE SENATE BILL NO. 6535,  
SENATE BILL NO. 6604,  
SUBSTITUTE SENATE BILL NO. 6667, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 4, 1998

MR. PRESIDENT:

The Speaker signed:

HOUSE BILL NO. 1308,  
SUBSTITUTE HOUSE BILL NO. 1977,  
HOUSE BILL NO. 2293,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2346,  
ENGROSSED HOUSE BILL NO. 2350,  
HOUSE BILL NO. 2357,  
SECOND SUBSTITUTE HOUSE BILL NO. 2430,  
HOUSE BILL NO. 2476,  
SUBSTITUTE HOUSE BILL NO. 2523,  
HOUSE BILL NO. 2534,  
SUBSTITUTE HOUSE BILL NO. 2576,  
HOUSE BILL NO. 2577,  
HOUSE BILL NO. 2698,  
HOUSE BILL NO. 2788,  
HOUSE BILL NO. 2797,  
HOUSE BILL NO. 2907,  
HOUSE BILL NO. 2965,  
SUBSTITUTE HOUSE BILL NO. 2998,  
HOUSE JOINT MEMORIAL NO. 4032,  
SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4035, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
HOUSE BILL NO. 1308,  
SUBSTITUTE HOUSE BILL NO. 1977,  
HOUSE BILL NO. 2293,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2346,  
ENGROSSED HOUSE BILL NO. 2350,  
HOUSE BILL NO. 2357,  
SECOND SUBSTITUTE HOUSE BILL NO. 2430,  
HOUSE BILL NO. 2476,  
SUBSTITUTE HOUSE BILL NO. 2523,  
HOUSE BILL NO. 2534,  
SUBSTITUTE HOUSE BILL NO. 2576,  
HOUSE BILL NO. 2577,  
HOUSE BILL NO. 2698,  
HOUSE BILL NO. 2788,  
HOUSE BILL NO. 2797,  
HOUSE BILL NO. 2907,  
HOUSE BILL NO. 2965,  
SUBSTITUTE HOUSE BILL NO. 2998,  
HOUSE JOINT MEMORIAL NO. 4032,  
SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4035.

MOTION

On motion of Senator Fraser, the following resolution was adopted:

SENATE RESOLUTION 1998-8716

By Senators Fraser, T. Sheldon, Swecker, B. Sheldon and Rasmussen

WHEREAS, Amelia Earhart encouraged women to expand their horizons by exploring occupations and holding positions beyond those traditionally held by women; and

WHEREAS, Amelia Earhart was a pioneer in aviation, the first woman to fly solo across the Atlantic and to receive the U.S. Distinguished Flying Cross; and

WHEREAS, Amelia Earhart was a beloved member of Zonta International before she was lost in the Pacific on a flight attempting to circle the globe by air in 1937; and

WHEREAS, Zonta International, a worldwide service organization of business and professional executives working to advance the status of women, has long recognized this woman of courage, character and culture; and

WHEREAS, In 1938, a year after Earhart's disappearance, Zonta International established its annual graduate Amelia Earhart's Fellowships in aerospace-related science and engineering; and

WHEREAS, In the sixty years since, Zonta has awarded eight hundred and forty-three fellowships worth \$4.2 million to over five hundred and forty-seven women from fifty-one countries as a living memorial to Earhart; and

WHEREAS, In the sixty years of the Zonta International Amelia Earhart Fellowship, Zontians worldwide celebrate Earhart's legacy through the achievement of those who have manufactured materials now on the moon, made commercial air flights safer, helped prevent fires in spacecraft and served as members on a NASA space shuttle crew;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize the value of sixty years of the prestigious Zonta International Amelia Earhart Fellowships.

Senators Fraser and Snyder spoke to Senate Resolution 1998-8716.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Olympia and South Puget Sound Zonta Clubs, who were seated in the gallery.

There being no objection, the President reverted the Senate to the sixth order of business.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3099, by House Committee on House Government Reform and Land Use (originally sponsored by Representatives DeBolt, Kessler and Johnson)

Expanding the authority for counties to adopt master planned locations for major industrial activity.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the following Committee on Government Operations amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that to fulfill the economic development goal of this chapter, it is beneficial to expand the limited authorization for pilot projects for identifying locations for major industrial activity in advance of specific proposals by an applicant. The legislature further finds that land bank availability may provide economically disadvantaged counties the opportunity to attract new industrial activity by offering expeditious siting and therefore promote a community's economic health and vitality. The purpose of this act is to authorize and evaluate additional pilot projects for major industrial activity in economically disadvantaged counties.

**Sec. 2.** RCW 36.70A.367 and 1997 c 402 s 1 are each amended to read as follows:

(1) In addition to the major industrial development allowed under RCW 36.70A.365, a county required or choosing to plan under RCW 36.70A.040 that ~~((has a population greater than two hundred fifty thousand and that is part of a metropolitan area that includes a city in another state with a population greater than two hundred fifty thousand or a county that has a population greater than one hundred forty thousand and is adjacent to another country))~~ meets the criteria in subsection (9) of this section may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for designating a bank of no more than two master planned locations for major industrial activity outside urban growth areas.

(2) A master planned location for major industrial developments outside an urban growth area may be included in the urban industrial land bank for the county if criteria including, but not limited to, the following are met:

(a) New infrastructure is provided for and/or applicable impact fees are paid;

(b) Transit-oriented site planning and traffic demand management programs are implemented;

- (c) Buffers are provided between the major industrial development and adjacent nonurban areas;
  - (d) Environmental protection including air and water quality has been addressed and provided for;
  - (e) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;
  - (f) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands;
  - (g) The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas; and
  - (h) An inventory of developable land has been conducted as provided in RCW 36.70A.365.
- (3) In selecting master planned locations for inclusion in the urban industrial land bank, priority shall be given to locations that are adjacent to, or in close proximity to, an urban growth area.
- (4) Final approval of inclusion of a master planned location in the urban industrial land bank shall be considered an adopted amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070, except that RCW 36.70A.130(2) does not apply so that inclusion or exclusion of master planned locations may be considered at any time.
- (5) Once a master planned location has been included in the urban industrial land bank, manufacturing and industrial businesses that qualify as major industrial development under RCW 36.70A.365 may be located there.
- (6) Nothing in this section may be construed to alter the requirements for a county to comply with chapter 43.21C RCW.
- (7) The authority of a county to engage in the process of including or excluding master planned locations from the urban industrial land bank shall terminate on December 31, ~~((1998))~~ 1999. However, any location included in the urban industrial land bank on December 31, ~~((1998))~~ 1999, shall remain available for major industrial development as long as the criteria of subsection (2) of this section continue to be met.
- (8) For the purposes of this section, "major industrial development" means a master planned location suitable for manufacturing or industrial businesses that: (a) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (b) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent; or (c) requires a location with characteristics such as proximity to transportation facilities or related industries such that there is no suitable location in an urban growth area. The major industrial development may not be for the purpose of retail commercial development or multitenant office parks.
- (9) This section applies to a county that at the time the process is established under subsection (1) of this section:
- (a) Has a population greater than two hundred fifty thousand and is part of a metropolitan area that includes a city in another state with a population greater than two hundred fifty thousand;
  - (b) Has a population greater than one hundred forty thousand and is adjacent to another country; or
  - (c) Has a population greater than forty thousand but less than seventy-five thousand and has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and
  - (i) Is bordered by the Pacific Ocean; or
  - (ii) Is located in the Interstate 5 or Interstate 90 corridor."

#### MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, line 1 of the title, after "developments;" strike the remainder of the title and insert "amending RCW 36.70A.367; and creating a new section."

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 3099, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3099, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3099, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 15; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 31. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Haugen, Heavey, Jacobsen, Kline, Kohl, McAuliffe, Prentice, Sheldon, B., Spanel, Thibaudeau and Wojahn - 15. Excused: Senators Bauer, Patterson and Sellar - 3. SUBSTITUTE HOUSE BILL NO. 3099, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senators Rossi and West were excused.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2077, by House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Scott and D. Sommers)

Providing uniform exemptions to competitive bidding procedures utilized by municipalities when awarding contracts for public works and contracts for purchases.

The bill was read the second time.

## MOTION

On motion of Senator McCaslin, the following Committee on Government Operations amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 39.04 RCW to read as follows:

This section provides uniform exemptions to competitive bidding procedures utilized by municipalities when awarding contracts for public works and contracts for purchases. The statutes governing a specific type of municipality may also include other exemptions from competitive bidding procedures. The purpose of this section is to supplement and not to limit the current powers of any municipality to provide exemptions from competitive bidding procedures.

(1) Competitive bidding procedures may be waived by the governing body of the municipality for:

- (a) Purchases that are clearly and legitimately limited to a single source of supply;
- (b) Purchases involving special facilities or market conditions;
- (c) Purchases in the event of an emergency;
- (d) Purchases of insurance or bonds; and
- (e) Public works in the event of an emergency.

(2)(a) The waiver of competitive bidding procedures under subsection (1) of this section may be by resolution or by the terms of written policies adopted by the municipality, at the option of the governing body of the municipality. If the governing body elects to waive competitive bidding procedures by the terms of written policies adopted by the municipality, immediately after the award of any contract, the contract and the factual basis for the exception must be recorded and open to public inspection.

If a resolution is adopted by a governing body to waive competitive bidding procedures under (b) of this subsection, the resolution must recite the factual basis for the exception. This subsection (2)(a) does not apply in the event of an emergency.

(b) If an emergency exists, the person or persons designated by the governing body of the municipality to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the municipality to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the governing body or its designee and duly entered of record no later than two weeks following the award of the contract.

(3) For purposes of this section:

(a) "Emergency" means unforeseen circumstances beyond the control of the municipality that either: (i) Present a real, immediate threat to the proper performance of essential functions; or (ii) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(b) "Municipality" means any city, code city, town, county, port district, fire district, public utility district, public hospital district, or water-sewer district.

**Sec. 2.** RCW 35.22.620 and 1993 c 198 s 9 are each amended to read as follows:

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall

be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population in excess of one hundred fifty thousand shall not have public employees perform a public works project in excess of fifty thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of twenty-five thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population of one hundred fifty thousand or less shall not have public employees perform a public works project in excess of thirty-five thousand dollars if more than one craft or trade is involved with the public works project, or a public works project in excess of twenty thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and record-keeping requirements contained in RCW 39.04.070, every first class city annually shall prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report shall indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

After September 1, 1987, each first class city with a population of one hundred fifty thousand or less shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) ~~((When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the city council shall adopt a resolution certifying the existence of this emergency situation.))~~ The competitive bidding requirements of this section may be waived by the city legislative authority pursuant to section 1 of this act if an exemption contained within that section applies to the work or contract.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first class city may use ((a)) the small works roster process ((and)) in RCW 39.04.155 to award contracts for public works projects with an estimated value of one hundred thousand dollars or less ((as provided in RCW 39.04.155)).

Whenever possible, the city shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

**Sec. 3.** RCW 35.23.352 and 1996 c 18 s 2 are each amended to read as follows:

(1) Any second class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen



days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second class city or a town may use the small works roster process provided in RCW 39.04.155 to award public works contracts with an estimated value of one hundred thousand dollars or less.

Whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(4) The form required by RCW 43.09.205 shall be to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, or equipment, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and formal sealed bidding to be dispensed with as to purchases between seven thousand five hundred and fifteen thousand dollars, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

(9) ~~((These requirements for purchasing may be waived by resolution of the city or town council or commission which declared that the purchase is clearly and legitimately limited to a single source or supply within the near vicinity, or the materials, supplies, equipment, or services are subject to special market conditions, and recites why this situation exists. Such actions are subject to RCW 39.30.020.))~~ The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

(10) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(11) Nothing in this section shall prohibit any second class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

**Sec. 4.** RCW 36.32.270 and 1963 c 4 s 36.32.270 are each amended to read as follows:

~~((In the event of an emergency when the public interest or property of the county would suffer material injury or damage by delay, upon resolution of the board of county commissioners declaring the existence of such emergency and reciting the facts constituting the same, the board))~~ The county legislative authority may waive the competitive bidding requirements of this chapter ((with reference to any)) pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or ((contract)) public work.

**Sec. 5.** RCW 52.14.110 and 1993 c 198 s 11 are each amended to read as follows:

Insofar as practicable, purchases and any public works by the district shall be based on competitive bids. A formal sealed bid procedure shall be used as standard procedure for purchases and contracts for purchases executed by the board of commissioners. Formal sealed bidding shall not be required for:

(1) ~~((Emergency purchases if the sealed bidding procedure would prevent or hinder the emergency from being addressed appropriately. The term emergency means an occurrence that creates an immediate threat to life or property;~~

~~(2))~~) The purchase of any materials, supplies, or equipment if the cost will not exceed the sum of four thousand five hundred dollars. However, whenever the estimated cost is from four thousand five hundred dollars up to ten thousand dollars, the commissioners may by resolution use the process provided in RCW 39.04.190 to award contracts;

~~((3))~~) (2) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of two thousand five hundred dollars, which includes the costs of labor, material, and equipment. However, whenever the estimated cost is from two thousand five hundred dollars up to ten thousand dollars, the commissioner may by resolution use the small works roster process provided in RCW 39.04.155; and

~~((4) Purchases which are clearly and legitimately limited to a single source of supply, or services, in which instances the purchase price may be best established by direct negotiation: PROVIDED, That this subsection shall not apply to purchases or contracts relating to public works as defined in chapter 39.04 RCW; and~~

~~(5) Purchases of insurance and bonds;)~~ (3) Any contract for purchases or public work pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

**Sec. 6.** RCW 53.08.120 and 1993 c 198 s 13 are each amended to read as follows:

All material required by a port district may be procured in the open market or by contract and all work ordered may be done by contract or day labor. All such contracts for work, the estimated cost of which exceeds one hundred thousand dollars, shall be let at public bidding upon notice published in a newspaper of general circulation in the district at least thirteen days before the last date upon which bids will be received, calling for sealed bids upon the work, plans and specifications for which shall then be on file in the office of the commission for public inspection. The same notice may call for bids on such work or material based upon plans and specifications submitted by the bidder. The competitive bidding requirements for purchases or public works may be waived pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

Each port district shall maintain a small works roster, as provided in RCW 39.04.155, and may use the small works roster process to award contracts in lieu of calling for sealed bids whenever work is done by contract, the estimated cost of which is one hundred thousand dollars or less. Whenever possible, the managing official shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section.

When awarding such a contract for work, when utilizing proposals from the small works roster, the managing official shall give weight to the contractor submitting the lowest and best proposal, and whenever it would not violate the public interest, such contracts shall be distributed equally among contractors, including minority contractors, on the small works roster.

**Sec. 7.** RCW 54.04.070 and 1993 c 198 s 14 are each amended to read as follows:

Any item, or items of the same kind of materials, equipment, or supplies purchased, the estimated cost of which is in excess of five thousand dollars, exclusive of sales tax shall be by contract: PROVIDED, That a district may make purchases of the same kind of items of materials, equipment and supplies not exceeding five thousand dollars in any calendar month without a contract, purchasing any excess thereof over five thousand dollars by contract. Any work ordered by a district commission, the estimated cost of which is in excess of ten thousand dollars exclusive of sales tax, shall be by contract, except that a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. Prudent utility management means performing work with regularly employed personnel utilizing material of a worth not exceeding fifty thousand dollars in value without a contract: PROVIDED, That such limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment purchased or acquired and used as one unit of a project. Before awarding such a contract, the commission shall publish a notice once or more in a newspaper of general circulation in the district at least thirteen days before the last date upon which bids will be received, inviting sealed proposals for the work or materials; plans and specifications of which shall at the time of the publication be on file at the office of the district subject to public inspection. Any published notice ordering work to be performed for the district shall be mailed at the time of publication to any established trade association which files a written request with the district to receive such notices. The commission may at the same time and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by the bidders.

Notwithstanding any other provisions herein, all contract projects, the estimated cost of which is less than one hundred thousand dollars, may be awarded to a contractor using the small works roster process provided in RCW 39.04.155. All contract projects equal to or in excess of one hundred thousand dollars shall be let by competitive bidding.

Whenever equipment or materials required by a district are held by a governmental agency and are available for sale but such agency is unwilling to submit a proposal, the commission may ascertain the price of such items and file a statement of such price supported by the sworn affidavit of one member of the commission and may consider such price as a bid without a deposit or bond. ~~((In the event of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the commission, or proclamation of an official designated by the board to act for the board during such emergencies, declaring the existence of such emergency and reciting the facts constituting the same, the board, or the official acting for the board, may waive the requirements of this chapter with reference to any purchase or contract, after having taken precautions to secure the lowest price practicable under the circumstances.~~

~~After determination by the commission during a public meeting that a particular purchase is available clearly and legitimately only from a single source of supply, the bidding requirements of this section may be waived by the commission.))~~

The commission may waive the competitive bidding requirements of this section pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

**Sec. 8.** RCW 57.08.050 and 1997 c 245 s 4 are each amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of five thousand dollars shall be let by contract. All contract projects, the estimated cost of which is in excess of five thousand dollars and less than fifty thousand dollars, may be awarded to a contractor using the small works roster process provided in RCW 39.04.155. The board of commissioners may set up uniform procedures to prequalify contractors for inclusion on the small works roster. All contract projects equal to or in excess of fifty thousand dollars shall be let by competitive bidding. Before awarding any such contract the board of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. However, no contract shall be let in excess of the cost of the materials or work. The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ten days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of ten thousand dollars, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of from ~~((five))~~ ten thousand dollars to less than fifty thousand dollars shall be made using the process provided in RCW ~~((39.04.155))~~ 39.04.190 or by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section. Any purchase of materials, supplies, or equipment with an estimated cost of fifty thousand dollars or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(3) ~~((In the event of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board of commissioners, or proclamation of an official designated by the board to act for the board during such emergencies, declaring the existence of such emergency and reciting the facts constituting the same, the board or official acting for the board may waive the requirements of this chapter with reference to any purchase or contract. In addition, these requirements may be waived for purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.))~~ The board may waive the competitive bidding requirements of this section pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

**Sec. 9.** RCW 70.44.140 and 1996 c 18 s 15 are each amended to read as follows:

(1) All materials purchased and work ordered, the estimated cost of which is in excess of five thousand dollars, shall be by contract. Before awarding any such contract, the commission shall publish a notice at least thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work. The plans and specifications must at the time of the publication of such notice be on file at the office of the public hospital district, subject to public inspection: PROVIDED, HOWEVER, That the commission may at the same time, and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by bidders. The notice shall state generally the work to be done, and shall call for proposals for doing the same, to be sealed and filed with the commission on or before the day and hour named therein. Each bid shall be accompanied by bid proposal security in the form of a certified check, cashier's check, postal money order, or surety bond made payable to the order of the commission, for a sum not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal security. At the time and place named, such bids shall be publicly opened and read, and the

commission shall proceed to canvass the bids, and may let such contract to the lowest responsible bidder upon plans and specifications on file, or to the best bidder submitting his or her own plans and specifications: PROVIDED, HOWEVER, That no contract shall be let in excess of the estimated cost of the materials or work, or if, in the opinion of the commission, all bids are unsatisfactory, they may reject all of them and readvertise, and in such case all bid proposal security shall be returned to the bidders; but if such contract be let, then and in such case all bid proposal security shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for the purchase of such materials for doing such work, and a bond to perform such work furnished, with sureties satisfactory to the commission, in an amount to be fixed by the commission, not less than twenty-five percent of contract price in any case, between the bidder and commission, in accordance with the bid. If such bidder fails to enter into the contract in accordance with the bid and furnish such bond within ten days from the date at which the bidder is notified that he or she is the successful bidder, the bid proposal security and the amount thereof shall be forfeited to the public hospital district. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) In lieu of the procedures of subsection (1) of this section, a public hospital district may use a small works roster process and award public works contracts for projects in excess of five thousand dollars up to fifty thousand dollars as provided in RCW 39.04.155.

(3) For advertisement and formal sealed bidding to be dispensed with as to purchases between five thousand and fifteen thousand dollars, the commission must authorize by resolution a procedure as provided in RCW 39.04.190.

(4) The commission may waive the competitive bidding requirements of this section pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

NEW SECTION. Sec. 10. A new section is added to chapter 36.34 RCW to read as follows:

In accordance with RCW 35.42.010 through 35.42.220, a county with a population of one million or more may lease space and provide for the leasing of such space through leases with an option to purchase and the acquisition of buildings erected upon land owned by the county upon the expiration of lease of such land. For the purposes of this section, "building," as defined in RCW 35.42.020 shall be construed to include any building or buildings used as part of, or in connection with, the operation of the county. The authority conferred by this section is in addition to and not in lieu of any other provision authorizing counties to lease property."

#### MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, line 1 of the title, after "bidding;" strike the remainder of the title and insert "amending RCW 35.22.620, 35.23.352, 36.32.270, 52.14.110, 53.08.120, 54.04.070, 57.08.050, and 70.44.140; adding a new section to chapter 39.04 RCW; and adding a new section to chapter 36.34 RCW."

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 2077, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2077, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2077, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 44. Excused: Senators Bauer, Patterson, Rossi, Sellar and West - 5. SUBSTITUTE HOUSE BILL NO. 2077, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2501, by Representatives Zellinsky, Robertson, L. Thomas and Carrell

Exempting wholesale auto auctions from certain regulations.

The bill was read the second time.

#### MOTION

On motion of Senator Prince, the following Committee on Transportation amendment was adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.70.011 and 1996 c 194 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (4) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" is a vehicle dealer that deals in new or used motor vehicles, or both;

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or more than one type of these vehicles;

(c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals in motorcycles or vehicles other than motor vehicles or mobile homes and travel trailers or any combination of such vehicles;

(d) "Wholesale motor vehicle auction dealer" is a person or firm offering motor vehicles for sale by competitive bidding at a permanent location and regularly scheduled dates and times. A salvage pool operation is not a wholesale motor vehicle auction dealer.

(4) The term "vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of, any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which he is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, subject to registration, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or his authorized representative, who, on behalf of the legal or registered owner of a used mobile home negotiates the purchase, sale, or exchange of the used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located and the real estate broker is not acting as an agent, subagent, or representative of a vehicle dealer licensed under this chapter; or

(g) Owners who are also operators of the special highway construction equipment or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required as defined in RCW 46.16.010; or

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party.

(5) "Vehicle salesperson" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(6) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

(7) "Director" means the director of licensing.

(8) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes any sales promotion organization, whether a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of their vehicles or for supervising or contracting with their dealers or prospective dealers.

(9) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

(10) "Principal place of business" means that dealer firm's business location in the state, which place the dealer designates as their principal place of business.

(11) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(12) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

(13) "Wholesale vehicle dealer" means a vehicle dealer who buys and sells other than at retail.

(14) "Retail vehicle dealer" means a vehicle dealer who may buy and sell at both wholesale and retail.

(15) "Listing dealer" means a used mobile home dealer who makes contracts with sellers who will compensate the dealer for obtaining a willing purchaser for the seller's mobile home.

(16) "Auction" means a transaction conducted by means of exchanges between an auctioneer and the members of the audience, constituting a series of oral invitations for offers for the purchase of vehicles made by the auctioneer, offers to purchase by members of the audience, and the acceptance of the highest or most favorable offer to purchase.

(17) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity licensed under chapter 18.11 RCW that only sells or offers to sell vehicles at auction or only arranges or sponsors auctions.

(18) "Buyer's agent" means any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation retained or employed by a consumer to arrange for or to negotiate, or both, the purchase of a new motor vehicle on behalf of the consumer, and who is paid a fee or receives other compensation from the consumer for its services.

(19) "New motor vehicle" means any motor vehicle that is self-propelled and is required to be registered and titled under Title 46 RCW, has not been previously titled to a retail purchaser or lessee, and is not a "used vehicle" as defined under RCW 46.04.660.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.70 RCW to read as follows:

(1) A wholesale motor vehicle auction dealer may:

(a) Sell any classification of motor vehicle;

(b) Sell only to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state; or

(c) Sell a motor vehicle belonging to the United States government, the state of Washington, or a political subdivision to nonlicensed persons as may be required by the contracting public agency. However, a publicly owned "wrecked vehicle" as defined in RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state.

(2) If the wholesale motor vehicle auction dealer knows that a vehicle is a "wrecked vehicle" as defined by RCW 46.80.010, the dealer must disclose this fact on the bill of sale.

**Sec. 3.** RCW 46.79.010 and 1990 c 250 s 69 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context indicates otherwise.

(1) "Junk vehicle" means a motor vehicle certified under RCW 46.55.230 as meeting all the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Is without a valid, current registration plate;

(e) Has a fair market value equal only to the value of the scrap in it.

(2) "Scrap processor" means a licensed establishment that maintains a hydraulic baler and shears, or a shredder for recycling salvage.

(3) "Demolish" means to destroy completely by use of a hydraulic baler and shears, or a shredder.

(4) "Hulk hauler" means any person who deals in vehicles for the sole purpose of transporting and/or selling them to a licensed (~~motor~~) vehicle wrecker or scrap processor in substantially the same form in which they are obtained. A hulk hauler may not sell second-hand motor vehicle parts to anyone other than a licensed vehicle wrecker or scrap processor, except for those parts specifically enumerated in RCW 46.79.020(2), as now or hereafter amended, which may be sold to a licensed (~~motor~~) vehicle wrecker or disposed of at a public facility for waste disposal.

(5) "Director" means the director of licensing.

(6) "Major component parts" include engines and short blocks, frames, transmissions or transfer cases, cabs, doors, front or rear differentials, front or rear clips, quarter panels or fenders, bumpers, truck beds or boxes, seats, and hoods.

(7) "Wholesale motor vehicle auction dealer" is a person or firm offering motor vehicles for sale by competitive bidding at a permanent location and regularly scheduled dates and times. A salvage pool operation is not a wholesale motor vehicle auction dealer.

**NEW SECTION. Sec. 4.** A new section is added to chapter 46.79 RCW to read as follows:

(1) A wholesale motor vehicle auction dealer may:

- (a) Sell any classification of motor vehicle;
- (b) Sell only to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state; or
- (c) Sell a motor vehicle belonging to the United States government, the state of Washington, or a political subdivision to nonlicensed persons as may be required by the contracting public agency. However, a publicly owned "wrecked vehicle" as defined in RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state.

(2) If the wholesale motor vehicle auction dealer knows that a vehicle is a "wrecked vehicle" as defined by RCW 46.80.010, the dealer must disclose this fact on the bill of sale.

**Sec. 5.** RCW 46.80.010 and 1995 c 256 s 4 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Vehicle wrecker" means every person, firm, partnership, association, or corporation engaged in the business of buying, selling, or dealing in vehicles of a type required to be licensed under the laws of this state, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of a vehicle, or who buys or sells integral second-hand parts of component material thereof, in whole or in part, or who deals in second-hand vehicle parts.

(2) "Established place of business" means a building or enclosure which the vehicle wrecker occupies either continuously or at regular periods and where his books and records are kept and business is transacted and which must conform with zoning regulations.

(3) "Major component part" includes at least each of the following vehicle parts: (a) Engines and short blocks; (b) frame; (c) transmission and/or transfer case; (d) cab; (e) door; (f) front or rear differential; (g) front or rear clip; (h) quarter panel; (i) truck bed or box; (j) seat; (k) hood; (l) bumper; (m) fender; and (n) airbag. The director may supplement this list by rule.

(4) "Wrecked vehicle" means a vehicle which is disassembled or dismantled or a vehicle which is acquired with the intent to dismantle or disassemble and never again to operate as a vehicle, or a vehicle which has sustained such damage that its cost to repair exceeds the fair market value of a like vehicle which has not sustained such damage, or a damaged vehicle whose salvage value plus cost to repair equals or exceeds its fair market value, if repaired, or a vehicle which has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state for which the salvage value plus cost to repair exceeds its fair market value, if repaired; further, it is presumed that a vehicle is a wreck if it has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state.

(5) "Wholesale motor vehicle auction dealer" is a person or firm offering motor vehicles for sale by competitive bidding at a permanent location and regularly scheduled dates and times. A salvage pool operation is not a wholesale motor vehicle auction dealer.

**NEW SECTION. Sec. 6.** A new section is added to chapter 46.80 RCW to read as follows:

(1) A wholesale motor vehicle auction dealer may:

- (a) Sell any classification of motor vehicle;
- (b) Sell only to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state; or
- (c) Sell a motor vehicle belonging to the United States government, the state of Washington, or a political subdivision to nonlicensed persons as may be required by the contracting public agency. However, a publicly owned "wrecked vehicle" may be sold to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state.

(2) If the wholesale motor vehicle auction dealer knows that a vehicle is a "wrecked vehicle," the dealer must disclose this fact on the bill of sale.

**Sec. 7.** RCW 46.70.101 and 1996 c 282 s 3 are each amended to read as follows:

The director may by order deny, suspend, or revoke the license of any vehicle dealer or vehicle manufacturer or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the order is in the public interest and that the applicant or licensee:

(1) In the case of a vehicle dealer:

(a) The applicant or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee:

(i) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled or which license was assessed a civil penalty and the assessed amount has not been paid;

(ii) Has been adjudged guilty of a crime which directly relates to the business of a vehicle dealer and the time elapsed since the adjudication is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, adjudged guilty shall mean in addition to a final conviction in either a state or

municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended;

(iii) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department;

(iv) Has knowingly, or with reason to know, provided the department with false information relating to the number of vehicle sales transacted during the past one year in order to obtain a vehicle dealer license plate;

(v) Does not have an established place of business as required in this chapter;

(vi) Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

(vii) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same, except for sales by wholesale motor vehicle auction dealers to franchise motor vehicle dealers of the same make licensed under Title 46 RCW or franchise motor vehicle dealers of the same make licensed by any other state;

(viii) Is insolvent, either in the sense that their liabilities exceed their assets, or in the sense that they cannot meet their obligations as they mature;

(ix) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

(x) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183;

(xi) Knowingly, or with reason to know, allows a salesperson employed by the dealer, or acting as their agent, to commit any of the prohibited practices set forth in subsection (1)(a) of this section and RCW 46.70.180.

(b) The applicant or licensee, or any partner, officer, director, owner of ten percent of the assets of the firm, or any employee or agent:

(i) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(ii) Has defrauded or attempted to defraud the state, or a political subdivision thereof of any taxes or fees in connection with the sale or transfer of a vehicle;

(iii) Has forged the signature of the registered or legal owner on a certificate of title;

(iv) Has purchased, sold, disposed of, or has in his or her possession any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has willfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates or manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles, except for sales by wholesale motor vehicle auction dealers to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW or motor vehicle dealers licensed by any other state;

(ix) Has aided or assisted an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, allowing use of facilities, dealer license number, or by any other means;

(x) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of the property or funds; or

(xi) Has sold any vehicle with actual knowledge that:

(A) It has any of the following brands on the title: "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or

(B) It has been declared totaled out by an insurance carrier and then rebuilt; or

(C) The vehicle title contains the specific comment that the vehicle is "rebuilt";

without clearly disclosing that brand or comment in writing.

(c) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

(2) In the case of a manufacturer, or any partner, officer, director, or majority shareholder:

(a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has knowingly or with reason to know, made a false statement of a material fact in his application for license, or any data attached thereto, or in any matter under investigation by the department;



- (c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;
- (d) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;
- (e) Has purchased, sold, disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;
- (f) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;
- (g) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;
- (h) Sells or distributes in this state or transfers into this state for resale, any new or unused vehicle to which a warranty attaches or has attached and refuses to honor the terms of such warranty within a reasonable time or repudiates the same;
- (i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or transferred into this state for resale unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;
- (j) Fails to reimburse within a reasonable time any vehicle dealer within the state of Washington who in good faith incurs reasonable obligations in giving effect to warranties that attach or have attached to any new or unused vehicle sold or distributed in this state or transferred into this state for resale by any such manufacturer;
- (k) Engaged in practices inimical to the health and safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles;
- (l) Is insolvent either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature;
- (m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183."

#### MOTIONS

On motion of Senator Prince, the following title amendment was adopted:

On line 1 of the title, after "auctions;" strike the remainder of the title and insert "amending RCW 46.70.011, 46.79.010, 46.80.010, and 46.70.101; adding a new section to chapter 46.70 RCW; adding a new section to chapter 46.79 RCW; and adding a new section to chapter 46.80 RCW."

On motion of Senator Prince, the rules were suspended, Engrossed House Bill No. 2501, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2501, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2501, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Bauer, Patterson and West - 3. ENGROSSED HOUSE BILL NO. 2501, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2568, by Representatives Smith, D. Schmidt, Gardner, Doumit and Thompson (by request of Department of General Administration)

Terminating state motor vehicle management programs.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, House Bill No. 2568 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2568.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2568 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Bauer, Patterson and West - 3. HOUSE BILL NO. 2568, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 3041, by Representatives Cooke, Bush, Kastama and Tokuda

Exempting the office of the family and children's ombudsman from certain proceedings.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the following Committee on Law and Justice amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.06A RCW to read as follows:

Neither the ombudsman nor the ombudsman's staff may be compelled, in any judicial or administrative proceeding, to testify or to produce evidence regarding the exercise of the official duties of the ombudsman or of the ombudsman's staff. All related memoranda, work product, notes, and case files of the ombudsman's office are confidential, are not subject to discovery, judicial or administrative subpoena, or other method of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. This section shall not apply to the legislative oversight committee.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.06A RCW to read as follows:

The privilege described in section 1 of this act does not apply when:

- (1) The ombudsman or ombudsman's staff member has direct knowledge of an alleged crime, and the testimony, evidence, or discovery sought is relevant to that allegation;
- (2) The ombudsman or a member of the ombudsman's staff has received a threat of, or becomes aware of a risk of, imminent serious harm to any person, and the testimony, evidence, or discovery sought is relevant to that threat or risk;
- (3) The ombudsman has been asked to provide general information regarding the general operation of, or the general processes employed at, the ombudsman's office; or
- (4) The ombudsman or ombudsman's staff member has direct knowledge of a failure by any person specified in RCW 26.44.030, including the state family and children's ombudsman or any volunteer in the ombudsman's office, to comply with RCW 26.44.030.

**NEW SECTION. Sec. 3.** When the ombudsman or ombudsman's staff member has reasonable cause to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the ombudsman or ombudsman's staff member shall report the matter, or cause a report to be made, to the appropriate authorities.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.06A RCW to read as follows:

Nothing in this chapter shall be construed to conflict with the duty to report specified in RCW 26.44.030.

**NEW SECTION. Sec. 5.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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

#### MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 3 of the title, after "proceedings;" strike the remainder of the title and insert "adding new sections to chapter 43.06A RCW; creating a new section; and declaring an emergency."

On motion of Senator Roach, the rules were suspended, Engrossed House Bill No. 3041, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Franklin, Senator Thibaudeau was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 3041, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3041, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Bauer, Patterson, Thibaudeau and West - 4. ENGROSSED HOUSE BILL NO. 3041, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2917, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives K. Schmidt and Fisher) (by request of Department of Licensing)

Regulating fuel tax and international registration plan payments.

The bill was read the second time.

#### MOTION

On motion of Senator Sellar, the rules were suspended, Substitute House Bill No. 2917 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2917.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2917 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Bauer, Thibaudeau and West - 3. SUBSTITUTE HOUSE BILL NO. 2917, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2551, by House Committee on Energy and Utilities (originally sponsored by Representative Crouse)

Allowing utilities to take actions, such as requiring deposits, to ensure payment.

The bill was read the second time.

#### MOTION

Senator Brown moved that the following amendments by Senators Brown and Zarelli be considered simultaneously and be adopted:

On page 2, line 1, after "mail." insert "When a city or town provides a real property owner or the owner's designee with duplicates of tenant utility service bills or notice that a tenant's utility account is delinquent, the city or town shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee."

On page 4, line 2, after "mail." insert "When a district provides a real property owner or the owner's designee with duplicates of tenant utility service bills or notice that a tenant's utility account is delinquent, the district shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee."

On page 6, line 30, after "mail." insert "When a district provides a real property owner or the owner's designee with duplicates of tenant utility service bills or notice that a tenant's utility account is delinquent, the district shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Brown and Zarelli on page 2, line 1; page 4, line 2; and page 6, line 30; to Engrossed Substitute House Bill No. 2551.

The motion by Senator Brown carried and the amendments were adopted.

#### MOTION

Senator Kline moved that the following amendments be considered simultaneously and be adopted:

On page 2, after line 6, insert the following:

"(3) A city or town may provide a tenant or a tenant's designee with duplicates of the utility service bills for the property leased or rented by the tenant but paid for by the landlord, or may notify a tenant or the tenant's designee that a landlord's utility account is delinquent. However, if a tenant or the tenant's designee notifies the city or town in writing that a property served by the city or town is a rental property, asks to be notified of a landlord's delinquency, and has provided, in writing, a complete and accurate mailing address, the city or town shall notify the tenant or the tenant's designee of a landlord's delinquency at the same time and in the same manner the city or town notifies the landlord of the landlord's delinquency, or by mail."

On page 4, after line 7, insert the following:

"(8) A district may provide a tenant or a tenant's designee with duplicates of the utility service bills for the property leased or rented by the tenant but paid for by the landlord, or may notify a tenant or the tenant's designee that a landlord's utility account is delinquent. However, if a tenant or the tenant's designee notifies the district in writing that a property served by the district is a rental property, asks to be notified of a landlord's delinquency, and has provided, in writing, a complete and accurate mailing address, the district shall notify the tenant or the tenant's designee of a landlord's delinquency at the same time and in the same manner the district notifies the landlord of the landlord's delinquency, or by mail."

On page 6, line 36, after "(9)" insert "A board may provide a tenant or a tenant's designee with duplicates of the utility service bills for the property leased or rented by the tenant but paid for by the landlord, or may notify a tenant or the tenant's designee that a landlord's utility account is delinquent. However, if a tenant or the tenant's designee notifies the board in writing that a property served by the board is a rental property, asks to be notified of a landlord's delinquency, and has provided, in writing, a complete and accurate mailing address, the board shall notify the tenant or the tenant's designee of a landlord's delinquency at the same time and in the same manner the board notifies the landlord of the landlord's delinquency, or by mail."

(10)"

On page 7, at the beginning of line 7, strike "(10)" and insert "(11)"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Kline on page 2, after line 6; page 4, after line 7; page 6, line 36; and page 7; at the beginning of line 7, to Engrossed Substitute House Bill No. 2551.

The motion by Senator Kline failed and the amendments were not adopted.

#### MOTION

On motion of Senator Finkbeiner, the rules were suspended, Engrossed Substitute House Bill No. 2551, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Wojahn: "Senator Brown, if there is an accumulation of electric bills that were unpaid by the prior tenant, would the new tenant be required to pick those up?"

Senator Brown: "Senator Wojahn, I am not an expert on this issue, but my understanding is 'no' that would not be the case. What happens now is if the tenant manages to escape without paying, what can happen, if the utility fails to collect from the tenant, they can place a lien on the property and then it shifts to the property owner--which, of course, the property owner doesn't like. So, under this underlying bill, they will get notice in advance or they can request notice in advance which, hopefully, will help in getting the appropriate party paying the bill." The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2551, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2551, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 5; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Wood and Zarelli - 40. Voting nay: Senators Fairley, Heavey, Kline, Prentice and Wojahn - 5. Absent: Senator Winsley - 1. Excused: Senators Bauer, Thibaudeau and West - 3. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2551, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2724, by House Committee on Appropriations (originally sponsored by Representatives Boldt, Mielke, Pennington, Carrell, Mulliken, Thompson, Bush, Cairnes, Reams and Lambert)

Requiring legislative oversight of moneys received from enforcement actions.

The bill was read the second time.

#### MOTION

Senator Strannigan moved that the following Committee on Ways and Means amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.88 RCW to read as follows:

A state agency shall not expend moneys except pursuant to an appropriation by law if the moneys are received in an administrative or judicial regulatory or civil enforcement action, or settlement thereof, brought by the state.

In any regulatory or civil enforcement action brought by the attorney general under the authority of the attorney general or another state agency where moneys are to be paid to the state or to a state-administered account, the attorney general shall seek a court order or settlement that includes a requirement that the moneys received by the state shall not be expended except pursuant to an appropriation by law.

This section does not apply to:

(1) Moneys received by the state for payment by the state to injured parties or a class of parties as damages, restitution, or refunds. However, if such payments to a class of parties in lieu of damages, restitution, or refunds, such as payments under the doctrine of cy pres, include a payment to a state agency, the expenditure of the payment by the state agency shall be subject to this section;

(2) Fees or enforcement actions to collect fees, including investigation or examination fees, that are established by administrative rule or statute;

(3) Expenditures from accounts outside the state treasury, including court registries, exclusively for purposes of remedial action or natural resource damages under chapters 70.105D, 90.48, and 90.56 RCW, 33 U.S.C. Sec. 2701 et seq., or 42 U.S.C. Sec. 9601 et seq., or for purposes of financial assurance under chapter 70.95 or 70.105 RCW; and

(4) Expenditures from nonappropriated funds and accounts that are specifically established by statute if the statute does not incorporate a reference to this section.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.88 RCW to read as follows:

Except as provided in section 1 of this act or as otherwise provided by law, recoveries of amounts expended pursuant to an appropriation, including but not limited to, payments for material supplied or services rendered under chapter 39.34 RCW, may be expended as part of the original appropriation of the fund to which such recoveries belong, without further or additional appropriation. Such expenditures shall be subject to conditions and procedures prescribed by the director of financial management. The director may authorize expenditures with respect to recoveries accrued but not received, in accordance with generally accepted accounting principles, except that such recoveries shall not be included in revenues or expended against an appropriation for a subsequent fiscal period. This section does not apply to the repayment of loans, except for loans between state agencies.

**Sec. 3.** RCW 43.79.270 and 1996 c 288 s 37 are each amended to read as follows:

Whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, ~~(and)~~ no money shall be expended for any purpose except the specific purpose for which it was received, and no money shall be expended under this section if an appropriation is required under section 1 of this act. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

**Sec. 4.** RCW 9.46.100 and 1991 sp.s. c 16 s 917 are each amended to read as follows:

There is hereby created the gambling revolving fund which shall consist of all moneys receivable for licensing, penalties, forfeitures, and all other moneys, income, or revenue received by the commission. The state treasurer shall be custodian of the fund. All moneys received by the commission or any employee thereof, except for change funds and an amount of petty cash as fixed by rule or regulation of the commission, shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the gambling revolving fund. Disbursements from the revolving fund shall be on authorization of the commission or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the gambling revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund except as provided in section 1 of this act. All expenses relative to commission business, including but not limited to salaries and expenses of the director and other commission employees shall be paid from the gambling revolving fund.

The state treasurer shall transfer to the general fund one million dollars from the gambling revolving fund for the 1991-93 fiscal biennium.

**Sec. 5.** RCW 15.13.470 and 1993 c 120 s 17 are each amended to read as follows:

All moneys collected under this chapter shall be paid to the director, deposited in an account within the agricultural local fund, and used solely for carrying out this chapter and rules adopted under this chapter. Except as provided in section 1 of this act, no appropriation is required for the disbursement of moneys from the account by the director. Any residual balance of funds remaining in the nursery inspection fund on July 26, 1987, shall be transferred to that account within the agricultural local fund: PROVIDED, That all fees collected for fruit tree, fruit tree related ornamental tree, and fruit tree rootstock assessments as set forth in this chapter shall be deposited in the northwest nursery fund to be used only for the Washington fruit tree and fruit tree related ornamental tree certification and nursery improvement programs as set forth in this chapter and chapter 15.14 RCW.

**Sec. 6.** RCW 15.36.441 and 1995 c 374 s 7 are each amended to read as follows:

(1) If the results of an antibiotic, pesticide, or other drug residue test under RCW 15.36.201 are above the actionable level established in the PMO and determined using procedures set forth in the PMO, a person holding a milk producer's license is subject to a civil penalty. The penalty shall be in an amount equal to one-half the value of the sum of the volumes of milk equivalent produced under the license on the day prior to and the day of the adulteration. The value of the milk shall be computed by the weighted average price for the federal market order under which the milk is delivered.

(2) The penalty is imposed by the department giving a written notice which is either personally served upon or transmitted by certified mail, return receipt requested, to the person incurring the penalty. The notice of the civil penalty shall be a final order of the department unless, within fifteen days after the notice is received, the person incurring the penalty appeals the penalty by filing a notice of appeal with the department. If a notice of appeal is filed in a timely manner, a hearing shall be conducted on behalf of the department by the office of administrative hearings in accordance with chapters 34.05 and 34.12 RCW. At the conclusion of the hearing, the department shall determine whether the penalty should be affirmed, and, if so, shall issue a final order setting forth the civil penalty assessed, if any. The order may be appealed to superior court in accordance with chapter 34.05 RCW. Tests performed for antibiotic, pesticide, or other drug residues by an official

laboratory or an officially designated laboratory of a milk sample drawn by a department official or a licensed dairy technician shall be admitted as prima facie evidence of the presence or absence of an antibiotic, pesticide, or other drug residue.

(3) Any penalty imposed under this section is due and payable upon the issuance of the final order by the department. The penalty shall be deducted by the violator's marketing organization from the violator's final payment for the month following the issuance of the final order. The department shall promptly notify the violator's marketing organization of any penalties contained in the final order.

(4) All penalties received or recovered from violations of this section shall be remitted monthly by the violator's marketing organization to the Washington state dairy products commission and deposited in a revolving fund to be used solely for the purposes of education and research. Except as provided in section 1 of this act, no appropriation is required for disbursements from this fund.

(5) In case of a violation of the antibiotic, pesticide, or other drug residue test requirements, an investigation shall be made to determine the cause of the residue which shall be corrected. Follow-up sampling and testing must be done in accordance with the requirements of the PMO.

**Sec. 7.** RCW 15.36.471 and 1994 c 143 s 511 are each amended to read as follows:

(1) The director of agriculture shall adopt rules imposing a civil penalty for violations of the standards for component parts of fluid dairy products which are established under this chapter or adopted pursuant to RCW 69.04.398. The penalty shall not exceed ten thousand dollars and shall be such as is necessary to achieve proper enforcement of the standards. The rules shall be adopted before January 1, 1987, and shall become effective on July 1, 1987.

(2) The penalty is imposed by the department giving a written notice which is either personally served upon or transmitted by certified mail, return receipt requested, to the person incurring the penalty. The notice of the civil penalty shall be a final order of the department unless, within fifteen days after the notice is received, the person incurring the penalty appeals the penalty by filing a notice of appeal with the department. If a notice of appeal is filed in a timely manner, a hearing shall be conducted on behalf of the department by the office of administrative hearings in accordance with chapters 34.05 and 34.12 RCW. At the conclusion of the hearing, the department shall determine whether the penalty should be affirmed, reduced, or not imposed and shall issue a final order setting forth the civil penalty assessed, if any. The order may be appealed to superior court in accordance with chapter 34.05 RCW. Tests performed for the component parts of milk products by a state laboratory of a milk sample collected by a department official shall be admitted as prima facie evidence of the amounts of milk components in the product.

(3) Any penalty imposed under this section is due and payable upon the issuance of the final order by the department.

(4) All penalties received or recovered from violations of this section shall be remitted by the violator to the department and deposited in the revolving fund of the Washington state dairy products commission. One-half of the funds received shall be used for purposes of education with the remainder one-half to be used for dairy processing or marketing research, or both. Except as provided in section 1 of this act, no appropriation is required for disbursements from this fund.

(5) In case of a violation of the standards for the composition of milk products, an investigation shall be made to determine the cause of the violation which shall be corrected. Additional samples shall be taken as soon as possible and tested by the department.

**Sec. 8.** RCW 18.160.050 and 1990 c 177 s 6 are each amended to read as follows:

(1)(a) All certificate of competency holders that desire to continue in the fire protection sprinkler business shall annually, prior to January 1, secure from the state director of fire protection a renewal certificate of competency upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the certificate holder shall furnish the information required by the director.

(b) Failure of any certificate of competency holder to secure his or her renewal certificate of competency within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the certificate of competency.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a certificate of competency that has been suspended for failure to pay the renewal fee.

(d) A certificate of competency holder may voluntarily surrender his or her certificate of competency to the state director of fire protection and be relieved of the annual renewal fee. After surrendering the certificate of competency, he or she shall not be known as a certificate of competency holder and shall desist from the practice thereof. Within two years from the time of surrender of the certificate of competency, he or she may again qualify for a certificate of competency, without examination, by the payment of the required fee. If two or more years have elapsed, he or she shall return to the status of a new applicant.

(2)(a) All licensed fire protection sprinkler system contractors desiring to continue to be licensed shall annually, prior to January 1, secure from the state director of fire protection a renewal license upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the license holder shall furnish the information required by the director.

(b) Failure of any license holder to secure his or her renewal license within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the license.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a license that has been suspended for failure to pay the renewal fee.

(3) The initial certificate of competency or license fee shall be prorated based upon the portion of the year such certificate of competency or license is in effect, prior to renewal on January 1.

(4) The fire protection contractor license fund is created in the custody of the state treasurer. All receipts from license and certificate fees and charges or from the money generated by the rules and regulations promulgated under this chapter shall be deposited into the fund. Expenditures from the fund may be used only for purposes authorized under this chapter. Only the state director of fire protection or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW~~((, but))~~. Except as provided in section 1 of this act, no appropriation is required for expenditures from the fund.

**Sec. 9.** RCW 19.146.228 and 1997 c 106 s 13 are each amended to read as follows:

The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

(1) An annual assessment paid by each licensee on or before a date specified by rule;

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

(3) An application fee to cover the costs of processing applications made to the director under this chapter.

Mortgage brokers shall not be charged investigation fees for the processing of complaints when the investigation determines that no violation of this chapter occurred or when the mortgage broker provides a remedy satisfactory to the complainant and the director and no order of the director is issued. All moneys, fees, and penalties collected under the authority of this chapter shall be subject to section 1 of this act and shall be deposited into the banking examination fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected under this chapter shall be deposited in the consumer services account.

**Sec. 10.** RCW 22.09.411 and 1991 sp.s. c 13 s 67 are each amended to read as follows:

(1) There is hereby established a fund to be known as the grain indemnity fund. The grain indemnity fund shall consist of assessments remitted by licensees pursuant to the provisions of RCW 22.09.416 through 22.09.426.

(2) All assessments shall be paid to the department and shall be deposited in the grain indemnity fund. The state treasurer shall be the custodian of the grain indemnity fund. Disbursements shall be on authorization of the director. Except as provided in section 1 of this act, no appropriation is required for disbursements from this fund.

(3) The grain indemnity fund shall be used exclusively for purposes of paying claimants pursuant to this chapter, and paying necessary expenses of administering the grain indemnity fund, provided however, that moneys equivalent to one-half of the interest earned by the fund for deposit to the general fund may be paid to the department to defray costs of administering the warehouse audit program. The state of Washington shall not be liable for any claims presented against the fund.

**Sec. 11.** RCW 22.09.830 and 1994 sp.s. c 6 s 901 and 1994 c 46 s 6 are each reenacted and amended to read as follows:

(1) All moneys collected as fees for weighing, grading, and inspecting commodities and all other fees collected under the provisions of this chapter, except as provided in subsections (2) and (3) of this section, shall be deposited in the grain inspection revolving fund, which is hereby established. The state treasurer is the custodian of the revolving fund. Disbursements from the revolving fund shall be on authorization of the director of the department of agriculture. The revolving fund is subject to the allotment procedure provided in chapter 43.88 RCW~~((, but))~~. Except as provided in section 1 of this act, no appropriation is required for disbursements from the fund. The fund shall be used for all expenses directly incurred by the grain inspection program in carrying out the provisions of this chapter and for departmental administrative expenses during the 1993-95 biennium. The department may use so much of such fund not exceeding five percent thereof as the director of agriculture may determine necessary for research and promotional work, including rate studies, relating to wheat and wheat products.

(2) All fees collected for the inspection, grading, and testing of hops shall be deposited into the hop inspection fund, which is hereby established, and shall be retained by the department for the purpose of inspecting, grading, and testing hops. Any moneys in any fund retained by the department on July 1, 1963, and derived from hop inspection and grading shall be deposited to this hop inspection fund. For the purposes of research which would contribute to the development of superior hop varieties and to improve hop production and harvest practices, the department may expend up to twenty percent of the moneys deposited in the hop inspection fund during the fiscal year ending June 30th immediately preceding the year in which such expenditures are to be made. No expenditures shall be made under the provisions of this subsection when the hop inspection fund is, or the director may reasonably anticipate that it will be, reduced below twenty thousand dollars as the result of such expenditure or other necessary expenditures made to carry out the inspection, grading, and testing of hops.

(3) All moneys collected by the grain warehouse audit program, including grain warehouse license fees pursuant to RCW 22.09.050 and 22.09.055, shall be deposited by the director into the grain warehouse audit account, hereby created within the agricultural local fund established in RCW 43.23.230. Moneys collected shall be used to support the grain warehouse audit program.

**Sec. 12.** RCW 28C.10.082 and 1991 sp.s. c 13 s 85 are each amended to read as follows:

The tuition recovery trust fund is hereby established in the custody of the state treasurer. The agency shall deposit in the fund all moneys received under RCW 28C.10.084. Moneys in the fund may be spent only for the purposes under RCW 28C.10.084. Disbursements from the fund shall be on authorization of the agency. The fund is subject to the allotment procedure provided under chapter 43.88 RCW~~((, but))~~. Except as provided in section 1 of this act, no appropriation is required for disbursements from the fund.



**Sec. 13.** RCW 43.10.200 and 1971 ex.s. c 71 s 6 are each amended to read as follows:

Except as provided in section 1 of this act, court costs, attorneys' fees, and other expenses recovered by the attorney general shall be deposited in the legal services revolving fund and shall be considered as returned loans of materials supplied or services rendered. Such amounts may be expended in the same manner and under the same conditions and restrictions as set forth in section 11, chapter 282, Laws of 1969 ex. sess.

**Sec. 14.** RCW 43.10.220 and 1974 ex.s. c 162 s 3 are each amended to read as follows:

Except as provided in section 1 of this act, the attorney general is authorized to expend from the antitrust revolving fund, created by RCW 43.10.210 through 43.10.220, such funds as are necessary for the payment of costs, expenses and charges incurred in the preparation, institution and maintenance of antitrust actions under the state and federal antitrust acts.

**Sec. 15.** RCW 43.23.230 and 1988 c 254 s 1 are each amended to read as follows:

The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation except as provided in section 1 of this act.

**Sec. 16.** RCW 43.320.110 and 1995 c 238 s 9 are each amended to read as follows:

There is created a local fund known as the "banking examination fund" which shall consist of all moneys received by the department of financial institutions from banks, savings banks, foreign bank branches, savings and loan associations, consumer loan companies, check cashers and sellers, trust companies and departments, and escrow agents, and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the proper regulation of these companies. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW(~~(-but)~~). Except as provided in section 1 of this act, no appropriation is required to permit expenditures and payment of obligations from the fund.

**Sec. 17.** RCW 43.320.120 and 1993 c 472 s 26 are each amended to read as follows:

There is created a local fund known as the "credit unions examination fund" which shall consist of all moneys received by the department of financial institutions from credit unions and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the regulation of these institutions. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW(~~(-but)~~) and, except as provided in section 1 of this act, no appropriation is required to permit expenditures and payment of obligations from the fund.

**Sec. 18.** RCW 43.320.130 and 1993 c 472 s 27 are each amended to read as follows:

(1) There is created in the state treasury a fund known as the "securities regulation fund" that shall consist of thirteen percent of all moneys received by the division of securities of the department of financial institutions, except as provided in subsection (2) of this section. Expenditures from the account may be used only for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the regulation of securities, franchises, business opportunities, commodities, and other similar areas regulated by the division. Moneys in the account may be spent only after appropriation.

(2) All moneys that are received by the division of securities in settlement of a regulatory or enforcement action that are designated for a specific purpose shall be placed in the securities regulation fund and be subject to appropriation for that purpose. If those settlement moneys are not appropriated by the end of the following biennium, eighty-seven percent of those moneys shall be deposited into the general fund on the first day of the succeeding biennium.

**Sec. 19.** RCW 43.70.340 and 1990 c 253 s 3 are each amended to read as follows:

(1) The farmworker housing inspection fund is established in the custody of the state treasury. The department of health shall deposit all funds received under subsection (2) of this section and from the legislature to administer a labor camp inspection program conducted by the department of health. Disbursement from the fund shall be on authorization of the secretary of health or the secretary's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW(~~(-but)~~). Except as provided in section 1 of this act, no appropriation is required for disbursements.

(2) There is imposed a fee on each operating license issued by the department of health to every operator of a labor camp that is regulated by the state board of health. The fee paid under this subsection shall include all necessary inspection of the units to ensure compliance with applicable state board of health rules on labor camps.

(a) Fifty dollars shall be charged for each labor camp containing six or less units.

(b) Seventy-five dollars shall be charged for each labor camp containing more than six units.

(3) The term of the operating license and the application procedures shall be established, by rule, by the department of health.

**Sec. 20.** RCW 59.21.050 and 1995 c 122 s 9 are each amended to read as follows:

(1) The existence of the mobile home park relocation fund in the custody of the state treasurer is affirmed. Expenditures from the fund may be used only for relocation assistance under RCW 59.21.015 through 59.21.025. Only the director or the director's designee may authorize expenditures from the fund. All relocation payments to tenants shall be made from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW(~~(-but)~~). Except as provided in section 1 of this act, no appropriation is required for expenditures from the fund.

(2) A park tenant is eligible for assistance under RCW 59.21.015 only after an application is submitted by that tenant or an organization acting on the tenant's account under RCW 59.21.021(4) on a form approved by the director which shall include:

(a) For those persons who maintained ownership of and relocated their homes: (i) A copy of the notice from the park-owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use; (ii) a copy of the rental agreement then in force, or other proof that the applicant was a tenant at the time of notice of closure; (iii) a copy of the contract for relocating the home which includes the date of relocation, or other proof of actual relocation expenses incurred on a date certain; and (iv) a statement of any other available assistance;

(b) For those persons who sold their homes and incurred no relocation expenses: (i) A copy of the notice from the park-owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use; (ii) a copy of the rental agreement then in force, or other proof that the applicant was a tenant at the time of notice of closure; and (iii) a copy of the record of title transfer issued by the department of licensing when the tenant sold the home rather than relocate it due to park closure or conversion.

**Sec. 21.** RCW 70.47.030 and 1995 2nd sp.s. c 18 s 913 are each amended to read as follows:

(1) The basic health plan trust account is hereby established in the state treasury. Any nongeneral fund-state funds collected for this program shall be deposited in the basic health plan trust account and may be expended without further appropriation. Moneys in the account shall be used exclusively for the purposes of this chapter, including payments to participating managed health care systems on behalf of enrollees in the plan and payment of costs of administering the plan.

During the 1995-97 fiscal biennium, the legislature may transfer funds from the basic health plan trust account to the state general fund.

(2) The basic health plan subscription account is created in the custody of the state treasurer. All receipts from amounts due from or on behalf of nonsubsidized enrollees shall be deposited into the account. Funds in the account shall be used exclusively for the purposes of this chapter, including payments to participating managed health care systems on behalf of nonsubsidized enrollees in the plan and payment of costs of administering the plan. The account is subject to allotment procedures under chapter 43.88 RCW(~~(-but)~~). Except as provided in section 1 of this act, no appropriation is required for expenditures.

(3) The administrator shall take every precaution to see that none of the funds in the separate accounts created in this section or that any premiums paid either by subsidized or nonsubsidized enrollees are commingled in any way, except that the administrator may combine funds designated for administration of the plan into a single administrative account.

**Sec. 22.** RCW 77.21.080 and 1989 c 11 s 29 are each amended to read as follows:

The state wildlife conservation reward fund is established in the custody of the state treasurer. The director shall deposit in the fund all moneys designated to be placed in the fund by rule of the director. Moneys in the fund shall be spent to provide rewards to persons informing the department about violations of this title or rules adopted pursuant to this title. Disbursements from the fund shall be on the authorization of the director or the director's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW(~~(-but)~~). Except as provided in section 1 of this act, no appropriation is required for disbursements from the fund.

**NEW SECTION. Sec. 23.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 24.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 25.** This act takes effect July 1, 1999."

#### MOTION

On motion of Senator Spanel, the following amendments by Senators Spanel and Strannigan to the Committee on Ways and Means striking amendment were considered simultaneously and were adopted:

On page 1, line 34, strike "and"

On page 2, line 1, strike "(4)" and insert the following:

"(4) Moneys recovered by the department of social and health services for client services, benefits, or vendor overpayments or moneys collected by the division of child support; and

(5)"

The President declared the question before the Senate to be the adoption of the Committee on Ways and Means striking amendment, as amended, to Substitute House Bill No. 2724.

The motion by Senator Strannigan carried and the committee striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Strannigan, the following title amendment was adopted:

On page 1, line 3 of the title, after "enforcement actions;" strike the remainder of the title and insert "amending RCW 43.79.270, 9.46.100, 15.13.470, 15.36.441, 15.36.471, 18.160.050, 19.146.228, 22.09.411, 28C.10.082, 43.10.200, 43.10.220, 43.23.230, 43.320.110, 43.320.120, 43.320.130, 43.70.340, 59.21.050, 70.47.030, and 77.21.080; reenacting and amending RCW 22.09.830; adding new sections to chapter 43.88 RCW; creating a new section; and providing an effective date."

On motion of Senator Strannigan, the rules were suspended, Substitute House Bill No. 2724, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2724, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2724, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 6; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Brown, Deccio, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, Winsley, Wood and Zarelli - 39. Voting nay: Senators Fairley, Franklin, Heavey, Kline, Kohl and Wojahn - 6. Absent: Senator Anderson - 1. Excused: Senators Bauer, Swecker and West - 3. SUBSTITUTE HOUSE BILL NO. 2724, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Swecker was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2461, by House Committee on Natural Resources (originally sponsored by Representatives Buck, Sump, Kessler, Schoesler, Benson, Koster, DeBolt, McMorris, Alexander, Gardner, Linville, Thompson and Mulliken)

Requiring a timely distribution of certain state forest land funds back to the counties.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, Substitute House Bill No. 2461 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2461.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2461 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke,

Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, Winsley, Wood and Zarelli - 45.

Voting nay: Senator Wojahn - 1.

Excused: Senators Bauer, Swecker and West - 3.

SUBSTITUTE HOUSE BILL NO. 2461, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2826, by House Committee on Natural Resources (originally sponsored by Representatives Schoesler, Hatfield, Buck, Butler, Kessler and Robertson)

Authorizing distribution of nonhighway vehicle funds to nonprofit off-road vehicle organizations.

The bill was read the second time.

#### MOTION

On motion of Senator Oke, the rules were suspended, Substitute House Bill No. 2826 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTIONS

On motion of Senator Hale, Senator Strannigan was excused.

On motion of Senator Spanel, Senator Loveland was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2826.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2826 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 43. Absent: Senator Finkbeiner - 1. Excused: Senators Bauer, Loveland, Strannigan, Swecker and West - 5. SUBSTITUTE HOUSE BILL NO. 2826, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2905, by Representatives Carrell, Talcott, Cooke, Bush, Smith, Cairnes, Koster, Backlund, Sherstad, Lambert and Kastama

Prohibiting placement of sexually violent predators in state mental facilities.

The bill was read the second time.

#### MOTION

On motion of Senator Long, the rules were suspended, House Bill No. 2905 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Schow was excused.

Further debate ensued.

#### POINT OF INQUIRY

Senator McAuliffe: "Senator Long, I just want to clarify something, if you could. You have said that this option was never used before and now we are placing it in law. Is that right?"

Senator Long: "No, what I said is the option has not been used and we are saying it can't be."

Senator McAuliffe: "Thank you very much. I did not hear that correctly."

#### POINT OF INQUIRY

Senator Wojahn: "Senator Long, where are we going to put these people? Do we have a facility to which to put them?"

Senator Long: "They don't exist right now. They go to McNeill Island--they will--and they are being kept in secure facilities in our prisons and we do have treatments at McNeill and at other facilities, so it isn't that we are just locking them up."

Senator Wojahn: "Is that the reason for the emergency clause on the bill?"

Senator Long: "Pardon me?"

Senator Wojahn: "Is that the reason for the emergency clause?"

Senator Long: "Yes."

Senator Wojahn: "Thank you."

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2905.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2905 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 4; Absent, 2; Excused, 4.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Finkbeiner, Franklin, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Wood and Zarelli - 39. Voting nay: Senators Fairley, Fraser, McAuliffe and Wojahn - 4. Absent: Senators Hargrove and Sellar - 2. Excused: Senators Bauer, Schow, Strannigan and West - 4. HOUSE BILL NO. 2905, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 10:37 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:42 a.m. by President Owen.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2830, by House Government Reform and Land Use (originally sponsored by Representatives Reams, Romero and Lantz) (by request of Land Use Study Commission)

Implementing recommendations of the land use study commission.

The bill was read the second time.

#### MOTION

Senator McCaslin moved that the following Committee on Government Operations amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.13.182 and 1997 c 429 s 37 are each amended to read as follows:

(1) The legislative body of a city or town planning under chapter 36.70A RCW as of June 30, 1994, may resolve to annex territory to the city or town if there is, within the city or town, unincorporated territory containing residential property owners within the same county and within the same urban growth area designated under RCW 36.70A.110 as the city or town:

(a) Containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to the city or town (if such area existed before June 30, 1994); or

(b) Of any size and having at least eighty percent of the boundaries of the area contiguous to the city if the area existed before June 30, 1994.

(2) The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing in the area as nearly as may be, and set a date for a public hearing on the resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the city or town and one or more newspapers of general circulation within the area to be annexed.

(3) For purposes of subsection (1)(b) of this section, territory bounded by a river, lake, or other body of water is considered contiguous to a city that is also bounded by the same river, lake, or other body of water.

**NEW SECTION. Sec. 2.** A new section is added to chapter 35.13 RCW to read as follows:

The annexation ordinance provided for in RCW 35.13.182 is subject to referendum for forty-five days after its passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of the election shall be given as provided in RCW 35.13.080 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

**NEW SECTION. Sec. 3.** A new section is added to chapter 35.13 RCW to read as follows:

On the date set for hearing as provided in RCW 35.13.182(2), residents or property owners of the area included in the resolution for annexation shall be afforded an opportunity to be heard. The legislative body may provide by ordinance for annexation of the territory described in the resolution, but the effective date of the ordinance shall be not less than forty-five days after the passage thereof. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of such requirements.

**Sec. 4.** RCW 36.70A.020 and 1990 1st ex.s. c 17 s 2 are each amended to read as follows:

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner. Urban growth areas should have concentrated employment centers, separated by adequate buffers that protect critical areas, and need not be uniformly urban in nature.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

**Sec. 5.** RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended to read as follows:

(1) Each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW ~~((36.70A.129))~~ 36.70A.040. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within ~~((three))~~ five hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.

(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to insure consistency.

(4) Forest land and agricultural land located within urban growth areas shall not be designated by a county or city as forest land or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights.

**Sec. 6.** RCW 36.70A.070 and 1997 c 429 s 7 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community, including affordable housing and adequate housing located within reasonable commuting distances to employment centers.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding

capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. In order to achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- (i) Containing or otherwise controlling rural development;
- (ii) Assuring visual compatibility of rural development with the surrounding rural area;
- (iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments. A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection. An industrial area is not required to be principally designed to serve the existing and projected rural population;

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;



(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element. The transportation element shall include the following subelements:

(a) Land use assumptions used in estimating travel;

(b) Facilities and services needs, including:

(i) An inventory of air, water, and ground transportation facilities and services, including railways, transit alignments, and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities, including interstate highway exits and ferry terminals, within the city or county's jurisdictional boundaries;

(ii) Level of service standards for all arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(iii) Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;

(iv) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(v) Identification of system expansion needs and transportation system management needs to meet current and future demands;

(c) Finance, including:

(i) An analysis of funding capability to judge needs against probable funding resources;

(ii) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems;

(iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(d) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(e) Demand-management strategies.

After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

The transportation element described in this subsection, and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, must be consistent.

**NEW SECTION. Sec. 7.** A new section is added to chapter 36.70A RCW to read as follows:

As part of the review required by RCW 36.70A.130(1), a county or city shall review its mineral resource lands designations adopted pursuant to RCW 36.70A.170 and mineral resource lands development regulations adopted pursuant to RCW 36.70A.040 and 36.70A.060. In its review, the county or city shall take into consideration:

(1) New information made available since the adoption or last review of its designations or development regulations, including data available from the department of natural resources relating to mineral resource deposits; and

(2) New or modified model development regulations for mineral resource lands prepared by the department of natural resources, the department of community, trade, and economic development, or the Washington state association of counties.

**Sec. 8.** 1995 c 347 s 433 (uncodified) is amended to read as follows:

~~((Sections 413 and 421 of this act))~~ RCW 36.70B.090 and 64.40.050 shall expire June 30, ~~((1998))~~ 2000. The provisions of ~~((sections 413 and 421 of this act))~~ RCW 36.70B.090 and 64.40.050 shall apply to project permit applications determined to be complete pursuant to RCW 36.70B.070 on or before June 30, ~~((1998))~~ 2000.

**Sec. 9.** 1995 c 347 s 411 (uncodified) is amended to read as follows:

The amendments to RCW ~~((36.70A.065))~~ 36.70B.080 contained in section 409 ~~((of this act))~~, chapter 347, Laws of 1995 shall expire July 1, ~~((1998))~~ 2000.

**Sec. 10.** 1995 c 347 s 412 (uncodified) is amended to read as follows:

Section 410 (~~(of this act)~~), chapter 347, Laws of 1995 shall take effect July 1, (~~(1998)~~) 2000."

#### MOTION

Senator Haugen moved that the following amendments by Senators Haugen and McCaslin to the Committee on Government Operations striking amendment be considered simultaneously and be adopted:

Beginning on page 3, line 1 of the amendment, strike all of section 4.

Beginning on page 5, line 27 of the amendment, strike all of section 6.

Renumber the remaining sections consecutively and correct any internal references accordingly.

#### MOTION

On motion of Senator Anderson, the question was divided.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and McCaslin on page 3, line 1, to the Committee on Government Operations striking amendment to Engrossed Substitute House Bill No. 2830.

Debate ensued.

The amendment by Senators Haugen and McCaslin on page 3, line 1, to the committee striking amendment was not adopted.

#### MOTION

On motion of Senator Haugen, and there being no objection, the amendment by Senators Haugen and McCaslin on page 5, line 27, to the committee striking amendment, was withdrawn.

#### MOTION

Senator Benton moved that the following amendment by Senators Benton, Horn and Wood to the Committee on Government Operations striking amendment be adopted:

On page 5, after line 26 of the amendment, insert the following:

"NEW SECTION. Sec. 6. A new section is added to chapter 36.70A RCW to read as follows:

Each county that is required or chooses to plan under RCW 36.70A.040 shall coordinate with the cities located in the county to develop a common and consistent set of development regulations and standards for lands located in an urban growth area within a county. If no common and consistent set of development regulations and standards is agreed upon within two years of the effective date of this act, the development regulations of the jurisdiction where the property is located shall prevail without penalty."

Renumber the sections consecutively and correct any internal references accordingly.

#### POINT OF ORDER

Senator Haugen: "Mr. President, I ask for a ruling on the scope and object of this amendment to the committee amendment. The underlying bill is a recommendation of the Land Use Study Commission. They never even looked at this issue, let alone make any recommendations to it. Nothing in the underlying bill has anything to do with permit holders or anything else, so I would urge you to take a look at the scope and object of this particular amendment."

Debate ensued.

#### MOTION

On motion of Senator Johnson, and there being no objection, further consideration of Engrossed Substitute House Bill No. 2830 was deferred.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2977, by House Committee on House Government Reform and Land Use (originally sponsored by Representatives Sheahan and Appelwick)

Changing provisions that relate to binding site plans.

The bill was read the second time.

#### MOTION

Senator Heavey moved that the following amendments be considered simultaneously and be adopted:

On page 1, line 12, after "lease" insert "or sale, including without limitation when subjected to the provisions of either chapter 64.32 or 64.34 RCW."

On page 3, line 11, after "lease" insert "or sale, including without limitation when subjected to the provisions of either chapter 64.32 or 64.34 RCW."

On page 3, line 12, after "mobile" insert "or manufactured"

On page 3, line 12, after "are" insert "or have been"

On page 3, line 15, after "regulations" insert "for a mobile or manufactured home or travel trailer park which is constructed or to be constructed, and the binding site plan has been filed with the county auditor"

On page 5, line 11, after "created." insert "This section does not apply to a division of land governed by RCW 58.17.040(5) pursuant to an ordinance adopted by a city, town, or county as authorized by RCW 58.17.035."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Heavey on page 1, line 12; page 3, lines 11, 12(2), and 15; and page 5, line 11, to Substitute House Bill No. 2977.

The motion by Senator Heavey failed and the amendments were not adopted.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 2977 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2977.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2977 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 32. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Goings, Haugen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Spanel, Thibaudeau and Wojahn - 17. SUBSTITUTE HOUSE BILL NO. 2977, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the seventh order of business.

There being no objection, the Senate resumed consideration of Substitute House Bill No. 1992, deferred on third reading March 4, 1998.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1992.

Debate ensued.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1992 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE HOUSE BILL NO. 1992, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President returned the Senate to the sixth order of business.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1223, by House Committee on Law and Justice (originally sponsored by Representatives Carrell, Zellinsky, Talcott, Hickel, Thompson and Conway)

Addressing the public nuisance activities of tenants.

The bill was read the second time.

## MOTION

On motion of Senator Roach, the following Committee on Law and Justice amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 59.18.030 and 1973 1st ex.s. c 207 s 3 are each amended to read as follows:

As used in this chapter:

(1) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single family residences and units of multiplexes, apartment buildings, and mobile homes.

(2) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the landlord.

(3) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(4) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(5) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(6) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(7) A "single family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(8) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(9) "Reasonable attorney's fees", where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(10) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(11) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

"**Sec. 2.** RCW 59.18.130 and 1992 c 38 s 2 are each amended to read as follows:

Each tenant shall pay the rental amount at such times and in such amounts as provided for in the rental agreement or as otherwise provided by law and comply with all obligations imposed upon tenants by applicable provisions of all municipal, county, and state codes, statutes, ordinances, and regulations, and in addition shall:

(1) Keep that part of the premises which he or she occupies and uses as clean and sanitary as the conditions of the premises permit;

- (2) Properly dispose from his or her dwelling unit all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant;
- (3) Properly use and operate all electrical, gas, heating, plumbing and other fixtures and appliances supplied by the landlord;
- (4) Not intentionally or negligently destroy, deface, damage, impair, or remove any part of the structure or dwelling, with the appurtenances thereto, including the facilities, equipment, furniture, furnishings, and appliances, or permit any member of his or her family, invitee, licensee, or any person acting under his or her control to do so. Violations may be prosecuted under chapter 9A.48 RCW if the destruction is intentional and malicious;
- (5) Not permit a nuisance or common waste;
- (6) Not engage in drug-related activity at the rental premises, or allow a subtenant, sublessee, resident, or anyone else to engage in drug-related activity at the rental premises with the knowledge or consent of the tenant. "Drug-related activity" means that activity which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW;
- (7) Maintain the smoke detection device in accordance with the manufacturer's recommendations, including the replacement of batteries where required for the proper operation of the smoke detection device, as required in RCW 48.48.140(3);
- (8) Not engage in any activity at the rental premises that is:
  - (a) Imminently hazardous to the physical safety of other persons on the premises; and
  - (b)(i) Entails physical assaults upon another person which result in an arrest; or
  - (ii) Entails the unlawful use of a firearm or other deadly weapon as defined in RCW 9A.04.110 which results in an arrest, including threatening another tenant or the landlord with a firearm or other deadly weapon under RCW 59.18.352. Nothing in this subsection (8) shall authorize the termination of tenancy and eviction of the victim of a physical assault or the victim of the use or threatened use of a firearm or other deadly weapon; ~~(and)~~
- (9) Not engage in any gang-related activity at the premises, as defined in RCW 59.18.030, or allow another to engage in such activity at the premises, that renders people in at least two or more dwelling units or residences insecure in life or the use of property or that injures or endangers the safety or health of people in at least two or more dwelling units or residences. In determining whether a tenant is engaged in gang-related activity, a court should consider the totality of the circumstances, including factors such as whether there have been a significant number of complaints to the landlord about the tenant's activities at the property, damages done by the tenant to the property, including the property of other tenants or neighbors, harassment or threats made by the tenant to other tenants or neighbors that have been reported to law enforcement agencies, any police incident reports involving the tenant, and the tenant's criminal history; and
- (10) Upon termination and vacation, restore the premises to their initial condition except for reasonable wear and tear or conditions caused by failure of the landlord to comply with his or her obligations under this chapter: PROVIDED, That the tenant shall not be charged for normal cleaning if he or she has paid a nonrefundable cleaning fee.

**Sec. 3.** RCW 59.18.180 and 1992 c 38 s 3 are each amended to read as follows:

- (1) If the tenant fails to comply with any portion of RCW 59.18.130 or 59.18.140, and such noncompliance can substantially affect the health and safety of the tenant or other tenants, or substantially increase the hazards of fire or accident that can be remedied by repair, replacement of a damaged item, or cleaning, the tenant shall comply within thirty days after written notice by the landlord specifying the noncompliance, or, in the case of emergency as promptly as conditions require. If the tenant fails to remedy the noncompliance within that period the landlord may enter the dwelling unit and cause the work to be done and submit an itemized bill of the actual and reasonable cost of repair, to be payable on the next date when periodic rent is due, or on terms mutually agreed to by the landlord and tenant, or immediately if the rental agreement has terminated. Any substantial noncompliance by the tenant of RCW 59.18.130 or 59.18.140 shall constitute a ground for commencing an action in unlawful detainer in accordance with the provisions of chapter 59.12 RCW, and a landlord may commence such action at any time after written notice pursuant to such chapter. The tenant shall have a defense to an unlawful detainer action filed solely on this ground if it is determined at the hearing authorized under the provisions of chapter 59.12 RCW that the tenant is in substantial compliance with the provisions of this section, or if the tenant remedies the noncomplying condition within the thirty day period provided for above or any shorter period determined at the hearing to have been required because of an emergency: PROVIDED, That if the defective condition is remedied after the commencement of an unlawful detainer action, the tenant may be liable to the landlord for statutory costs and reasonable attorney's fees.
- (2) If drug-related activity is alleged to be a basis for termination of tenancy under RCW 59.18.130(6), 59.12.030(5), or 59.20.140(5), the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action.
- (3) If activity on the premises that creates an imminent hazard to the physical safety of other persons on the premises as defined in RCW 59.18.130(8) is alleged to be the basis for termination of the tenancy, and the tenant is arrested as a result of this activity, then the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action against the tenant who was arrested for this activity.
- (4) If gang-related activity, as prohibited under RCW 59.18.130(9), is alleged to be the basis for termination of the tenancy, then the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action in accordance with chapter 59.12 RCW, and a landlord may commence such an action at any time after written notice under chapter 59.12 RCW.

(5) A landlord may not be held liable in any cause of action for bringing an unlawful detainer action against a tenant for drug-related activity ~~((or)),~~ for creating an imminent hazard to the physical safety of others, or for engaging in gang-related activity that renders people in at least two or more dwelling units or residences insecure in life or the use of property or that injures or endangers the safety or health of people in at least two or more dwelling units or residences under this section, if the unlawful detainer action was brought in good faith. Nothing in this section shall affect a landlord's liability under RCW 59.18.380 to pay all damages sustained by the tenant should the writ of restitution be wrongfully sued out.

**NEW SECTION. Sec. 4.** A new section is added to chapter 59.18 RCW to read as follows:

The legislature finds and declares that the ability to feel safe and secure in one's own home and in one's own community is of primary importance. The legislature recognizes that certain gang-related activity can affect the safety of a considerable number of people in the rental premises and dwelling units. Therefore, such activity, although it may be occurring within an individual's home or the surrounding areas of an individual's home, becomes the community's concern.

The legislature intends that the remedy provided in section 5 of this act be used solely to protect the health and safety of the community. The remedy is not a means for private citizens to bring malicious or unfounded actions against fellow tenants or residential neighbors for personal reasons. In determining whether the tenant's activity is the type prohibited under RCW 59.18.130(9), the court should consider the totality of the circumstances, including factors such as whether there have been numerous complaints to the landlord, damage to property, police or incident reports, reports of disturbance, and arrests. An absence of any or all of these factors does not necessarily mean gang activity is not occurring. In determining whether the tenant is engaging in gang-related activity, the court should consider the purpose and intent of section 5 of this act. The legislature intends to give people in the community a tool that will help them restore the health and vibrance of their community.

**NEW SECTION. Sec. 5.** A new section is added to chapter 59.18 RCW to read as follows:

(1)(a) Any person whose life, safety, health, or use of property is being injured or endangered by a tenant's gang-related activity, who has legal standing and resides, works in, or owns property in the same multifamily building, apartment complex, or within a one-block radius may serve the landlord with a ten-day notice and demand that the landlord commence an unlawful detainer action against the tenant. The notice and demand must set forth, in reasonable detail, facts and circumstances that lead the person to believe gang-related activity is occurring. The notice and demand shall be served by delivering a copy personally to the landlord or the landlord's agent. If the person is unable to personally serve the landlord after exercising due diligence, the person may deposit the notice and demand in the mail, postage prepaid, to the landlord's or the landlord's agent's last known address.

(b) A copy of the notice and demand must also be served upon the tenant engaging in the gang-related activity by delivering a copy personally to the tenant. However, if the person is prevented from personally serving the tenant due to threats or violence, or if personal service is not reasonable under the circumstances, the person may deposit the notice and demand in the mail, postage prepaid, to the tenant's address, or leave a copy of the notice and demand in a conspicuous location at the tenant's residence.

(2)(a) Within ten days from the time the notice and demand is served, the landlord has a duty to take reasonable steps to investigate the tenant's alleged noncompliance with RCW 59.18.130(9). The landlord must notify the person who brought the notice and demand that an investigation is occurring. The landlord has ten days from the time he or she notifies the person in which to conduct a reasonable investigation.

(b) If, after reasonable investigation, the landlord finds that the tenant is not in compliance with RCW 59.18.130(9), the landlord may proceed directly to an unlawful detainer action or take reasonable steps to ensure the tenant discontinues the prohibited activity and complies with RCW 59.18.130(9). The landlord shall notify the person who served the notice and demand of whatever action the landlord takes.

(c) If, after reasonable investigation, the landlord finds that the tenant is in compliance with RCW 59.18.130(9), the landlord shall notify the person who served the notice and demand of the landlord's findings.

(3) The person who served the notice and demand may petition the appropriate court to have the tenancy terminated and the tenant removed from the premises if: (a) Within ten days of service of the notice and demand, the tenant fails to discontinue the gang-related activity and the landlord fails to conduct a reasonable investigation; or (b) the landlord notifies the person that the landlord conducted a reasonable investigation and found that the tenant was not engaged in gang-related activity as prohibited under RCW 59.18.130(9); or (c) the landlord took reasonable steps to have the tenant comply with RCW 59.18.130(9), but the tenant has failed to comply within a reasonable time.

(4) If the court finds that the tenant was not in compliance with RCW 59.18.130(9), the court shall enter an order terminating the tenancy and requiring the tenant to vacate the premises. The court shall not issue the order terminating the tenancy unless it has found that the allegations of gang-related activity are corroborated by a source other than the person who has petitioned the court.

(5) The prevailing party shall recover reasonable attorneys' fees and costs. The court may impose sanctions, in addition to attorneys' fees, on a person who has brought an action under this chapter against the same tenant on more than one occasion, if the court finds the petition was brought with the intent to harass. However, the court must order the landlord to pay costs and reasonable attorneys' fees to the person petitioning for termination of the tenancy if the court finds that the landlord failed to comply with the duty to investigate, regardless of which party prevails.

**Sec. 6.** RCW 59.12.030 and 1983 c 264 s 1 are each amended to read as follows:

A tenant of real property for a term less than life is guilty of unlawful detainer either:

(1) When he or she holds over or continues in possession, in person or by subtenant, of the property or any part thereof after the expiration of the term for which it is let to him or her. When real property is leased for a specified term or period by express or implied contract, whether written or oral, the tenancy shall be terminated without notice at the expiration of the specified term or period;

(2) When he or she, having leased property for an indefinite time with monthly or other periodic rent reserved, continues in possession thereof, in person or by subtenant, after the end of any such month or period, when the landlord, more than twenty days prior to the end of such month or period, has served notice (in manner in RCW 59.12.040 provided) requiring him or her to quit the premises at the expiration of such month or period;

(3) When he or she continues in possession in person or by subtenant after a default in the payment of rent, and after notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises, served (in manner in RCW 59.12.040 provided) in behalf of the person entitled to the rent upon the person owing it, has remained uncomplied with for the period of three days after service thereof. The notice may be served at any time after the rent becomes due;

(4) When he or she continues in possession in person or by subtenant after a neglect or failure to keep or perform any other condition or covenant of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than one for the payment of rent, and after notice in writing requiring in the alternative the performance of such condition or covenant or the surrender of the property, served (in manner in RCW 59.12.040 provided) upon him or her, and if there is a subtenant in actual possession of the premises, also upon such subtenant, shall remain uncomplied with for ten days after service thereof. Within ten days after the service of such notice the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform such condition or covenant and thereby save the lease from such forfeiture;

(5) When he or she commits or permits waste upon the demised premises, or when he or she sets up or carries on thereon any unlawful business, or when he or she erects, suffers, permits, or maintains on or about the premises any nuisance, and remains in possession after the service (in manner in RCW 59.12.040 provided) upon him or her of three days' notice to quit; ((~~or~~))

(6) A person who, without the permission of the owner and without having color of title thereto, enters upon land of another and who fails or refuses to remove therefrom after three days' notice, in writing and served upon him or her in the manner provided in RCW 59.12.040. Such person may also be subject to the criminal provisions of chapter 9A.52 RCW; or

(7) When he or she commits or permits any gang-related activity at the premises as prohibited by RCW 59.18.130."

## MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On page 1, line 1 of the title, after "relations;" strike the remainder of the title and insert "amending RCW 59.18.030, 59.18.130, 59.18.180, and 59.12.030; and adding new sections to chapter 59.18 RCW."

On motion of Senator Roach, the rules were suspended, Engrossed Substitute House Bill No. 1223, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 1223, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1223, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 46. Voting nay: Senators Prentice, Thibaudeau and Wojahn - 3. ENGROSSED SUBSTITUTE HOUSE BILL NO. 1223, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

On motion of Senator Johnson, the Senate reverted the first order of business.

## REPORT OF STANDING COMMITTEE

March 6, 1998

ESHB 2947 Prime Sponsor, House Committee on Commerce and Labor: Revising unemployment compensation for part-time faculty. Reported by Committee on Commerce and Labor

MAJORITY Recommendation: Do pass. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser and Heavey.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

March 6, 1998

GA 9226 TIM DOUGLAS, appointed January 27, 1997, for a term ending at the pleasure of the Governor, as Director of the Department of Community, Trade and Economic Development.

Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, and Heavey.

Passed to Committee on Rules.

March 6, 1998

GA 9265 PATRICIA L. HERBOLD, appointed July 1, 1997, for a term ending June 30, 2003, as a member of the Gambling Commission.

Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, and Heavey.

Passed to Committee on Rules.

March 6, 1998

GA 9296 SHEILA GUENTHER, appointed September 15, 1997, for a term ending August 2, 2003, as a member of the Lottery Commission.

Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, and Heavey.

Passed to Committee on Rules.

March 6, 1998

GA 9341 JAMES A. MEDINA, appointed January 15, 1998, for a term ending at the pleasure of the Governor, as Director of the Office

of Minority and Women's Business Enterprises.

Reported by Committee on Commerce and Labor

MAJORITY Recommendation: That said appointment be confirmed. Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, and Heavey.

Passed to Committee on Rules.



## MOTION

At 12:26 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 1:31 p.m. by President Owen.

There being no objection, the President advanced the Senate to the sixth order of business.

## SECOND READING

HOUSE BILL NO. 3052, by Representatives L. Thomas, Smith, Mielke, Grant, DeBolt, Dyer, Hickel, Sullivan and Robertson

Authorizing self-audits by insurers.

The bill was read the second time.

## MOTION

On motion of Senator Winsley, the following Committee on Financial Institutions, Insurance and Housing amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that protection of insurance consumers likely is enhanced by insurers' voluntary compliance with this state's insurance and other laws and that the public will benefit from incentives to identify and remedy insurance and other compliance issues. One method to encourage insurers both to conduct voluntary internal audits of their compliance programs and management systems and to assess and improve compliance with state and federal statutes, rules, and orders, is to provide an insurance compliance self-evaluative privilege to protect the confidentiality of communications relating to voluntary internal compliance audits. The legislature intends to study public policy issues regarding a limited privilege to encourage voluntary compliance and improve insurance market conduct quality, and whether the expanded privilege could inhibit the exercise of the regulatory authority by those entrusted with protecting insurance consumers.

(2) The house financial institutions and insurance committee and the senate financial institutions, insurance and housing committee shall jointly study insurance compliance self-evaluative audits and make recommendations on whether a limited privilege should be authorized in Washington state to encourage such audits. The chairs of the two committees shall oversee the study. If the recommendations include authorizing the limited privilege, the study shall develop a bill for consideration in the 1999 legislative session.

(3) The two committee chairs shall organize a study group that includes the voluntary participation of the insurance industry, the office of the insurance commissioner, and other interested parties. The ranking minority members of each committee shall also participate in the study group.

(4) The house office of program research and senate committee services shall staff the study group.

(5) The recommendations of the study group are due by December 31, 1998. This section expires January 1, 1999."

## MOTIONS

On motion of Senator Winsley, the following title amendment was adopted:

On page 1, line 1 of the title, after "insurers;" strike the remainder of the title and insert "creating a new section; and providing an expiration date."

On motion of Senator Winsley, the rules were suspended, House Bill No. 3052, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

## MOTION

On motion of Senator Franklin, Senator Brown was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 3052, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3052, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 5; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 43. Absent: Senators Horn, McAuliffe, Newhouse, Prince and Roach - 5. Excused: Senator Brown - 1. HOUSE BILL NO. 3052, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senators Horn and Newhouse were excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1692, by House Committee on Capital Budget (originally sponsored by Representatives Sehlin, Morris, Anderson, Honeyford, Huff, Lantz and Chopp)

Describing those lands eligible to be included in a port district aquatic lands management agreement.

The bill was read the second time.

#### MOTION

On motion of Senator Rossi, the following Committee on Natural Resources and Parks amendment was adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 79.90.465 and 1984 c 221 s 4 are each amended to read as follows:

The definitions in this section apply throughout chapters 79.90 through 79.96 RCW.

(1) "Water-dependent use" means a use which cannot logically exist in any location but on the water. Examples include, but are not limited to, water-borne commerce; terminal and transfer facilities; ferry terminals; watercraft sales in conjunction with other water-dependent uses; watercraft construction, repair, and maintenance; moorage and launching facilities; aquaculture; log booming; and public fishing piers and parks.

(2) "Water-oriented use" means a use which historically has been dependent on a waterfront location, but with existing technology could be located away from the waterfront. Examples include, but are not limited to, wood products manufacturing, watercraft sales, fish processing, petroleum refining, sand and gravel processing, log storage, and house boats. For the purposes of determining rent under this chapter, water-oriented uses shall be classified as water-dependent uses if the activity either is conducted on state-owned aquatic lands leased on October 1, 1984, or was actually conducted on the state-owned aquatic lands for at least three years before October 1, 1984. If, after October 1, 1984, the activity is changed to a use other than a water-dependent use, the activity shall be classified as a nonwater-dependent use. If continuation of the existing use requires leasing additional state-owned aquatic lands and is permitted under the shoreline management act of 1971, chapter 90.58 RCW, the department may allow reasonable expansion of the water-oriented use.

(3) "Nonwater-dependent use" means a use which can operate in a location other than on the waterfront. Examples include, but are not limited to, hotels, condominiums, apartments, restaurants, retail stores, and warehouses not part of a marine terminal or transfer facility.

(4) "Log storage" means the water storage of logs in rafts or otherwise prepared for shipment in water-borne commerce, but does not include the temporary holding of logs to be taken directly into a vessel or processing facility.

(5) "Log booming" means placing logs into and taking them out of the water, assembling and disassembling log rafts before or after their movement in water-borne commerce, related handling and sorting activities taking place in the water, and the temporary holding of logs to be taken directly into a processing facility. "Log booming" does not include the temporary holding of logs to be taken directly into a vessel.

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

(7) "Port district" means a port district created under Title 53 RCW.

(8) The "real rate of return" means the average for the most recent ten calendar years of the average rate of return on conventional real property mortgages as reported by the federal home loan bank board or any successor agency, minus the average inflation rate for the most recent ten calendar years.

(9) The "inflation rate" for a given year is the percentage rate of change in the previous calendar year's all commodity producer price index of the bureau of labor statistics of the United States department of commerce. If the index ceases to be published, the department shall designate by rule a comparable substitute index.

(10) "Public utility lines" means pipes, conduits, and similar facilities for distribution of water, electricity, natural gas, telephone, other electronic communication, and sewers, including sewer outfall lines.

(11) "Terminal" means a point of interchange between land and water carriers, such as a pier, wharf, or group of such, equipped with facilities for care and handling of cargo and/or passengers.

(12) "State-owned aquatic lands" means those aquatic lands and waterways administered by the department of natural resources or managed under RCW 79.90.475 by a port district. "State-owned aquatic lands" does not include aquatic lands owned in fee by, or withdrawn for the use of, state agencies other than the department of natural resources.

(13) "City" means a city or town created under Title 35 or 35A RCW.

(14) "Marina" means a waterfront facility that provides moorage for recreation vessels, charter vessels, commercial fishing vessels, and water-based aircraft. A marina facility may include fuel docks and associated chandlery activities designed to serve recreational vessels, charter vessels, commercial fishing vessels, and water-based aircraft.

**Sec. 2.** RCW 79.90.475 and 1984 c 221 s 6 are each amended to read as follows:

Upon request of a port district, the department and port district may enter into an agreement authorizing the port district to manage state-owned aquatic lands ~~((abutting or used in conjunction with and contiguous to uplands owned, leased, or otherwise managed by a port district,))~~ for port purposes as provided in Title 53 RCW. The lands that may be included in a port district aquatic lands management agreement are those state-owned aquatic lands abutting or used in conjunction with and contiguous to uplands owned, leased, or otherwise managed by a port district. If a port district owns or operates a public marina facility within a bay where the distance between the headlands at the entrance to the bay is two miles or less, the state-owned aquatic lands beneath the marina facility shall also be eligible for management by the port district under a management agreement.

~~((Such))~~ A port district aquatic lands management agreement shall include, but not be limited to, provisions defining the specific area to be managed, the term, conditions of occupancy, reservations, periodic review, and other conditions to ensure consistency with the state Constitution and the policies of this chapter. If a port district acquires operating management, lease, or ownership of real property which abuts state-owned aquatic lands currently under lease from the state to a person other than the port district, the port district shall manage such aquatic lands if: (1) The port district acquires the leasehold interest in accordance with state law, or (2) the current lessee and the department agree to termination of the current lease to accommodate management by the port. The administration of aquatic lands covered by a port district aquatic lands management agreement shall be consistent with the aquatic land policies of chapters 79.90 through 79.96 RCW and the implementing ~~((regulations))~~ rules adopted by the department. The administrative procedures for management of the lands shall be those of Title 53 RCW.

No rent shall be due the state for the use of state-owned aquatic lands managed under this section for water-dependent or water-oriented uses. If a port district manages state-owned aquatic lands under this section and either leases or otherwise permits any person to use such lands, the rental fee attributable to such aquatic land only shall be comparable to the rent charged lessees for the same or similar uses by the department: PROVIDED, That a port district need not itemize for the lessee any charges for state-owned aquatic lands improved by the port district for use by carriers by water. If a port leases state-owned aquatic lands to any person for nonwater-dependent use, eighty-five percent of the revenue attributable to the rent of the state-owned aquatic land only shall be paid to the state.

Upon application for a management agreement, and so long as the application is pending and being diligently pursued, no rent shall be due the department for the lease by the port district of state-owned aquatic lands included within the application for water-dependent or water-oriented uses.

The department and representatives of the port industry shall develop a proposed model management agreement which shall be used as the basis for negotiating the management agreements required by this section. The model management agreement shall be reviewed and approved by the board of natural resources.

NEW SECTION. **Sec. 3.** A new section is added to chapter 79.90 RCW to read as follows:

(1) Upon request of a city, the department and city may enter into an agreement authorizing the city to manage state-owned aquatic lands for the purpose of operating a publicly owned marina. The lands that may be included in a city aquatic lands management agreement are those state-owned aquatic lands abutting or used in conjunction with and contiguous to uplands owned, leased, or otherwise managed by a city. All state-owned aquatic lands beneath any publicly owned marina developed or maintained by a city are eligible for management by the city under a management agreement.

A city aquatic lands management agreement shall include, but not be limited to, provisions defining the specific area to be managed, the term, conditions of occupancy, reservations, periodic review, and other conditions to ensure consistency with the state Constitution and the policies of this chapter. If a city acquires operating management, lease, or ownership of real property that abuts state-owned aquatic lands currently under lease from the state to a person other than the city, the city shall manage the aquatic lands if: (a) The city acquires the leasehold interest in accordance with state law, or (b) the current lessee and the department agree to termination of the current lease to accommodate management by the city. The administration of aquatic lands covered by a city aquatic lands management agreement shall be consistent with the

aquatic land policies of chapters 79.90 through 79.96 RCW and the implementing rules adopted by the department. The administrative procedures for management of the lands shall be those of Title 35 or 35A RCW, whichever is appropriate.

No rent is due the state for the use of state-owned aquatic lands managed under this section for water-dependent or water-oriented uses. If a city manages state-owned aquatic lands under this section and either leases or otherwise permits any person to use the lands, the rental fee attributable to the aquatic land only shall be comparable to the rent charged lessees for the same or similar uses by the department. If a city leases state-owned aquatic lands to any person for nonwater-dependent use, eighty-five percent of the revenue attributable to the rent of the state-owned aquatic land only shall be paid to the state.

Upon application for a management agreement, and so long as the application is pending and being diligently pursued, no rent is due the department for the lease by the city of state-owned aquatic lands included within the application for water-dependent or water-oriented uses.

The department and representatives of the association of Washington cities shall develop a proposed model management agreement that shall be used as the basis for negotiating the management agreements required by this section. The model management agreement shall be reviewed and approved by the board of natural resources.

(2) A city that operates a publicly owned marina within the territorial limits of a port district shall obtain the approval of the port commission prior to applying to the department for a management agreement. A city with marina facilities in existence on the effective date of this act may enter into a management agreement for those facilities without port commission approval.

**Sec. 4.** RCW 79.90.520 and 1991 c 64 s 1 are each amended to read as follows:

The manager shall, by rule, provide for an administrative review of any aquatic land rent proposed to be charged. The rules shall require that the lessee or applicant for release file a request for review within thirty days after the manager has notified the lessee or applicant of the rent due. For leases issued by the department, the final authority for the review rests with the board of natural resources. For leases managed under RCW 79.90.475, the final authority for the review rests with the appropriate port commission. For leases managed under section 3 of this act, the final authority for the review rests with the appropriate city legislative authority. If the request for review is made within thirty days after the manager's final determination as to the rental, the lessee may pay rent at the preceding year's rate pending completion of the review, and shall pay any additional rent or be entitled to a refund, with interest thirty days after announcement of the decision. The interest rate shall be fixed, from time to time, by rule adopted by the board of natural resources and shall not be less than six percent per annum. Nothing in this section abrogates the right of an aggrieved party to pursue legal remedies. For purposes of this section, "manager" is the department except where state-owned aquatic lands are managed by a port district or a city, in which case "manager" is the appropriate port district or city.

**Sec. 5.** RCW 79.93.040 and 1984 c 221 s 21 are each amended to read as follows:

If the United States government has established pierhead lines within a waterway created under the laws of this state at any distance from the boundaries established by the state, structures may be constructed in that strip of waterway between the waterway boundary and the nearest pierhead line only with the consent of the department of natural resources and upon such plans, terms, and conditions and for such term as determined by the department. However, no permit shall extend for a period longer than thirty years.

The department may cancel any permit upon sixty days' notice for a substantial breach by the permittee of any of the permit conditions.

If a waterway is within the territorial limits of a port district, the duties assigned by this section to the department may be exercised by the port commission of such port district as provided in RCW 79.90.475. If a waterway is within the territorial limits of a city, the duties assigned by this section to the department may be exercised by the city as provided in section 3 of this act.

Nothing in this section shall confer upon, create, or recognize in any abutting owner any right or privilege in or to any strip of waterway abutting any street and between prolongations of the lines of such street, but the control of and the right to use such strip is hereby reserved to the state of Washington, except as authorized by RCW 79.90.475 and section 3 of this act."

## MOTIONS

On motion of Senator Rossi, the following title amendment was adopted:

On page 1, line 1 of the title, after "lands;" strike the remainder of the title and insert "amending RCW 79.90.465, 79.90.475, 79.90.520, and 79.93.040; and adding a new section to chapter 79.90 RCW."

On motion of Senator Rossi, the rules were suspended, Substitute House Bill No. 1692, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1692, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1692, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 7; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Hochstatter, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 40. Voting nay: Senators Fairley, Fraser, Heavey, Jacobsen, Kohl, Thibaudeau and Wojahn - 7. Excused: Senators Horn and Newhouse - 2. SUBSTITUTE HOUSE BILL NO. 1692, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2300, by House Committee on Education (originally sponsored by Representatives Johnson, Keiser, Huff, Talcott, Hickel, Carrell, Linville, Lisk, Veloria, Skinner, Cairnes, Mason, Lambert, Mulliken, Backlund, Mitchell, Wolfe, Constantine, Kastama, Kenney, Gardner, Benson, Ogden, Butler, Carlson, Kessler, Costa, Anderson, Conway, Lantz and McDonald)

Changing provisions relating to educational pathways.

The bill was read the second time.

#### MOTION

On motion of Senator Hochstatter, the rules were suspended, Engrossed Substitute House Bill No. 2300 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2300.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2300 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Horn and Newhouse - 2. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2300, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2969, by Representatives Carrell, Sheahan, B. Thomas, Robertson, Sterk, Sherstad, McMorris, Backlund, Ballasiotes, Talcott, DeBolt, Alexander, Boldt, Zellinsky, Pennington, Mitchell, Huff, K. Schmidt, Dyer, Bush, Dunn, Schoesler, Smith, D. Sommers, Dunshee and McCune

Providing a sales and use tax exemption for gun safes.

The bill was read the second time.

#### MOTION

Senator Fairley moved that the following amendment by Senators Fairley and Kohl be adopted:

On page 1, line 10, after "means" insert "a trigger lock or"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fairley and Kohl on page 1, line 10, to House Bill No. 2969.

The motion by Senator Fairley failed and the amendment was not adopted.

#### MOTION

Senator Fairley moved that the following amendment by Senators Fairley and Kohl be adopted:

On page 1, line 10, after "designed" strike "or modified"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fairley and Kohl on page 1, line 10, to House Bill No. 2969.

The motion by Senator Fairley failed and the amendment was not adopted.

#### MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 2969 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2969.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2969 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 30. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 18. Excused: Senator Newhouse - 1. HOUSE BILL NO. 2969, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Stevens was excused.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2496, by House Committee on Appropriations (originally sponsored by Representatives Buck, Doumit, Anderson, Sump, D. Sommers, Clements, Butler, Schoesler, Honeyford, Thompson, D. Schmidt, Linville, Chandler, Johnson, Regala, Hatfield, O'Brien, Dickerson, Ogden, Cooper, Kessler, Gardner, Conway and Eickmeyer)

Recovering salmon.

The bill was read the second time.

#### MOTION

Senator Swecker moved that the following Committee on Natural Resources and Parks amendment not be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that repeated attempts to improve salmonid fish runs throughout the state of Washington have failed to avert listings of salmon and steelhead runs as threatened or endangered under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.). These listings threaten the sport, commercial, and tribal fishing industries as well as the economic well-being and vitality of vast areas of the state. It is the intent of the legislature to recover the salmon stocks as soon as possible, although the legislature understands that successful recovery efforts may not be realized for many years because of the life cycle of salmon and the complex array of natural and human-caused problems they face.

The legislature finds that it is in the interest of the citizens of the state of Washington for the state to retain primary responsibility for managing the natural resources of the state, rather than abdicate those responsibilities to the federal government. The legislature also finds that there is a substantial link between the provisions of the federal endangered species act and the federal clean water act (33 U.S.C. Sec. 1251 et seq.). The legislature further finds that habitat restoration is a vital component of salmon recovery efforts. Therefore, it is the intent of the legislature to specifically address salmon habitat restoration in a coordinated state-wide manner and to develop a structure that allows for the coordinated delivery of federal, state, and local assistance to communities for habitat projects that will assist in the recovery and enhancement of salmon stocks within the state while also addressing improvements to water quality.

The legislature also recognizes that a science-based approach that incorporates adaptive management strategies will be needed to help salmon stocks recover, and that an effective monitoring system is essential for implementing adaptive management. The legislature also finds that credible scientific review and oversight is essential for any salmon recovery effort to be successful.

The legislature therefore finds that a coordinated framework for responding to the salmon crisis is needed immediately. To that end, the salmon recovery office should be created within the governor's office to provide overall coordination of the state's response; an independent science team is needed to provide scientific review and oversight; regional councils should be formed to provide a mechanism to include local knowledge and decision making into salmon recovery efforts; and a strong locally based effort to restore salmon habitat should be established by providing a framework to allow citizen volunteers to work effectively.

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

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Critical pathways methodology" means a project scheduling and management process for examining interactions between habitat projects and salmonid species, prioritizing habitat projects, and assuring positive benefits from habitat projects under section 11 of this act.

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

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

(5) "Habitat project" includes habitat restoration projects, habitat protection projects, habitat projects that improve water quality, habitat projects that protect water quality, habitat-related mitigation efforts, and habitat project maintenance and monitoring activities.

(6) "Natural resources-related state agencies" includes the department of natural resources, the department of fish and wildlife, the department of transportation, the parks and recreation commission, the Puget Sound water quality action team, the interagency committee for outdoor recreation, the conservation commission, the department of ecology, the department of agriculture, the department of health, and the department of community, trade, and economic development.

(7) "Region" or "regional" means an area of the state that is identified as being the boundaries of a regional fisheries enhancement group.

(8) "Salmon" includes all species of the family Salmonidae which are capable of self-sustaining, natural production.

(9) "Schedule" means a habitat work schedule adopted by a regional council under section 7 of this act.

(10) "Tribe" or "tribes" means federally recognized Indian tribes.

(11) "Work plan" means a habitat work plan prepared by a regional council under section 11 of this act.

**NEW SECTION. Sec. 3.** By December 31, 1998, the governor shall submit a summary of the implementation of this act to the legislature, and include recommendations to the legislature that would further the success of salmon recovery. The recommendations may include: (1) The need to expand or improve nonregulatory programs and activities; (2) the need to expand or improve state and local laws and regulations; and (3) the feasibility of forming a state-wide or regional community foundation or any other funding alternatives to assist in financing salmon recovery efforts.

**NEW SECTION. Sec. 4.** Beginning in 1999, the governor shall submit a biennial state of the salmon report to the legislature during the first week of December. The report may include the following:

(1) A region-by-region description of the amount of funds, including volunteer, private, and state, federal, tribal as available, and local government money directly spent on salmon recovery in response to endangered species act listings;

(2) A summary of habitat projects including but not limited to:

(a) A summary of accomplishments in removing barriers to salmon passage and an identification of existing barriers;

(b) A summary of salmon restoration efforts undertaken in the past two years; and

(c) A summary of the role which private volunteer initiatives and institutions of higher education contribute in salmon habitat restoration efforts;

(3) A summary of collaborative efforts undertaken with adjoining states or Canada;

(4) A summary of fish management activities affecting salmon recovery;

(5) A summary of information regarding impediments to successful salmon recovery efforts. The summary may include information on delays in obtaining approval or assistance from federal agencies, gaps or conflicts in state statutes, delays due to jurisdictional disputes, land management practices or other activities that are contributing to the degradation of salmon habitat, the lack of water or poor water quality during

certain times of the year for certain stream segments, naturally based causes, international disputes, and any impediments to the success of regional councils;

(6) Information on the estimated carrying capacity of new habitat created pursuant to chapter . . ., Laws of 1998 (this act);

(7) A summary of the number and types of violations of existing laws pertaining to: (a) Water quality; and (b) salmon. The summary shall include information about sanctions imposed for these violations; and

(8) Recommendations to the legislature that would further the success of salmon recovery. The recommendations may include: (a) The need to expand or improve nonregulatory programs and activities; and (b) the need to expand or improve state and local laws and regulations.

**NEW SECTION. Sec. 5.** There is created the salmon recovery office within the office of the governor for the purpose of having a coordinated state strategy to allow for salmon recovery to healthy sustainable population levels with productive commercial and recreational fisheries. By April 1, 1998, the governor shall appoint an executive director for the office. The executive director shall serve at the pleasure of the governor. The salary of the executive director shall be fixed by the governor, subject to RCW 43.03.040.

The salmon office may consist of up to eight total staff, including the executive director. At least one of the permanent staff positions shall be reserved for a person who is knowledgeable in tribal fishery interests. At least two of the staff shall be employees of the department. Other agencies including the department may transfer existing staff as agreed to by the agencies and deemed necessary to achieve the duties of the salmon recovery office.

The governor's salmon recovery office may undertake activities on a state-wide or evolutionarily significant unit basis designed to improve the health of salmon, which may include the following:

(1) Assist the fish and wildlife commission in the negotiation of international and interstate compacts or treaties affecting salmon recovery;

(2) Act as liaison to the state congressional delegation, United States congress, federally recognized tribes, and the federal executive branch for issues related to the state's endangered species act salmon recovery plans;

(3) Coordinate the delivery of technical assistance to regional councils for the development and implementation of habitat work schedules and habitat work plans. State natural resources-related agencies shall provide ongoing technical assistance to regional councils;

(4) Review work plans with federal and tribal governments and state agencies, for conflict with applicable laws and treaties;

(5) Any other services requested by a region that are reasonably related to the development or implementation of a salmon habitat restoration plan and agreed to by the executive director;

(6) Establish a uniform state-wide reporting system for regional councils to collect information necessary to address topics that must be included as part of the governor's state of the salmon report;

(7) Provide information to regional councils that has been developed or collected by state and federal agencies;

(8) Develop electronic access to up-to-date information pertaining to salmon;

(9) Develop a data system to track information pertaining to the number and types of violations of existing laws pertaining to water quality and salmon, including information about sanctions imposed for these violations; and

(10) Coordinate and assist in the development of salmon recovery plans for evolutionarily significant units, and submit those plans to the appropriate federal agencies in response to the federal endangered species act.

**NEW SECTION. Sec. 6.** (1) The department shall authorize the creation of, and establish the boundaries for, up to four new regional fisheries enhancement groups in the state. Up to three of the new groups may be located in eastern Washington and one new group may be located in western Washington.

(2) The boundaries served by a regional fisheries enhancement group shall constitute the boundaries of a region for the purpose of developing a habitat work plan. The department, after consultation with affected parties, may by rule adjust the boundaries of a regional fisheries enhancement group area.

(3) One or more regional councils may combine into a single area to carry out the purposes of chapter . . ., Laws of 1998 (this act).

**NEW SECTION. Sec. 7.** (1) There are established regional councils for the purpose of developing habitat work schedules and habitat work plans as outlined in section 11 of this act.

(2)(a) The regional council shall consist of: (i) Qualified representation of cities, counties, special purpose districts, state, and tribal governments; (ii) conservation districts; and (iii) project sponsors, regional fisheries enhancement groups, and other restoration interests.

(b) The nongovernmental participants shall predominately be residents of the regions and reflect a reasonably balanced representation between economic and other interests representing environmental, recreation, and other concerns.

(3) The department, in consultation with the appropriate local, state, tribal, and federal governmental agencies shall convene a public meeting to establish a regional council. The department shall assure the time, place, and location of the convening meeting or meetings is well advertised.

(4)(a) An existing group may serve as the regional council. To be considered, the representation of governmental entities and interest groups on such a planning group must be generally similar to the representation identified in subsection (2) of this section. The existing group chosen in this manner plus any new members as in subsection (2) of this section will constitute the regional council for developing salmon habitat work plans under this chapter.



(b) In the event that two or more groups are seeking recognition from the department, the following criteria shall be used:

- (i) A group that has been in existence shall be given preference;
- (ii) A group that most closely resembles the representation identified in subsection (2) of this section shall be given preference; and
- (iii) A group that has the broadest representation of the community shall be given preference.

(c) The department shall endeavor to ensure that members of a group not selected as a regional council are allowed to participate in habitat restoration activities.

(5) The department, in consultation with the local government entities in the region, shall formally recognize a regional council when the criteria under subsection (2) of this section are met.

(6) A regional council may invite representatives of federal agencies as appropriate to assist the regional council in the development of a salmon habitat work plan.

(7) Council members who are also project sponsors shall not participate in decision making on projects for which the member is the project sponsor and for which the member will recognize a direct financial benefit from the project.

**NEW SECTION. Sec. 8.** The regional council shall convene a technical assistance group consisting of federal, state, tribal, local, and private individuals with appropriate expertise to provide the technical services identified in section 11 of this act. Where appropriate, the conservation district within the region will take a lead in developing and maintaining relationships between the technical assistance groups and the private landowner project sponsors under section 9 of this act.

**NEW SECTION. Sec. 9.** (1) "Project sponsors" may include regional fisheries enhancement groups, private landowners, citizen groups, tribes, governmental entities, or nongovernmental entities implementing habitat projects. For a federal, state, or local governmental entity to be considered a project sponsor, it must manage riparian and littoral land in the region.

(2) Within a region, a group of project sponsors may be organized around a river, tributary, estuary, or subbasin of a watershed.

(3) Project sponsors undertake projects which have been prioritized by regional councils pursuant to section 11 of this act.

**NEW SECTION. Sec. 10.** (1) The regional council shall:

(a) Prioritize the habitat projects identified by a technical assistance group and project sponsors. The purpose of the prioritization is to rank projects in a manner that maximizes the habitat capable of establishing healthy populations of salmon;

(b) Develop and submit a habitat work plan as required under section 11 of this act; and

(c) Hold open, public meetings.

(2) The regional council may:

(a) Select an administrator and an administrative assistant and establish their responsibilities;

(b) Administer any available funds to project implementers for salmon restoration efforts;

(c) Establish a name for the regional council; and

(d) Contract for habitat projects.

**NEW SECTION. Sec. 11.** (1) Critical pathways methodology shall be used to develop a habitat work schedule and a habitat work plan that ensures salmon restoration activities within each region will be prioritized and implemented in a logical sequential manner that produces habitat capable of carrying healthy populations of salmon. The development of a habitat work schedule and a habitat work plan shall rely, to the extent possible, on existing information.

(2)(a) The regional council shall develop a habitat work schedule to prioritize and determine the order in which habitat projects within the region will be accomplished.

(b) The work schedule shall:

(i) Identify limiting factors for salmon in streams, rivers, tributaries, estuaries, and subbasins in the region. The technical assistance group convened under section 8 of this act has lead responsibility for this task;

(ii) Identify and prioritize categories of projects, and prioritize between these categories, to respond to the limiting factors related to habitat identified by the technical assistance group. The technical assistance group convened under section 8 of this act has lead responsibility for this task;

(iii) Identify local habitat projects that sponsors are willing to undertake. Project sponsors have lead responsibility for this task;

(iv) Prioritize individual habitat projects to assure maximum benefit to salmon recovery. The regional council is responsible for this task, and shall consider salmon recovery efforts which are already being conducted in the region when developing the list of prioritized projects;

(v) Identify appropriate funding sources. The regional council has the lead responsibility for this task;

(vi) Issue requests for project proposals. The department of fish and wildlife, the department of transportation, and the conservation commission have lead responsibility for this task;

(vii) Review, evaluate, and rank project proposals. The department of fish and wildlife, the department of transportation, and the conservation commission shall jointly review and evaluate project proposals in order to fund projects which will be beneficial to improving habitat for fish which are listed under the federal endangered species act or are considered to be weak stock;

(viii) Fund high priority projects, subject to available funding, and any constraints on that funding. The department of fish and wildlife, the department of transportation, the conservation commission, and any other funding entity have lead responsibility for this task. If the

agencies find that one or more high priority projects for the region do not have a capable project sponsor, the agencies must gain support from a willing project sponsor prior to funding the project; and

(ix) Identify how projects will be monitored and evaluated. The regional council, in consultation with the technical assistance group and project sponsors, has lead responsibility for coordinating this task.

(c) The habitat work plan consists of the habitat work schedule as well as the following information:

(i) A list of the limiting factors for salmon in the region identified by the technical assistance group or by any watershed assessment in the region;

(ii) A list of the entity or entities performing the habitat projects;

(iii) A description of the adaptive management process that will be used to develop subsequent work plans;

(iv) The start date, duration, estimated date of completion, estimated cost, and, if appropriate, the affected salmonid species, of each project; and

(v) An assessment of all available private, local, tribal, state, and federal government resources available for projects identified in the schedule.

(3) The regional council shall submit a copy of the work plan to the salmon recovery office and to the independent science panel for review. The regional council may also implement those projects for which it has been able to obtain funding. Individual habitat work schedules may be prepared for a river, tributary, estuary, or subbasin of a watershed in a manner that allows the schedules to be combined to create a report which shows the recovery effort within a region, the state, or for specific runs of fish.

(4) The habitat work plans shall be updated on an annual basis to depict new activities, report progress on projects, show completion of scheduled activities, determine which recovery efforts were successful, and show where adaptive management is required to address those recovery efforts that failed.

**NEW SECTION. Sec. 12.** (1)(a) An independent science panel is hereby created consisting of five scientists appointed by the governor. The governor shall appoint the members of the independent science panel to a term of four years. The independent science panel members shall elect the chair of the panel among themselves every two years.

(b) The governor shall request the national academy of sciences, the American fisheries society, or a comparable institution to screen candidates to serve as members on the independent science panel. The institution that conducts the screening of the candidates shall submit a list of the nine most qualified candidates to the governor, the chair of the house of representatives natural resources committee, and the chair of the senate natural resources and parks committee. The chair of the senate committee and the chair of the house of representatives committee may each remove one person from the list of recommended candidates submitted by the institution conducting the screening. The governor may remove two persons from the list of recommended candidates. The governor shall appoint the remaining five recommended candidates on the list as the members of the independent science panel.

(2) Membership of the independent science panel shall reflect expertise in habitat requirements of salmon, protection and restoration of salmon populations, artificial propagation of salmon, hydrology, and requirements for fully functioning ecosystems on a watershed basis.

(3) Members of the independent science panel shall be compensated as provided in RCW 43.03.250 and reimbursed for travel expenses as pursuant to RCW 43.03.050 and 43.03.060.

(4) Except as provided in section 13(3) of this act, the governor's office shall provide all necessary administrative support to the independent science panel.

(5) The independent science panel shall be governed by generally accepted guidelines and practices governing the activities of independent science boards such as the national academy of sciences. The purpose of the independent science panel is to help ensure that sound science is used in salmon recovery efforts, and not to make policy decisions which are the responsibility of decision makers.

**NEW SECTION. Sec. 13.** The independent science panel shall have the following responsibilities:

(1) Reviewing and evaluating the intended outcomes and performance measures of regionally developed habitat work plans. Comparable habitat restoration plans that have already undergone independent scientific review before the effective date of this section are not subject to review by the independent science panel under this subsection;

(2) Developing, in cooperation with the Puget Sound ambient monitoring program, model monitoring programs for water quality and salmon habitat protection and restoration that may be used in regional salmon restoration efforts to track quantifiable performance measures. The Puget Sound action team, created in RCW 90.71.020, shall provide staff support to the independent science panel in the development of the model monitoring programs; and

(3) Reporting to the governor and the legislature on adaptive management recommendations, performance measures, and intended outcomes for habitat work plans.

**Sec. 14.** RCW 90.71.005 and 1996 c 138 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Puget Sound and related inland marine waterways of Washington state represent a unique and unparalleled resource. A rich and varied range of marine organisms, comprising an interdependent, sensitive communal ecosystem reside in these sheltered waters. Residents of this region enjoy a way of life centered around the waters of Puget Sound, featuring accessible recreational opportunities, world-class port

facilities and water transportation systems, harvest of marine food resources, shoreline-oriented life styles, water-dependent industries, tourism, irreplaceable aesthetics, and other activities, all of which to some degree depend upon a clean and healthy marine resource;

(b) The Puget Sound water quality authority has done an excellent job in developing a comprehensive plan to identify actions to restore and protect the biological health and diversity of Puget Sound;

(c) The large number of governmental entities that now have regulatory programs affecting the water quality and the aquatic and upland habitats of Puget Sound have diverse interests and limited jurisdictions that cannot adequately address the cumulative, wide-ranging impacts that contribute to the degradation of Puget Sound; and

(d) Coordination of the regulatory programs, at the state and local level, is best accomplished through the development of interagency mechanisms that allow these entities to transcend their diverse interests and limited jurisdictions.

(2) It is therefore the policy of the state of Washington to coordinate the activities of state and local agencies by establishing a biennial work plan that clearly delineates state and local actions necessary to protect and restore the biological health and diversity of Puget Sound. It is further the policy of the state to implement the Puget Sound water quality management plan to the maximum extent possible. To further the policy of the state, a recovery plan developed under the federal endangered species act for a portion or all of the Puget Sound shall be considered for inclusion into the Puget Sound water quality management plan.

**Sec. 15.** RCW 90.71.020 and 1996 c 138 s 3 are each amended to read as follows:

(1) The Puget Sound action team is created. The action team shall consist of: The directors of the departments of ecology; agriculture; natural resources; fish and wildlife; and community, trade, and economic development; the secretaries of the departments of health and transportation; the director of the parks and recreation commission; the director of the interagency committee for outdoor recreation; the administrative officer of the conservation commission designated in RCW 89.08.050; one person representing cities, appointed by the governor; one person representing counties, appointed by the governor; one person representing federally recognized tribes, appointed by the governor; and the chair of the action team. The action team shall also include the following ex officio nonvoting members: The regional director of the United States environmental protection agency; the regional supervisor of the national marine fisheries service; and the regional supervisor of the United States fish and wildlife service. The members representing cities and counties shall each be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(2) The action team shall:

(a) Prepare a Puget Sound work plan and budget for inclusion in the governor's biennial budget;

(b) Coordinate monitoring and research programs as provided in RCW 90.71.060;

(c) Work under the direction of the action team chair as provided in RCW 90.71.040;

(d) Coordinate permitting requirements as necessary to expedite permit issuance for any local watershed plan developed pursuant to rules adopted under this chapter;

(e) Identify and resolve any policy or rule conflicts that may exist between one or more agencies represented on the action team;

(f) Periodically amend the Puget Sound management plan;

(g) Enter into, amend, and terminate contracts with individuals, corporations, or research institutions for the purposes of this chapter;

(h) Receive such gifts, grants, and endowments, in trust or otherwise, for the use and benefit of the purposes of the action team. The action team may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments;

(i) Promote extensive public participation, and otherwise seek to broadly disseminate information concerning Puget Sound;

(j) Receive and expend funding from other public agencies;

(k) To reduce costs and improve efficiency, review by December 1, 1996, all requirements for reports and documentation from state agencies and local governments specified in the plan for the purpose of eliminating and consolidating reporting requirements; and

(l) Beginning in December 1998, and every two years thereafter, submit a report to the appropriate policy and fiscal committees of the legislature that describes and evaluates the successes and shortcomings of the current work plan relative to the priority problems identified for each geographic area of Puget Sound.

(3) By July 1, 1996, the action team shall begin developing its initial work plan, which shall include the coordination of necessary support staff.

(4) The action team shall incorporate, to the maximum extent possible, the recommendations of the council regarding amendments to the Puget Sound (~~((management))~~) management plan and the work plan.

(5) All proceedings of the action team are subject to the open public meetings act under chapter 42.30 RCW.

**Sec. 16.** RCW 90.71.030 and 1996 c 138 s 4 are each amended to read as follows:

(1) There is established the Puget Sound council composed of (~~((nine))~~) eleven members. (~~((Seven))~~) Nine members shall be appointed by the governor. In making these appointments, the governor shall include representation from business, the environmental community, agriculture, the shellfish industry, commercial fishers, recreational fishers, counties, cities, and the tribes. One member shall be a member of the senate selected by the president of the senate and one member shall be a member of the house of representatives selected by the speaker of the house of representatives. The legislative members shall be nonvoting members of the council. Appointments to the council shall reflect geographical balance and the diversity of population within the Puget Sound basin. Members shall serve four-year terms. Of the initial members

appointed to the council, two shall serve for two years, two shall serve for three years, and two shall serve for four years. Thereafter members shall be appointed to four-year terms. Vacancies shall be filled by appointment in the same manner as the original appointment for the remainder of the unexpired term of the position being vacated. Nonlegislative members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members shall be reimbursed as provided in RCW 44.04.120.

(2) The council shall:

(a) Recommend to the action team projects and activities for inclusion in the biennial work plan;

(b) Recommend to the action team coordination of work plan activities with other relevant activities, including but not limited to, agencies' activities other than those funded through the plan, local plan initiatives, and governmental and nongovernmental watershed restoration and protection activities; and

(c) Recommend to the action team proposed amendments to the Puget Sound management plan.

(3) The chair of the action team shall convene the council at least four times per year and shall jointly convene the council and the action team at least two times per year.

**NEW SECTION. Sec. 17.** (1) The departments of transportation, fish and wildlife, and ecology, and tribes shall convene a work group to develop a process to evaluate mitigation proposals. The work group shall seek technical assistance to ensure that federal, state, treaty-right, and local environmental laws and ordinances are met.

(2) The framework shall include:

(a) All elements of mitigation, including but not limited to data requirements, decision making, state and tribal agency coordination, and permitting; and

(b) Criteria and procedures for identifying and evaluating mitigation opportunities, including but not limited to the criteria in chapter 90.74 RCW.

(3) The appropriate agency or affected interests should collaborate with project proponents and the regional council to identify projects that offer mitigation opportunities. Mitigation funds may be used to implement projects identified by a regional council in a regional council's work plan to mitigate for the impacts of a transportation or other development proposal or project.

(4) For the purposes of this section, "mitigation" has the same meaning as provided in RCW 90.74.010.

**NEW SECTION. Sec. 18.** Sections 1 through 13 of this act constitute a new chapter in Title 75 RCW.

**NEW SECTION. Sec. 19.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 20.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President declared the question before the Senate to be the motion by Senator Swecker that the Committee on Natural Resources and Parks striking amendment to Engrossed Substitute House Bill No. 2496 not be adopted.

The motion by Senator Swecker carried and the committee striking amendment to Engrossed Substitute House Bill No. 2496 was not adopted.

## MOTION

Senator Swecker moved that the following amendment by Senators Swecker, Jacobsen and Spanel be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. FINDINGS.** The legislature finds that repeated attempts to improve salmonid fish runs throughout the state of Washington have failed to avert listings of salmon and steelhead runs as threatened or endangered under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.). These listings threaten the sport, commercial, and tribal fishing industries as well as the economic well-being and vitality of vast areas of the state. It is the intent of the legislature to begin activities required for the recovery of salmon stocks as soon as possible, although the legislature understands that successful recovery efforts may not be realized for many years because of the life cycle of salmon and the complex array of natural and human-caused problems they face.

The legislature finds that it is in the interest of the citizens of the state of Washington for the state to retain primary responsibility for managing the natural resources of the state, rather than abdicate those responsibilities to the federal government. The legislature also finds that there is a substantial link between the provisions of the federal endangered species act and the federal clean water act (33 U.S.C. Sec. 1251 et seq.). The legislature further finds that habitat restoration is a vital component of salmon recovery efforts. Therefore, it is the intent of the legislature to specifically address salmon habitat restoration in a coordinated manner and to develop a structure that allows for the coordinated delivery of federal, state, and local assistance to communities for habitat projects that will assist in the recovery and enhancement of salmon stocks.

The legislature also finds that credible scientific review and oversight is essential for any salmon recovery effort to be successful.

The legislature therefore finds that a coordinated framework for responding to the salmon crisis is needed immediately. To that end, the salmon recovery office should be created within the governor's office to provide overall coordination of the state's response; an independent science team is needed to provide scientific review and oversight; the appropriate local or tribal government should provide local leadership in

identifying and sequencing habitat restoration projects to be funded by state agencies; habitat restoration projects should be implemented without delay; and a strong locally based effort to restore salmon habitat should be established by providing a framework to allow citizen volunteers to work effectively.

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

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Critical pathways methodology" means a project scheduling and management process for examining interactions between habitat projects and salmonid species, prioritizing habitat projects, and assuring positive benefits from habitat projects.

(3) "Habitat project list" is the list of projects resulting from the critical pathways methodology under section 8(2) of this act. Each project on the list must have a written agreement from the landowner on whose land the project will be implemented. Projects include habitat restoration projects, habitat protection projects, habitat projects that improve water quality, habitat projects that protect water quality, habitat-related mitigation projects, and habitat project maintenance and monitoring activities.

(4) "Habitat work schedule" means those projects from the habitat project list that will be implemented during the current funding cycle. The schedule shall also include a list of the entities and individuals implementing projects, the start date, duration, estimated date of completion, estimated cost, and funding sources for the projects.

(5) "Limiting factors" means conditions that limit the ability of habitat to fully sustain populations of salmon. These factors are primarily fish passage barriers and degraded estuarine areas, riparian corridors, stream channels, and wetlands.

(6) "Project sponsor" is a county, city, special district, tribal government, a combination of such governments through interlocal agreements provided under chapter 39.34 RCW, a nonprofit organization, or one or more private citizens.

(7) "Salmon" includes all species of the family Salmonidae which are capable of self-sustaining, natural production.

(8) "Salmon recovery plan" means a state plan developed in response to a proposed or actual listing under the federal endangered species act that addresses limiting factors including, but not limited to harvest, hatchery, hydropower, habitat, and other factors of decline.

(9) "Tribe" or "tribes" means federally recognized Indian tribes.

(10) "WRIA" means a water resource inventory area established in chapter 173-500 WAC as it existed on January 1, 1997.

**NEW SECTION. Sec. 3. IMPLEMENTATION--SUMMARY--RECOMMENDATIONS.** By December 31, 1998, the governor shall submit a summary of the implementation of this act to the legislature, and include recommendations to the legislature that would further the success of salmon recovery. The recommendations may include:

(1) The need to expand or improve nonregulatory programs and activities;

(2) The need to expand or improve state and local laws and regulations; and

(3) The feasibility of forming a state-wide or regional community foundation or any other funding alternatives to assist in financing salmon recovery efforts.

**NEW SECTION. Sec. 4. STATE OF THE SALMON REPORT.** Beginning in December 2000, the governor shall submit a biennial state of the salmon report to the legislature during the first week of December. The report may include the following:

(1) A description of the amount of in-kind and financial contributions, including volunteer, private, and state, federal, tribal as available, and local government money directly spent on salmon recovery in response to actual, proposed, or expected endangered species act listings;

(2) A summary of habitat projects including but not limited to:

(a) A summary of accomplishments in removing barriers to salmon passage and an identification of existing barriers;

(b) A summary of salmon restoration efforts undertaken in the past two years;

(c) A summary of the role which private volunteer initiatives contribute in salmon habitat restoration efforts; and

(d) A summary of efforts taken to protect salmon habitat;

(3) A summary of collaborative efforts undertaken with adjoining states or Canada;

(4) A summary of harvest and hatchery management activities affecting salmon recovery;

(5) A summary of information regarding impediments to successful salmon recovery efforts;

(6) A summary of the number and types of violations of existing laws pertaining to: (a) Water quality; and (b) salmon. The summary shall include information about the types of sanctions imposed for these violations;

(7) Information on the estimated carrying capacity of new habitat created pursuant to chapter . . . , Laws of 1998 (this act); and

(8) Recommendations to the legislature that would further the success of salmon recovery. The recommendations may include:

(a) The need to expand or improve nonregulatory programs and activities; and

(b) The need to expand or improve state and local laws and regulations.

**NEW SECTION. Sec. 5. GOVERNOR'S SALMON RECOVERY OFFICE.** (1) The salmon recovery office is created within the office of the governor to coordinate state strategy to allow for salmon recovery to healthy sustainable population levels with productive commercial and recreational fisheries. The primary purpose of the office is to coordinate and assist in the development of salmon recovery plans

for evolutionarily significant units, and submit those plans to the appropriate tribal governments and federal agencies in response to the federal endangered species act. The governor's salmon recovery office may also:

(a) Act as liaison to local governments, the state congressional delegation, the United States congress, federally recognized tribes, and the federal executive branch agencies for issues related to the state's endangered species act salmon recovery plans; and

(b) Provide the biennial state of the salmon report to the legislature pursuant to section 4 of this act.

(2) This section expires June 30, 2006.

**NEW SECTION. Sec. 6. SCIENCE PANEL.** (1) The governor shall request the national academy of sciences, the American fisheries society, or a comparable institution to screen candidates to serve as members on the independent science panel. The institution that conducts the screening of the candidates shall submit a list of the nine most qualified candidates to the governor, the speaker of the house of representatives, and the majority leader of the senate. The candidates shall reflect expertise in habitat requirements of salmon, protection and restoration of salmon populations, artificial propagation of salmon, hydrology, or geomorphology.

(2) The speaker of the house of representatives and the majority leader in the senate shall each remove one name from the nomination list. The governor shall consult with tribal representatives and the governor shall appoint five scientists from the remaining names on the nomination list.

(3) The members of the independent science panel shall serve four-year terms. The independent science panel members shall elect the chair of the panel among themselves every two years. The members of the independent science panel shall be compensated as provided in RCW 43.03.250 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) The independent science panel shall be governed by generally accepted guidelines and practices governing the activities of independent science boards such as the national academy of sciences. The purpose of the independent science panel is to help ensure that sound science is used in salmon recovery efforts. The governor's salmon recovery office shall request review of salmon recovery plans by the science review panel. The science review panel does not have the authority to review individual projects or project lists developed under sections 7, 8, and 9 of this act or to make policy decisions.

(5) The independent science panel shall submit its findings to the legislature and the governor.

**NEW SECTION. Sec. 7. HABITAT RESTORATION PROJECT LISTS.** (1)(a) Counties, cities, and tribal governments must jointly designate, by official resolution, the area for which a habitat restoration project list is to be developed and the lead entity that is to be responsible for submitting the habitat restoration project list. No project included on a habitat restoration project list shall be considered mandatory in nature and no private landowner may be forced or coerced into participation in any respect. The lead entity may be a county, city, conservation district, special district, tribal government, or other entity.

(b) The lead entity shall establish a committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other restoration interests. The purpose of the committee is to provide a citizen-based evaluation of the projects proposed to promote salmon habitat restoration. The interagency review team may provide the lead entity with organizational models that may be used in establishing the committees.

(c) The committee shall compile a list of habitat restoration projects, establish priorities for individual projects, define the sequence for project implementation, and submit these activities as the habitat restoration project list. The committee shall also identify potential federal, state, local, and private funding sources.

(2) The area covered by the habitat project list must be based, at a minimum, on a WRIA, combination of WRIs, an evolutionarily significant unit, or any other area as agreed to by the counties, cities, and tribes meeting the requirements of this subsection. Preference will be given to projects in an area that contain a salmon species that is listed or proposed for listing under the federal endangered species act.

**NEW SECTION. Sec. 8. CRITICAL PATHWAYS METHODOLOGY.** (1) Critical pathways methodology shall be used to develop a habitat project list and a habitat work schedule that ensures salmon restoration activities will be prioritized and implemented in a logical sequential manner that produces habitat capable of sustaining healthy populations of salmon.

(2) The critical pathways methodology shall:

(a) Include a limiting factors analysis for salmon in streams, rivers, tributaries, estuaries, and subbasins in the region. The technical advisory group shall have responsibility for the limiting factors analysis;

(b) Identify local habitat projects that sponsors are willing to undertake. The projects identified must have a written agreement from the landowner on which the project is to be implemented. Project sponsors shall have the lead responsibility for this task;

(c) Identify how projects will be monitored and evaluated. The project sponsor, in consultation with the technical advisory group and the appropriate landowner, shall have responsibility for this task; and

(d) Describe the adaptive management strategy that will be used. The committee established under section 7 of this act shall have responsibility for this task. If a committee has not been formed, the technical advisory group shall have the responsibility for this task.

(3) The habitat work list shall include all projects developed pursuant to subsection (2) of this section as well as any other salmon habitat restoration project implemented in the region. The work list shall also include the start date, duration, estimated date of completion, estimated cost, and, if appropriate, the affected salmonid species of each project. Each schedule shall be updated on an annual basis to depict new activities.

**NEW SECTION. Sec. 9. INTERAGENCY REVIEW TEAM PROJECT FUNDING.** (1) Representatives from the conservation commission, the department of transportation, and the department of fish and wildlife shall establish an interagency review team. Except as provided in subsection (6) of this section, habitat restoration project lists shall be submitted to the interagency review team by January 1st and July 1st of each year beginning in 1999.

(2) If no lead entity has been formed under section 7 of this act, the interagency review team shall rank, prioritize, and dispense funds for habitat restoration projects by giving preference to the projects that:

- (a) Provide a greater benefit to salmon recovery;
- (b) Will be implemented in a more critical area;
- (c) Are the most cost-effective;
- (d) Have the greatest matched, or in-kind funding; and
- (e) Will be implemented by a sponsor with a successful record of project implementation.

(3) If a lead entity established under section 7 of this act has been formed, the interagency review team shall evaluate project lists and may remove, but not add, projects from a habitat project list.

(4) The interagency review team shall provide a summary of funding for habitat restoration project lists to the governor and to the legislature by December 1st of each year.

(5) The interagency review team may annually establish a maximum amount of funding available for any individual project, subject to available funding. The interagency review team shall attempt to assure a geographical balance in assigning priorities to projects.

(6) For fiscal year 1998, the department of fish and wildlife, the conservation commission, and the department of transportation may authorize, subject to appropriations, expenditures for projects that have been developed to restore salmon habitat before completion of the project lists required in section 7(2) of this act.

(7) Where a lead entity has been established pursuant to section 7 of this act, the interagency review team may provide block grants to the lead entity, subject to available funding.

**NEW SECTION. Sec. 10. TECHNICAL ADVISORY GROUPS.** (1) The conservation commission, in consultation with local government and the tribes, shall invite private, federal, state, tribal, and local government personnel with appropriate expertise to act as a technical advisory group.

(2) For state personnel, involvement on the technical advisory group shall be at the discretion of the particular agency. Unless specifically provided for in the budget, technical assistance participants shall be provided from existing full-time equivalent employees.

(3) The technical advisory group shall identify the limiting factors for salmonids to respond to the limiting factors relating to habitat pursuant to section 8(2) of this act.

(4) Where appropriate, the conservation district within the area implementing this chapter shall take the lead in developing and maintaining relationships between the technical advisory group and the private landowners under section 9 of this act. The conservation districts may assist landowners to organize around river, tributary, estuary, or subbasins of a watershed.

(5) Fishery enhancement groups and other volunteer organizations may participate in the activities under this section.

**NEW SECTION. Sec. 11. THE SEA GRANT PROGRAM.** The sea grant program at the University of Washington is authorized to provide technical assistance to volunteer groups and other project sponsors in designing and performing habitat restoration projects that address the limiting factors analysis of regional habitat work plans. The cost for such assistance may be covered on a fee-for-service basis.

**NEW SECTION. Sec. 12. SOUTHWEST WASHINGTON SALMON RECOVERY.** The southwest Washington salmon recovery region, whose boundaries are provided in chapter . . . , Laws of 1998 (Engrossed Second Substitute House Bill No. 2836), is created. If Engrossed Second Substitute House Bill No. 2836 is not enacted by July 1, 1998, this section is null and void.

**Sec. 13.** RCW 90.71.005 and 1996 c 138 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Puget Sound and related inland marine waterways of Washington state represent a unique and unparalleled resource. A rich and varied range of marine organisms, comprising an interdependent, sensitive communal ecosystem reside in these sheltered waters. Residents of this region enjoy a way of life centered around the waters of Puget Sound, featuring accessible recreational opportunities, world-class port facilities and water transportation systems, harvest of marine food resources, shoreline-oriented life styles, water-dependent industries, tourism, irreplaceable aesthetics, and other activities, all of which to some degree depend upon a clean and healthy marine resource;

(b) The Puget Sound water quality authority has done an excellent job in developing a comprehensive plan to identify actions to restore and protect the biological health and diversity of Puget Sound;

(c) The large number of governmental entities that now have regulatory programs affecting the water quality of Puget Sound have diverse interests and limited jurisdictions that cannot adequately address the cumulative, wide-ranging impacts that contribute to the degradation of Puget Sound; and

(d) Coordination of the regulatory programs, at the state and local level, is best accomplished through the development of interagency mechanisms that allow these entities to transcend their diverse interests and limited jurisdictions.

(2) It is therefore the policy of the state of Washington to coordinate the activities of state and local agencies by establishing a biennial work plan that clearly delineates state and local actions necessary to protect and restore the biological health and diversity of Puget Sound. It is further the policy of the state to implement the Puget Sound water quality management plan to the maximum extent possible. To further the policy of the state, a recovery plan developed under the federal endangered species act for a portion or all of the Puget Sound shall be considered for inclusion into the Puget Sound water quality management plan.

**Sec. 14.** RCW 90.71.020 and 1996 c 138 s 3 are each amended to read as follows:

(1) The Puget Sound action team is created. The action team shall consist of: The directors of the departments of ecology; agriculture; natural resources; fish and wildlife; and community, trade, and economic development; the secretaries of the departments of health and transportation; the director of the parks and recreation commission; the director of the interagency committee for outdoor recreation; the administrative officer of the conservation commission designated in RCW 89.08.050; one person representing cities, appointed by the governor; one person representing counties, appointed by the governor; one person representing federally recognized tribes, appointed by the governor; and the chair of the action team. The action team shall also include the following ex officio nonvoting members: The regional director of the United States environmental protection agency; the regional administrator of the national marine fisheries service; and the regional supervisor of the United States fish and wildlife service. The members representing cities and counties shall each be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(2) The action team shall:

- (a) Prepare a Puget Sound work plan and budget for inclusion in the governor's biennial budget;
- (b) Coordinate monitoring and research programs as provided in RCW 90.71.060;
- (c) Work under the direction of the action team chair as provided in RCW 90.71.040;
- (d) Coordinate permitting requirements as necessary to expedite permit issuance for any local watershed plan developed pursuant to rules adopted under this chapter;
- (e) Identify and resolve any policy or rule conflicts that may exist between one or more agencies represented on the action team;
- (f) Periodically amend the Puget Sound management plan;
- (g) Enter into, amend, and terminate contracts with individuals, corporations, or research institutions for the purposes of this chapter;
- (h) Receive such gifts, grants, and endowments, in trust or otherwise, for the use and benefit of the purposes of the action team. The action team may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments;
- (i) Promote extensive public participation, and otherwise seek to broadly disseminate information concerning Puget Sound;
- (j) Receive and expend funding from other public agencies;
- (k) To reduce costs and improve efficiency, review by December 1, 1996, all requirements for reports and documentation from state agencies and local governments specified in the plan for the purpose of eliminating and consolidating reporting requirements; and
- (l) Beginning in December 1998, and every two years thereafter, submit a report to the appropriate policy and fiscal committees of the legislature that describes and evaluates the successes and shortcomings of the current work plan relative to the priority problems identified for each geographic area of Puget Sound.

(3) By July 1, 1996, the action team shall begin developing its initial work plan, which shall include the coordination of necessary support staff.

(4) The action team shall incorporate, to the maximum extent possible, the recommendations of the council regarding amendments to the Puget Sound (~~(management)~~) management plan and the work plan.

(5) All proceedings of the action team are subject to the open public meetings act under chapter 42.30 RCW.

**Sec. 15.** RCW 90.71.050 and 1996 c 138 s 6 are each amended to read as follows:

(1)(a) Each biennium, the action team shall prepare a Puget Sound work plan and budget for inclusion in the governor's biennial budget. The work plan shall prescribe the necessary federal, state, and local actions to maintain and enhance Puget Sound water quality, including but not limited to, enhancement of recreational opportunities, and restoration of a balanced population of indigenous shellfish, fish, and wildlife. The work plan and budget shall include specific actions and projects pertaining to salmon recovery plans.

(b) In developing a work plan, the action team shall meet the following objectives:

- (i) Use the plan elements of the Puget Sound management plan to prioritize local and state actions necessary to restore and protect the biological health and diversity of Puget Sound;
- (ii) Consider the problems and priorities identified in local plans; and
- (iii) Coordinate the work plan activities with other relevant activities, including but not limited to, agencies' activities that have not been funded through the plan, local plans, and governmental and nongovernmental watershed restoration activities.

(c) In developing a budget, the action team shall identify:

- (i) The total funds to implement local projects originating from the planning process developed for nonpoint pollution; and
- (ii) The total funds to implement any other projects designed primarily to restore salmon habitat.

(2) In addition to the requirements identified under RCW 90.71.020(2)(a), the work plan and budget shall:

- (a) Identify and prioritize the local and state actions necessary to address the water quality problems in the following locations:



- (i) Area 1: Island and San Juan counties;
  - (ii) Area 2: Skagit and Whatcom counties;
  - (iii) Area 3: Clallam and Jefferson counties;
  - (iv) Area 4: Snohomish, King, and Pierce counties; and
  - (v) Area 5: Kitsap, Mason, and Thurston counties;
- (b) Provide sufficient funding to characterize local watersheds, provide technical assistance, and implement state responsibilities identified in the work plan. The number and qualifications of staff assigned to each region shall be determined by the types of problems identified pursuant to (a) of this subsection;
- (c) Provide sufficient funding to implement and coordinate the Puget Sound ambient monitoring plan pursuant to RCW 90.71.060;
- (d) Provide funds to assist local jurisdictions to implement elements of the work plan assigned to local governments and to develop and implement local plans;
- (e) Provide sufficient funding to provide support staff for the action team; and
- (f) Describe any proposed amendments to the Puget Sound (~~(management))~~ management plan.
- (3) The work plan shall be submitted to the appropriate policy and fiscal committees of the legislature by December 20th of each even-numbered year.
- (4) The work plan shall be implemented consistent with the legislative provisos of the biennial appropriation acts.

**NEW SECTION. Sec. 16. WORK GROUP.** (1) The departments of transportation, fish and wildlife, and ecology, and tribes shall convene a work group to develop policy guidance to evaluate mitigation alternatives. The policy guidance shall be designed to enable committees established under section 7 of this act to develop and implement habitat project lists that maximize environmental benefits from project mitigation while reducing project design and permitting costs. The work group shall seek technical assistance to ensure that federal, state, treaty right, and local environmental laws and ordinances are met. The purpose of this section is not to increase regulatory requirements or expand departmental authority.

(2) The work group shall develop guidance for determining alternative mitigation opportunities. Such guidance shall include criteria and procedures for identifying and evaluating mitigation opportunities within a watershed. Such guidance shall create procedures that provide alternative mitigation that has a low risk to the environment, yet has high net environmental, social, and economic benefits compared to status quo options.

(3) The evaluation shall include:

(a) All elements of mitigation, including but not limited to data requirements, decision making, state and tribal agency coordination, and permitting; and

(b) Criteria and procedures for identifying and evaluating mitigation opportunities, including but not limited to the criteria in chapter 90.74 RCW.

(4) Committees established under section 7 of this act shall coordinate voluntary collaborative efforts between habitat project proponents and mitigation project proponents. Mitigation funds may be used to implement projects identified by a work plan to mitigate for the impacts of a transportation or other development proposal or project.

(5) For the purposes of this section, "mitigation" has the same meaning as provided in RCW 90.74.010.

**NEW SECTION. Sec. 17.** Only those funds appropriated for the habitat restoration projects under this chapter are subject to the requirements of section 9 of this act.

**NEW SECTION. Sec. 18. CAPTIONS NOT LAW.** Captions used in this chapter are not any part of the law.

**NEW SECTION. Sec. 19.** Sections 1 through 12 and 16 through 18 of this act constitute a new chapter in Title 75 RCW."

## MOTION

On motion of Senator Morton, the following amendment to the striking amendment by Senators Swecker, Jacobsen and Spanel was adopted:

On page 3, line 11 of the amendment, after "1997." insert a new subsection to read as follows:

"(11) "Owner" means the person holding title to the land or the person under contract with the owner to lease or manage the legal owners property."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Swecker, Jacobsen and Spanel, as amended, to Engrossed Substitute House Bill No. 2496.

The motion by Senator Swecker carried and the striking amendment, as amended, was adopted.

## MOTIONS

On motion of Senator Swecker, the following title amendment was adopted:

On page 1, line 1 of the title, after "planning;" strike the remainder of the title and insert "amending RCW 90.71.005, 90.71.020, and 90.71.050; adding a new chapter to Title 75 RCW; and providing an expiration date."

On motion of Senator Swecker, the rules were suspended, Engrossed Substitute House Bill No. 2496, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Thibaudeau: "Senator Spanel, will this bill prioritize and be a primary benefit to wild fish?"

Senator Spanel: "It definitely has to be. I mean that is how we get out of the listing eventually--is we do have wild fish, but it does not--what this bill basically does is prioritizing of projects for restoration. It is only a piece and a part of the habitat restoration, but it is a prioritizing of projects."

Senator Thibaudeau: "Thank you."

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2496, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2496, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senators Brown and Fairley - 2. Excused: Senator Stevens - 1. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2496, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2345, by House Committee on Appropriations (originally sponsored by Representative Reams)

Revising administrative law.

The bill was read the second time.

#### MOTION

Senator Hale moved that the following Committee on Ways and Means amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 34.05.230 and 1997 c 409 s 202 are each amended to read as follows:

(1) ~~((An agency may file notice for the expedited adoption of rules in accordance with the procedures set forth in this section for rules meeting any one of the following criteria:~~

~~(a) The proposed rules relate only to internal governmental operations that are not subject to violation by a person;~~

~~(b) The proposed rules adopt or incorporate by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;~~

~~(c) The proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;~~

~~(d) The content of the proposed rules is explicitly and specifically dictated by statute;~~

~~(e) The proposed rules have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or~~

~~(f) The proposed rule is being amended after a review under RCW 34.05.328 or section 210 of this act.~~

~~(2) The expedited rule-making process must follow the requirements for rule making set forth in RCW 34.05.320, except that the agency is not required to prepare a small business economic impact statement under RCW 19.85.025, a statement indicating whether the rule constitutes a significant legislative rule under RCW 34.05.328(5)(c)(iii), or a significant legislative rule analysis under RCW 34.05.328. An agency is not required to prepare statements of inquiry under RCW 34.05.310 or conduct a hearing for the expedited adoption of rules. The notice for the expedited adoption of rules must contain a statement in at least ten-point type, that is substantially in the following form:~~

#### NOTICE

~~THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO (INSERT NAME AND ADDRESS) AND RECEIVED BY (INSERT DATE).~~

~~(3) The agency shall send a copy of the notice of the proposed expedited rule making to any person who has requested notification of proposals for the expedited adoption of rules or of agency rule making, as well as the joint administrative rules review committee, within three days after its publication in the Washington State Register. An agency may charge for the actual cost of providing a requesting party mailed copies of these notices. The notice of the proposed expedited rule making must be preceded by a statement substantially in the form provided in subsection (2) of this section. The notice must also include an explanation of the reasons the agency believes the expedited adoption of the rule is appropriate.~~

~~(4) The code reviser shall publish the text of all rules proposed for expedited adoption along with the notice required in this section in a separate section of the Washington State Register. Once the text of the proposed rules has been published in the Washington State Register, the only changes that an agency may make in the text of these proposed rules before their final adoption are to correct typographical errors.~~

~~(5) Any person may file a written objection to the expedited adoption of a rule. The objection must be filed with the agency rules coordinator within forty five days after the notice of the proposed expedited rule making has been published in the Washington State Register. A person who has filed a written objection to the expedited adoption of a rule may withdraw the objection.~~

~~(6) If no written objections to the expedited adoption of a rule are filed with the agency within forty five days after the notice of proposed expedited rule making is published, or if all objections that have been filed are withdrawn by the persons filing the objections, the agency may enter an order adopting the rule without further notice or a public hearing. The order must be published in the manner required by this chapter for any other agency order adopting, amending, or repealing a rule.~~

~~(7) If a written notice of objection to the expedited adoption of the rule is timely filed with the agency and is not withdrawn, the notice of proposed expedited rule making published under this section is considered a statement of inquiry for the purposes of RCW 34.05.310, and the agency may initiate further rule adoption proceedings in accordance with this chapter.~~

~~(8) Subsections (1) through (8) of this section expire on December 31, 2000.~~

~~an [An] agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Current)) Interpretive and policy statements or their equivalents, regardless of title, are advisory only. To better inform and involve the public, ((an)) each agency is encouraged to convert long-standing interpretive and policy statements into rules.~~

~~(2) A person may petition an agency requesting the conversion of interpretive and policy statements into rules. Upon submission, the agency shall notify the joint administrative rules review committee of the petition. Within sixty days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or initiate rule-making proceedings in accordance with this chapter.~~

~~((H1)) (3) Each agency shall maintain a roster of interested persons, consisting of persons who have requested in writing to be notified of all interpretive and policy statements issued by that agency. Each agency shall update the roster once each year and eliminate persons who do not indicate a desire to continue on the roster. Whenever an agency issues an interpretive or policy statement, it shall send a copy of the statement to each person listed on the roster. The agency may charge a nominal fee to the interested person for this service.~~

~~((H2)) (4) Whenever an agency issues an interpretive or policy statement, it shall submit to the code reviser for publication in the Washington State Register a statement describing the subject matter of the interpretive or policy statement, and listing the person at the agency from whom a copy of the interpretive or policy statement may be obtained.~~

~~(5) When a person requests a copy of a rule from an agency, the agency shall identify any associated interpretive or policy statements, guidelines, documents of general applicability, or their equivalents, and provide copies of the statements upon request.~~

~~(6) Within two hundred days after an agency issues a policy or interpretative statement, guideline, document of general applicability, or its equivalent involving an issue, the violation of which can result in a citation, civil penalty, assessment, or other sanction to a business, the agency shall make a good faith effort to notify businesses affected by the statement, guideline, or document and how to obtain technical assistance to comply. For purposes of this section, "good faith" means: (a) The agency at least notifies businesses in the standard industrial~~

classifications or their successor affected by the statement, guideline, or document that are registered with the department of revenue; or (b) for a statement, guideline, or document that applies only to persons or firms that are licensed, registered, or operate under a permit, the agency notifies those persons or firms holding the license, registration, or permit. Inadvertent failure to notify a specific business under this section does not invalidate a rule.

**NEW SECTION. Sec. 2.** A new section is added to chapter 34.05 RCW to read as follows:

(1) An agency may file notice for the expedited adoption of rules in accordance with the procedures set forth in this section for rules meeting any one of the following criteria:

(a) The proposed rules relate only to internal governmental operations that are not subject to violation by a person;

(b) The proposed rules adopt or incorporate by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(c) The proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(d) The content of the proposed rules is explicitly and specifically dictated by statute;

(e) The proposed rules have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or

(f) The proposed rule is being amended after a review under RCW 34.05.328.

(2) The expedited rule-making process must follow the requirements for rule making set forth in RCW 34.05.320, except that the agency is not required to prepare a small business economic impact statement under RCW 19.85.025, a statement indicating whether the rule constitutes a significant legislative rule under RCW 34.05.328(6)(c)(iii), or a significant legislative rule analysis under RCW 34.05.328. An agency is not required to prepare statements of inquiry under RCW 34.05.310 or conduct a hearing for the expedited adoption of rules. The notice for the expedited adoption of rules must contain a statement in at least ten-point type, that is substantially in the following form:

#### NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO (INSERT NAME AND ADDRESS) AND RECEIVED BY (INSERT DATE).

(3) The agency shall send a copy of the notice of the proposed expedited rule making to any person who has requested notification of proposals for the expedited adoption of rules or of agency rule making, as well as the joint administrative rules review committee, within three days after its publication in the Washington State Register. An agency may charge for the actual cost of providing a requesting party mailed copies of these notices. The notice of the proposed expedited rule making must be preceded by a statement substantially in the form provided in subsection (2) of this section. The notice must also include an explanation of the reasons the agency believes the expedited adoption of the rule is appropriate.

(4) The code reviser shall publish the text of all rules proposed for expedited adoption along with the notice required in this section in a separate section of the Washington State Register. Once the text of the proposed rules has been published in the Washington State Register, the only changes that an agency may make in the text of these proposed rules before their final adoption are to correct typographical errors.

(5) Any person may file a written objection to the expedited adoption of a rule. The objection must be filed with the agency rules coordinator within forty-five days after the notice of the proposed expedited rule making has been published in the Washington State Register. A person who has filed a written objection to the expedited adoption of a rule may withdraw the objection.

(6) If no written objections to the expedited adoption of a rule are filed with the agency within forty-five days after the notice of proposed expedited rule making is published, or if all objections that have been filed are withdrawn by the persons filing the objections, the agency may enter an order adopting the rule without further notice or a public hearing. The order must be published in the manner required by this chapter for any other agency order adopting, amending, or repealing a rule.

(7) If a written notice of objection to the expedited adoption of the rule is timely filed with the agency and is not withdrawn, the notice of proposed expedited rule making published under this section is considered a statement of inquiry for the purposes of RCW 34.05.310, and the agency may initiate further rule adoption proceedings in accordance with this chapter.

(8) This section expires December 31, 2000.

**Sec. 3.** RCW 34.05.328 and 1997 c 430 s 1 are each amended to read as follows:

(1) Before adopting a rule described in subsection ~~((5))~~ (6) of this section, an agency shall:

- (a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;
- (b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;
- (c) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;
- (d) Determine, after considering alternative versions of the rule and the analysis required under (b) and (c) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;
- (e) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;
- (f) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;
- (g) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:
  - (i) A state statute that explicitly allows the agency to differ from federal standards; or
  - (ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and
- (h) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (g) of this section, the agency shall place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection ((5)) (6) of this section, an agency shall place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan shall describe how the agency (~~intends to~~) will:

- (a) Implement and enforce the rule, including a description of the resources the agency intends to use;
- (b) Inform and educate affected persons about the rule;
- (c) Promote and assist voluntary compliance; (~~and~~)
- (d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes; and
- (e) Provide appropriate training to agency personnel.

(4) At least twenty days before the effective date of a rule described in subsection (6) of this section, the agency is encouraged to convene a meeting of interested persons affected by the rule to identify ambiguities and problem areas in the rule and determine how to resolve the ambiguities and problem areas. If the agency convenes such a meeting, the agency shall include the meeting in the plan described under subsection (3) of this section.

(5) After adopting a rule described in subsection ((5)) (6) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency shall do all of the following:

- (a) Provide to the (~~business assistance center~~) department of community, trade, and economic development a list citing by reference the other federal and state laws that regulate the same activity or subject matter;
- (b) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:
  - (i) Deferring to the other entity;
  - (ii) Designating a lead agency; or
  - (iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection ((4)) (5)(b), the agency shall report to the legislature pursuant to (c) of this subsection;

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

((5)) (6)(a) Except as provided in (b) of this subsection, this section applies to:

- (i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, and to the legislative rules of the department of fish and wildlife implementing chapter 75.20 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within ~~((forty-five))~~ seventy-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute;

(vi) Rules that set or adjust fees or rates pursuant to legislative standards; or

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency shall state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

~~((6))~~ (7) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of financial management, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report shall document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

NEW SECTION. **Sec. 4.** A new section is added to chapter 34.05 RCW to read as follows:

Within two hundred days after the effective date of a rule that imposes additional requirements on businesses the violation of which subjects a person to a penalty, assessment, or administrative sanction, an agency shall make a good faith effort to notify businesses affected by the rule of the requirements of the rule and how to obtain technical assistance to comply. For purposes of this section, "good faith" means: (1) The agency at least notifies businesses in the standard industrial classifications or their successor identified in the rule-making file as businesses affected by the rule that are registered with the department of revenue; or (2) for rules imposing additional requirements only on persons or firms licensed, registered, or operating under a permit, the agency notifies those persons or firms holding the license, registration, or permit. Inadvertent failure to notify a specific business under this section does not invalidate a rule.

**Sec. 5.** RCW 34.05.330 and 1996 c 318 s 1 are each amended to read as follows:

(1) Any person may petition an agency requesting the adoption, amendment, or repeal of any rule. The office of financial management shall prescribe by rule the format for such petitions and the procedure for their submission, consideration, and disposition and provide a standard form that may be used to petition any agency. Within sixty days after submission of a petition, the agency shall either (a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or (b) initiate rule-making proceedings in accordance with ~~((this chapter))~~ RCW 34.05.320.

(2) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, and the petition alleges that the rule is not within the intent of the legislature or was not adopted in accordance with all applicable provisions of law, the person may petition for review of the rule by the joint administrative rules review committee under RCW 34.05.655.

(3) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, the petitioner, within thirty days of the denial, may appeal the denial to the governor. The governor shall immediately file notice of the appeal with the code reviser for publication in the Washington state register. Within forty-five days after receiving the appeal, the governor shall either (a) deny the petition in writing, stating (i) his or her reasons for the denial, specifically addressing the concerns raised by the petitioner, and, (ii) where appropriate, the alternative means by which he or she will address the concerns raised by the petitioner; (b) for agencies listed in RCW 43.17.010, direct the agency to initiate rule-making proceedings in accordance with this chapter; or (c) for agencies not listed in RCW 43.17.010, recommend that the agency initiate rule-making proceedings in accordance with this chapter. The governor's response to the appeal shall be published in the Washington state register and copies shall be submitted to the chief clerk of the house of representatives and the secretary of the senate.

(4) In petitioning for repeal or amendment of a rule under this section, a person is encouraged to address, among other concerns:

- (a) Whether the rule is authorized;
- (b) Whether the rule is needed;
- (c) Whether the rule conflicts with or duplicates other federal, state, or local laws;
- (d) Whether alternatives to the rule exist that will serve the same purpose at less cost;
- (e) Whether the rule applies differently to public and private entities;
- (f) Whether the rule serves the purposes for which it was adopted;
- (g) Whether the costs imposed by the rule are unreasonable;
- (h) Whether the rule is clearly and simply stated;
- (i) Whether the rule is different than a federal law applicable to the same activity or subject matter without adequate justification; and
- (j) Whether the rule was adopted according to all applicable provisions of law.

(5) The ~~((business assistance center))~~ department of community, trade, and economic development and the office of financial management shall coordinate efforts among agencies to inform the public about the existence of this rules review process.

(6) The office of financial management shall initiate the rule making required by subsection (1) of this section by September 1, 1995.

**Sec. 6.** RCW 34.05.354 and 1997 c 409 s 208 are each amended to read as follows:

~~(1) ((Not later than April 1st or October 1st of each year, each agency shall submit to the code reviser, according to procedures and time lines established by the code reviser, rules that it determines should be repealed by the expedited repeal procedures provided for in this section. An agency shall file a copy of a preproposal notice of inquiry, as provided in RCW 34.05.310(1), that identifies the rule as one that is proposed for expedited repeal.~~

~~((2))~~ An agency may ~~((propose))~~ file notice for the expedited repeal of rules under the procedures set forth in this section for rules meeting any one ~~((or more))~~ of the following criteria:

(a) The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;

(b) The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;

(c) The rule is no longer necessary because of changed circumstances; or

(d) Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

~~((3))~~ (2) An agency shall file a copy of a preproposal notice of inquiry, as provided in RCW 34.05.310(1), that identifies the rule as one that is proposed for expedited repeal. The agency shall also send a copy of the preproposal notice of inquiry to any person who has requested notification of copies of proposals for the expedited repeal of rules or of agency rule making. The preproposal notice of inquiry shall include a statement that any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after the preproposal notice of inquiry is published. The notice of inquiry shall also include an explanation of the reasons the agency believes the expedited repeal of the rule is appropriate.

~~((4))~~ (3) The code reviser shall publish all rules proposed for expedited repeal in a separate section of ((a regular edition of)) the Washington state register ((or in a special edition of the Washington state register. The publication shall be not later than May 31st or November 30th of each year, or in the first register published after that date)).

~~((5))~~ (4) Any person may file a written objection to the expedited repeal of a rule. The notice shall be filed with the agency rules coordinator within thirty days after the notice of inquiry has been published in the Washington state register. The written objection need not state any reason for objecting to the expedited repeal of the rule.

~~((6))~~ (5) If no written objections to the expedited repeal of a rule are filed with the agency within thirty days after the preproposal notice of inquiry is published, the agency may enter an order repealing the rule without further notice or an opportunity for a public hearing. The order shall be published in the manner required by this chapter for any other order of the agency adopting, amending, or repealing a rule. If a written objection to the expedited repeal of the rule is filed with the agency within thirty days after the notice of inquiry has been published, the

preproposal notice of inquiry published pursuant to this section shall be considered a preproposal notice of inquiry for the purposes of RCW 34.05.310(1) and the agency may initiate rule adoption proceedings in accordance with the provisions of this chapter.

**Sec. 7.** RCW 34.05.370 and 1996 c 102 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

(f) Citations to data, factual information, studies, or reports on which the agency relies in the adoption of the rule, indicating where such data, factual information, studies, or reports are available for review by the public, but this subsection (2)(f) does not require the agency to include in the rule-making file any data, factual information, studies, or reports gathered pursuant to chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(g) The concise explanatory statement required by RCW 34.05.325(6); and

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

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

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

**NEW SECTION. Sec. 8.** A new section is added to chapter 34.05 RCW to read as follows:

(1) The legislature finds that under the governor's Executive Order 97-02, agencies have begun systematic reviews of existing rules and have eliminated some unnecessary rules and improved clarity for other rules.

(2) Effective July 1, 2001, each state agency shall review its rules that have significant effects on businesses, labor, consumers, and the environment. Agencies shall establish a rules review schedule that allows each rule filing under the criteria of this section to be reviewed every seven years. Agencies shall determine if their rules should be (a) retained in their current form, or (b) amended or repealed, if they do not meet the review criteria specified in this section. Agencies shall concentrate their regulatory review on rules or portions of a rule that have been the subject of petitions filed under RCW 34.05.330 or have been the source of complaints, concerns, or other difficulties that relate to matters other than the specific mandates of the statute on which the rule is based. Agencies that have already established regulatory review processes shall make them consistent with the requirements of this section. Each agency head shall designate a person responsible for regulatory review who shall serve as the agency's contact for regulatory review.

(3) The following criteria will be used for the review of each rule identified for review:

(a) Need. Is the rule necessary to comply with the statutes that authorize it? Is the rule obsolete, duplicative, or ambiguous to a degree that warrants repeal or revision? Have laws or other circumstances changed so that the rule should be amended or repealed? Is the rule necessary to protect or safeguard the health, welfare, or safety of Washington's citizens?

(b) Effectiveness and efficiency. Is the rule providing the results that it was originally designed to achieve in a reasonable manner? Are there regulatory alternatives or new technologies that could more effectively or efficiently achieve the same objectives?

(c) Clarity. Is the rule written and organized in a clear and concise manner so that it can be readily understood by those to whom it applies?

(d) Intent and statutory authority. Is the rule consistent with legislative intent of the statutes that authorize it? Is the rule based upon sufficient statutory authority? Is there a need to develop a more specific legislative authorization in order to protect the health, safety, and welfare of Washington's citizens?

(e) Coordination. Could additional consultation and coordination with other governmental jurisdictions and state agencies with similar regulatory authority eliminate or reduce duplication and inconsistency? Agencies should consult with and coordinate with other jurisdictions that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

(f) Cost. Have qualitative and quantitative benefits of the rule been considered in relation to its cost?



(g) Fairness. Does the rule result in equitable treatment of those required to comply with it? Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community? Should it be strengthened to provide additional protection?

(4)(a) By July 1, 2002, and July 1st of each year thereafter, each agency shall report to the rules review committee on the rules reviewed during the previous fiscal year and other measures taken to improve its regulatory program. The reports must include, but not be limited to: (i) The number of rule sections amended or repealed and the number of pages eliminated in the Washington Administrative Code; (ii) a summary of rules amended or repealed based on the review criteria in this section; (iii) a summary of agency actions in response to petitions under RCW 34.05.330; (iv) a summary of the results of the agency's review of policy and interpretive statements and similar documents; (v) a summary of the agency's review of reporting requirements imposed on businesses; and (vi) recommendations for statutory or administrative changes resulting from the regulatory reviews. More frequent reports may be requested, as necessary. Agencies shall make the reports available to persons who have requested notification of agency rule making and shall submit a summary of the report for publication in the Washington State Register.

(b) As part of its regulatory review, each agency shall review its existing policy and interpretive statements or similar documents to determine whether or not they must, by law, be adopted as rules. The review must include consultation with the attorney general. Agencies shall concentrate their review on those statements and documents that have been the source of complaints, concerns, or other difficulties.

(c) Each agency shall also review its reporting requirements that are applied generally to all businesses or classes of businesses to ensure that they are necessary and consistent with the principles and objectives of this section. The goals of the review must be to achieve reporting requirements that, to the extent possible, are coordinated with other state agencies with similar requirements, are economical and easy to understand, and rely on electronic transfer of information.

(5)(a) An agency is deemed to have met the requirements of this section ninety days after publication in the Washington State Register unless the rules review committee receives a written objection of the agency's compliance with the requirements of this section.

(b) If a written objection is received within the ninety-day period, the rules review committee will make a determination as to whether the agency did indeed comply with this section.

(c) If the committee finds the agency has failed to meet the requirements of this section, the agency will have one hundred twenty days to meet the requirements and receive approval by a majority vote of the committee. If the agency fails to comply with the requirements of this section after the one hundred twenty days, the committee may, by a majority vote of its members, recommend suspension of a rule or rules included in the report. Within seven days of that vote the committee shall transmit to the appropriate standing committees of the legislature, the governor, the code reviser, and the agency written notice of its objection and any recommended suspension based on failure to meet the rules review requirements. Within thirty days of receipt of the notice, the governor shall transmit to the committee, the code reviser, and the agency written approval or disapproval of the recommended suspension. If the suspension is approved by the governor, it is effective from the date of that approval and continues until ninety days after the expiration of the next regular legislative session.

(d) If the governor disapproves the recommendation of the rules review committee to suspend a rule or rules in the report, the agency shall treat the transmittal of that decision, along with the findings of the rules review committee, as a petition by the committee to repeal the rule or rules under RCW 34.05.330.

(e) The code reviser shall publish these transmittals according to RCW 34.05.640(5).

**Sec. 9.** RCW 34.05.610 and 1996 c 318 s 2 are each amended to read as follows:

(1) There is hereby created a joint administrative rules review committee which shall be a bipartisan committee consisting of four senators and four representatives from the state legislature. The senate members of the committee shall be appointed by the president of the senate, and the house members of the committee shall be appointed by the speaker of the house. Not more than two members from each house may be from the same political party. The appointing authorities shall also appoint one alternate member from each caucus of each house. All appointments to the committee are subject to approval by the caucuses to which the appointed members belong.

(2) Members and alternates shall be appointed as soon as possible after the legislature convenes in regular session in an odd-numbered year, and their terms shall extend until their successors are appointed and qualified at the next regular session of the legislature in an odd-numbered year or until such persons no longer serve in the legislature, whichever occurs first. Members and alternates may be reappointed to the committee.

(3) On or about January 1, 1999, the president of the senate shall appoint the chairperson ((in even-numbered years)) and the vice chairperson ((in odd-numbered years)) from among the committee membership. The speaker of the house shall appoint the chairperson ((in odd-numbered years)) and the vice chairperson in alternating even-numbered years beginning in the year 2000 from among the committee membership. The secretary of the senate shall appoint the chairperson and the vice chairperson in the alternating even-numbered years beginning in the year 2002 from among the committee membership. Such appointments shall be made in January of each even-numbered year as soon as possible after a legislative session convenes.

(4) The chairperson of the committee shall cause all meeting notices and committee documents to be sent to the members and alternates. A vacancy shall be filled by appointment of a legislator from the same political party as the original appointment. The appropriate appointing authority shall make the appointment within thirty days of the vacancy occurring.

**Sec. 10.** RCW 34.12.040 and 1981 c 67 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, whenever a state agency conducts a hearing which is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by an administrative law judge assigned under this chapter. In assigning administrative law judges, the chief administrative law judge shall wherever practical ((+)) (a) use personnel having expertise in the field or subject matter of the hearing, and ((2)) (b) assign administrative law judges primarily to the hearings of particular agencies on a long-term basis.

(2) An employee of the office of the insurance commissioner may conduct a hearing as provided in RCW 48.04.010(5).

**NEW SECTION. Sec. 11.** A new section is added to chapter 43.132 RCW to read as follows:

(1) To determine the fiscal impact of proposed rules on units of local government, an agency shall prepare a local government economic impact statement if the proposed rule will impose costs on units of local government.

(2) The economic impact statement shall describe the reporting, recordkeeping, and other compliance requirements of the proposed rule and analyze the costs of compliance for local governments. An agency shall file the statement with the code reviser along with the notice required under RCW 34.05.320.

(3) The department of community, trade, and economic development shall develop a guide to assist agencies in preparing the economic impact statement. The guide shall be developed through a collaborative process with agencies and local governments and other interested persons.

(4) An agency shall maintain a list of proposed rules for which it prepares an economic impact statement and a summary of the costs. By December 1st of each year, an agency shall submit the list and summary to the joint administrative rules review committee.

(5) This section does not apply to:

(a) A rule proposed for expedited repeal or expedited adoption, unless the agency receives written objection;

(b) Rules described in RCW 34.05.310(4); and

(c) Rules adopted solely for the purpose of conformity or compliance, or both, with federal statutes or regulations.

**Sec. 12.** RCW 48.04.010 and 1990 1st ex.s. c 3 s 1 are each amended to read as follows:

(1) The commissioner may hold a hearing for any purpose within the scope of this code as he or she may deem necessary. The commissioner shall hold a hearing:

(a) If required by any provision of this code; or

(b) Upon written demand for a hearing made by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if such failure is deemed an act under any provision of this code, or by any report, promulgation, or order of the commissioner other than an order on a hearing of which such person was given actual notice or at which such person appeared as a party, or order pursuant to the order on such hearing.

(2) Any such demand for a hearing shall specify in what respects such person is so aggrieved and the grounds to be relied upon as basis for the relief to be demanded at the hearing.

(3) Unless a person aggrieved by a written order of the commissioner demands a hearing thereon within ninety days after receiving notice of such order, or in the case of a licensee under Title 48 RCW within ninety days after the commissioner has mailed the order to the licensee at the most recent address shown in the commissioner's licensing records for the licensee, the right to such hearing shall conclusively be deemed to have been waived.

(4) If a hearing is demanded by a licensee whose license has been temporarily suspended pursuant to RCW 48.17.540, the commissioner shall hold such hearing demanded within thirty days after receipt of the demand or within thirty days of the effective date of a temporary license suspension issued after such demand, unless postponed by mutual consent.

(5) A hearing held under this section must be conducted by an administrative law judge unless the person demanding the hearing agrees in writing to have an employee of the commissioner conduct the hearing.

**NEW SECTION. Sec. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 14.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

#### MOTION

Senator Patterson moved that the following amendment by Senators Patterson and Betti Sheldon to the Committee on Ways and Means striking amendment be adopted:

Beginning on page 3, line 19 of the amendment, strike the remainder of the amendment and insert the following:

"~~an (An))~~ Each agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Current interpretive and policy statements are advisory only. To better inform and involve the public, ~~((an))~~ each agency is encouraged to convert long-standing interpretive and policy statements into rules.

(2) A person may petition an agency requesting the conversion of interpretive and policy statements into rules. Upon submission, the agency shall notify the joint administrative rules review committee of the petition. Within sixty days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or initiate rule-making proceedings in accordance with this chapter.

~~((H1))~~ (3) Each agency shall maintain a roster of interested persons, consisting of persons who have requested in writing to be notified of all interpretive and policy statements issued by that agency. Each agency shall update the roster once each year and eliminate persons who do not indicate a desire to continue on the roster. Whenever an agency issues an interpretive or policy statement, it shall send a copy of the statement to each person listed on the roster. The agency may charge a nominal fee to the interested person for this service.

~~((H2))~~ (4) Whenever an agency issues an interpretive or policy statement, it shall submit to the code reviser for publication in the Washington State Register a statement describing the subject matter of the interpretive or policy statement, and listing the person at the agency from whom a copy of the interpretive or policy statement may be obtained.

(5) Agencies are encouraged to assist persons in identifying pertinent documents related to rules when they receive inquiries regarding the rules.

NEW SECTION. Sec. 2. A new section is added to chapter 34.05 RCW to read as follows:

(1) An agency may file notice for the expedited adoption of rules in accordance with the procedures set forth in this section for rules meeting any one of the following criteria:

- (a) The proposed rules relate only to internal governmental operations that are not subject to violation by a person;
- (b) The proposed rules adopt or incorporate by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- (c) The proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- (d) The content of the proposed rules is explicitly and specifically dictated by statute;
- (e) The proposed rules have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- (f) The proposed rule is being amended after a review under RCW 34.05.328.

(2) The expedited rule-making process must follow the requirements for rule making set forth in RCW 34.05.320, except that the agency is not required to prepare a small business economic impact statement under RCW 19.85.025, a statement indicating whether the rule constitutes a significant legislative rule under RCW 34.05.328(5)(c)(iii), or a significant legislative rule analysis under RCW 34.05.328. An agency is not required to prepare statements of inquiry under RCW 34.05.310 or conduct a hearing for the expedited adoption of rules. The notice for the expedited adoption of rules must contain a statement in at least ten-point type, that is substantially in the following form:

#### NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO (INSERT NAME AND ADDRESS) AND RECEIVED BY (INSERT DATE).

(3) The agency shall send a copy of the notice of the proposed expedited rule making to any person who has requested notification of proposals for the expedited adoption of rules or of agency rule making, as well as the joint administrative rules review committee, within three days after its publication in the Washington State Register. An agency may charge for the actual cost of providing a requesting party mailed copies of these notices. The notice of the proposed expedited rule making must be preceded by a statement substantially in the form provided in subsection (2) of this section. The notice must also include an explanation of the reasons the agency believes the expedited adoption of the rule is appropriate.

(4) The code reviser shall publish the text of all rules proposed for expedited adoption along with the notice required in this section in a separate section of the Washington State Register. Once the text of the proposed rules has been published in the Washington State Register, the only changes that an agency may make in the text of these proposed rules before their final adoption are to correct typographical errors.

(5) Any person may file a written objection to the expedited adoption of a rule. The objection must be filed with the agency rules coordinator within forty-five days after the notice of the proposed expedited rule making has been published in the Washington State Register. A person who has filed a written objection to the expedited adoption of a rule may withdraw the objection.

(6) If no written objections to the expedited adoption of a rule are filed with the agency within forty-five days after the notice of proposed expedited rule making is published, or if all objections that have been filed are withdrawn by the persons filing the objections, the

agency may enter an order adopting the rule without further notice or a public hearing. The order must be published in the manner required by this chapter for any other agency order adopting, amending, or repealing a rule.

(7) If a written notice of objection to the expedited adoption of the rule is timely filed with the agency and is not withdrawn, the notice of proposed expedited rule making published under this section is considered a statement of inquiry for the purposes of RCW 34.05.310, and the agency may initiate further rule adoption proceedings in accordance with this chapter.

(8) This section expires December 31, 2000.

**Sec. 3.** RCW 34.05.328 and 1997 c 430 s 1 are each amended to read as follows:

(1) Before adopting a rule described in subsection (5) of this section, an agency shall:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;

(c) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

(d) Determine, after considering alternative versions of the rule and the analysis required under (b) and (c) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(e) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(f) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(g) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and

(h) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (g) of this section, the agency shall place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency shall place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan shall describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency shall do all of the following:

(a) Provide to the ~~((business assistance center))~~ department of community, trade, and economic development a list citing by reference the other federal and state laws that regulate the same activity or subject matter;

(b) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(b), the agency shall report to the legislature pursuant to (c) of this subsection;

(c) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, and to the legislative rules of the department of fish and wildlife implementing chapter 75.20 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute;

(vi) Rules that set or adjust fees or rates pursuant to legislative standards; or

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency shall state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) Before the hearing required by RCW 34.05.325, interested persons may inform the agency of ambiguities and problem areas in the proposed rule and make suggestions on how the agency should resolve them. Interested persons are encouraged to present their views at the hearing.

(7) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of financial management, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report shall document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

**Sec. 4.** RCW 34.05.330 and 1996 c 318 s 1 are each amended to read as follows:

(1) Any person may petition an agency requesting the adoption, amendment, or repeal of any rule. The office of financial management shall prescribe by rule the format for such petitions and the procedure for their submission, consideration, and disposition and provide a standard form that may be used to petition any agency. Within sixty days after submission of a petition, the agency shall either (a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or (b) initiate rule-making proceedings in accordance with ~~(this chapter)~~ RCW 34.05.310, if applicable, and RCW 34.05.320.

(2) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, and the petition alleges that the rule is not within the intent of the legislature or was not adopted in accordance with all applicable provisions of law, the person may petition for review of the rule by the joint administrative rules review committee under RCW 34.05.655.

(3) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, the petitioner, within thirty days of the denial, may appeal the denial to the governor. The governor shall immediately file notice of the appeal with the code reviser for publication in the Washington state register. Within forty-five days after receiving the appeal, the governor shall either (a) deny the petition in writing, stating (i) his or her reasons for the denial, specifically addressing the concerns raised by the petitioner, and, (ii) where appropriate, the alternative means by which he or she will address the concerns raised by the petitioner; (b) for agencies listed in RCW 43.17.010, direct the agency to initiate rule-making proceedings in accordance with this chapter; or (c) for agencies not listed in RCW 43.17.010, recommend that the agency initiate rule-making proceedings in accordance with this chapter. The governor's response to the appeal shall be published in the Washington state register and copies shall be submitted to the chief clerk of the house of representatives and the secretary of the senate.

(4) In petitioning for repeal or amendment of a rule under this section, a person is encouraged to address, among other concerns:

- (a) Whether the rule is authorized;
- (b) Whether the rule is needed;
- (c) Whether the rule conflicts with or duplicates other federal, state, or local laws;
- (d) Whether alternatives to the rule exist that will serve the same purpose at less cost;
- (e) Whether the rule applies differently to public and private entities;
- (f) Whether the rule serves the purposes for which it was adopted;
- (g) Whether the costs imposed by the rule are unreasonable;
- (h) Whether the rule is clearly and simply stated;
- (i) Whether the rule is different than a federal law applicable to the same activity or subject matter without adequate justification; and
- (j) Whether the rule was adopted according to all applicable provisions of law.

(5) The ~~((business assistance center))~~ department of community, trade, and economic development and the office of financial management shall coordinate efforts among agencies to inform the public about the existence of this rules review process.

(6) The office of financial management shall initiate the rule making required by subsection (1) of this section by September 1, 1995.

**Sec. 5.** RCW 34.05.354 and 1997 c 409 s 208 are each amended to read as follows:

~~(1) ((Not later than April 1st or October 1st of each year, each agency shall submit to the code reviser, according to procedures and time lines established by the code reviser, rules that it determines should be repealed by the expedited repeal procedures provided for in this section. An agency shall file a copy of a preproposal notice of inquiry, as provided in RCW 34.05.310(1), that identifies the rule as one that is proposed for expedited repeal.~~

~~((2))~~ An agency may ~~((propose))~~ file notice for the expedited repeal of rules under the procedures set forth in this section for rules meeting any one ~~((or more))~~ of the following criteria:

(a) The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;

(b) The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;

(c) The rule is no longer necessary because of changed circumstances; or

(d) Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

~~((3))~~ (2) An agency shall file a copy of a preproposal notice of inquiry, as provided in RCW 34.05.310(1), that identifies the rule as one that is proposed for expedited repeal. The agency shall also send a copy of the preproposal notice of inquiry to any person who has requested notification of copies of proposals for the expedited repeal of rules or of agency rule making. The preproposal notice of inquiry shall include a statement that any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after the preproposal notice of inquiry is published. The notice of inquiry shall also include an explanation of the reasons the agency believes the expedited repeal of the rule is appropriate.

~~((4))~~ (3) The code reviser shall publish all rules proposed for expedited repeal in a separate section of ((a regular edition of)) the Washington state register ((or in a special edition of the Washington state register. The publication shall be not later than May 31st or November 30th of each year, or in the first register published after that date)).

~~((5))~~ (4) Any person may file a written objection to the expedited repeal of a rule. The notice shall be filed with the agency rules coordinator within thirty days after the notice of inquiry has been published in the Washington state register. The written objection need not state any reason for objecting to the expedited repeal of the rule.

~~((6))~~ (5) If no written objections to the expedited repeal of a rule are filed with the agency within thirty days after the preproposal notice of inquiry is published, the agency may enter an order repealing the rule without further notice or an opportunity for a public hearing. The order shall be published in the manner required by this chapter for any other order of the agency adopting, amending, or repealing a rule. If a written objection to the expedited repeal of the rule is filed with the agency within thirty days after the notice of inquiry has been published, the

preproposal notice of inquiry published pursuant to this section shall be considered a preproposal notice of inquiry for the purposes of RCW 34.05.310(1) and the agency may initiate rule adoption proceedings in accordance with the provisions of this chapter.

**Sec. 6.** RCW 34.05.370 and 1996 c 102 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

(f) Citations to data, factual information, studies, or reports on which the agency relies in the adoption of the rule, indicating where such data, factual information, studies, or reports are available for review by the public, but this subsection (2)(f) does not require the agency to include in the rule-making file any data, factual information, studies, or reports gathered pursuant to chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(g) The concise explanatory statement required by RCW 34.05.325(6); and

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

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

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

**Sec. 7.** RCW 34.05.630 and 1996 c 318 s 4 are each amended to read as follows:

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

(2) All agency policy and interpretive statements, guidelines, and documents that are of general applicability, or their equivalents, are subject to selective review by the ~~((legislature))~~ committee to determine whether or not a statement, guideline, or document that is of general applicability, or its equivalent, is being used as a rule that has not been adopted in accordance with all applicable provisions of law.

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

(4) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, ~~((and))~~ and (c) whether the agency is using a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, in place of a rule.

**Sec. 8.** RCW 34.05.640 and 1996 c 318 s 5 are each amended to read as follows:

(1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to RCW 34.05.620 or 34.05.630, the affected agency shall notify the committee of its intended action on a proposed or existing rule to which the committee objected or on a committee finding of the agency's failure to adopt rules.

(2) If the rules review committee finds by a majority vote of its members: (a) That the proposed or existing rule in question will not be modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, (b) that an existing rule was not adopted in accordance with all applicable provisions of law, or (c) that the agency will not replace the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, with a rule, the rules review committee may, within thirty days from notification by

the agency of its intended action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.

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

(b) If the rules review committee makes an adverse finding regarding a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, under subsection (2)(c) of this section, the committee may, by a majority vote of its members, advise the governor of its finding.

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

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

**Sec. 9.** RCW 34.05.655 and 1996 c 318 s 7 are each amended to read as follows:

(1) Any person may petition the rules review committee for a review of a proposed or existing rule or a proposed or existing policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent. A petition to review a statement, guideline, or document that is of general applicability, or its equivalent, may only be filed for the purpose of requesting the committee to determine whether the statement, guideline, or document that is of general applicability, or its equivalent, is being used as a rule that has not been adopted in accordance with all provisions of law. Within thirty days of the receipt of the petition, the rules review committee shall acknowledge receipt of the petition and describe any initial action taken. If the rules review committee rejects the petition, a written statement of the reasons for rejection shall be included.

(2) A person may petition the rules review committee under subsection (1) of this section requesting review of an existing rule only if the person has petitioned the agency to amend or repeal the rule under RCW 34.05.330(1) and such petition was denied.

(3) A petition for review of a rule under subsection (1) of this section shall:

(a) Identify with specificity the proposed or existing rule to be reviewed;

(b) Identify the specific statute identified by the agency as authorizing the rule, the specific statute which the rule interprets or implements, and, if applicable, the specific statute the department is alleged not to have followed in adopting the rule;

(c) State the reasons why the petitioner believes that the rule is not within the intent of the legislature, or that its adoption was not or is not in accordance with law, and provide documentation to support these statements;

(d) Identify any known judicial action regarding the rule or statutes identified in the petition.

A petition to review an existing rule shall also include a copy of the agency's denial of a petition to amend or repeal the rule issued under RCW 34.05.330(1) and, if available, a copy of the governor's denial issued under RCW 34.05.330(3).

(4) A petition for review of a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, under subsection (1) of this section shall:

(a) Identify the specific policy or interpretative statement, guideline, or document that is of general applicability, or its equivalent, to be reviewed;

(b) Identify the specific statute which the rule interprets or implements;

(c) State the reasons why the petitioner believes that the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, meets the definition of a rule under RCW 34.05.010 and should have been adopted according to the procedures of this chapter;

(d) Identify any known judicial action regarding the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, or statutes identified in the petition.

(5) Within ninety days of receipt of the petition, the rules review committee shall make a final decision on the rule for which the petition for review was not previously rejected.

**NEW SECTION. Sec. 10.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."



Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Patterson and Betti Sheldon on page 3, line 19, to the Committee on Ways and Means striking amendment to Engrossed Second Substitute House Bill No. 2345.

The motion by Senator Patterson failed and the amendment to the committee striking amendment was not adopted on a rising vote.

The President declared the question before the Senate to be the adoption of the Committee on Ways and Means striking amendment to Engrossed Second Substitute House Bill No. 2345.

The motion by Senator Hale carried and the committee striking amendment was adopted.

#### MOTIONS

On motion of Senator Hale, the following title amendment was adopted:

On line 1 of the title, after "law;" strike the remainder of the title, and insert "amending RCW 34.05.230, 34.05.328, 34.05.330, 34.05.354, 34.05.370, 34.05.610, 34.12.040, and 48.04.010; adding new sections to chapter 34.05 RCW; adding a new section to chapter 43.132 RCW; creating a new section; and providing an expiration date."

On motion of Senator Hale, the rules were suspended, Engrossed Second Substitute House Bill No. 2345, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute House Bill No. 2345, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2345, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Strannigan, Swecker, West, Winsley, Wood and Zarelli - 31. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 17. Excused: Senator Stevens - 1. ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2345, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE JOINT MEMORIAL NO. 4039, by Representatives Huff, Carlson, H. Sommers, Kenney and Wolfe

Petitioning for amendment to the Federal Communications Commission ruling barring direct reimbursement to state agencies that provide telecommunications services.

The joint memorial was read the second time.

#### MOTION

On motion of Senator Finkbeiner, the rules were suspended, House Joint Memorial No. 4039 was advanced to third reading, the second reading considered the third and the joint memorial was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Joint Memorial No. 4039.

#### ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4039 and the joint memorial passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46.

Absent: Senators Benton and Deccio - 2.

Excused: Senator Stevens - 1. HOUSE JOINT MEMORIAL NO. 4039, having received the constitutional majority, was declared passed.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2306, by House Committee on Government Administration (originally sponsored by Representatives Smith, B. Thomas, Bush and Dunn)

Indicating the citizenship requirement for voter registration.

The bill was read the second time.

## MOTION

Senator McCaslin moved that the following Committee on Government Operations amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29.08.080 and 1993 c 434 s 8 are each amended to read as follows:

The secretary of state shall furnish registration forms necessary to carry out the registration of voters as provided by this chapter without cost to the respective counties. ~~((However, costs incurred by the secretary of state during 1994 and 1995 in the printing and distribution of voter registration forms shall be reimbursed by the counties. This cost shall be considered an election cost under RCW 29.13.045 and be prorated as part of the 1994 and 1995 general election costs.))~~

All newly printed voter registration forms must include clear and conspicuous language, designed to draw an applicant's attention, stating that only citizens of the United States may register to vote. Similar language must be stamped conspicuously onto existing voter registration forms in the possession of the office of the secretary of state.

**Sec. 2.** RCW 46.20.155 and 1990 c 143 s 6 are each amended to read as follows:

Before issuing an original license or identification card or renewing a license or identification card under this chapter, the licensing agent shall determine if the applicant wants to register to vote or transfer his or her voter registration by asking the following two questions:

First: "Do you want to register to vote or transfer your voter registration?"

Second: "Are you a United States citizen?"

If the applicant ~~((chooses to register or transfer a registration))~~ responds in the affirmative to both questions, the agent shall provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to register to vote or transfer a voter registration.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

## MOTION

Senator Prentice moved that the following amendment to the Committee on Government Operations amendment be adopted:

On page 1 of the amendment, after line 32, insert "The information shall be provided in languages other than English as necessary to insure full participation in the benefits of citizenship in the United States of America."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice on page 1, after line 32, to the Committee on Government Operations striking amendment to Substitute House Bill No. 2306.

The motion by Senator Prentice failed and the amendment to the committee striking amendment was not adopted.

## MOTION

Senator Prentice moved that the following amendments to the Committee on Government Operations amendment be considered simultaneously and be adopted:

On page 1 of the amendment, after line 22, strike all the material down to and including "registration." on page 2, line 3

Renumber the sections consecutively and correct any internal references accordingly.

On page 2 of the amendment, line 12 strike "and 46.20.155"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Prentice on page 1, after line 22, and page 2, line 12, to the Committee on Government Operations striking amendment to Substitute House Bill No. 2306.

The motion by Senator Prentice failed and the amendments to the committee striking amendment were not adopted.

#### MOTION

Senator Prentice moved that the following amendment to the Committee on Government Operations amendment be adopted:

On page 1 of the amendment, line 22, after "state." insert "As necessary to insure full participation in the privileges of citizenship in the United States of America, the secretary of state shall produce these forms in languages other than English."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice on page 1, line 22, to the Committee on Government Operations striking amendment to Substitute House Bill No. 2306.

The motion by Senator Prentice failed and the amendment to the committee striking amendment was not adopted on a rising vote.

#### MOTION

On motion of Senator Johnson, further consideration of Substitute House Bill No. 2306 was deferred.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2514, by House Committee on Appropriations (originally sponsored by Representatives Chandler, Linville, Mastin, Parlette, Koster, Anderson, Regala and Cooper)

Providing for integrated watershed management.

The bill was read the second time.

#### MOTION

Senator Morton moved that the following Committee on Agriculture and Environment amendment not be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 90.82.005 and 1997 c 442 s 101 are each amended to read as follows:

The purpose of this chapter is to develop a more thorough and cooperative method of determining what the current water resource situation is in each water resource inventory area of the state and to provide local citizens with the maximum possible input concerning their goals and objectives for water resource management and development.

It is necessary for the legislature to establish processes and policies that ~~((will result in providing))~~ direct state agencies ~~((with more specific guidance to manage))~~ in managing the water resources of the state consistent with current law and direction provided by local entities and citizens through the process established in accordance with this chapter.

Planning conducted under this chapter must provide for a process to allow the local citizens of a WRIA or multi-WRIA area to join together in an effort to: (1) Assess the status of the water resources of their WRIA or multi-WRIA area; and (2) determine how best to manage the water resources of the WRIA or multi-WRIA area to balance the competing resource demands for that area.

**Sec. 2.** RCW 90.82.030 and 1997 c 442 s 104 are each amended to read as follows:

In order to have the best possible program for appropriating and administering water use in the state, the legislature establishes the following principles and criteria to carry out the purpose and intent of this chapter ~~((442, Laws of 1997))~~.

(1) All WRIA planning units established under this chapter shall develop a process to assure that water resource user interests and directly involved interest groups at the local level have the opportunity, in a fair and equitable manner, to give input and direction to the process.

(2) Each state agency with regulatory or other interests in the WRIA or multi-WRIA area to be planned shall assist the local citizens in the planning effort to the greatest extent practicable, recognizing any fiscal limitations. Such assistance must only be at the request of and to the extent desired by the local citizens conducting such planning.

If a planning unit requests technical assistance from a state agency as part of its planning activities under this chapter and the assistance is with regard to a subject matter over which the agency has jurisdiction, the state agency shall provide the technical assistance to the planning unit.

(3) Plans developed under this chapter ((442, Laws of 1997)) shall be consistent with and not duplicative of efforts already under way in a WRIA, including but not limited to watershed analysis conducted under state forest practices statutes and rules.

(4) Planning under this chapter should be completed as expeditiously as possible, with the focus being on local stakeholders cooperating to meet local needs.

**Sec. 3.** RCW 90.82.040 and 1997 c 442 s 105 are each amended to read as follows:

(1) Once a WRIA planning unit has been organized and designated a lead agency, it shall notify the department and may apply to the department for funding assistance for conducting the planning. Funds shall be provided from and to the extent of appropriations made by the legislature to the department expressly for this purpose.

(2) Each planning unit that has complied with subsection (1) of this section is eligible to receive ~~((fifty thousand dollars for each WRIA to initiate the planning process. The department shall allocate additional funds to WRIA planning units based on need demonstrated by a detailed proposed budget submitted by the planning unit for carrying out the duties of the planning unit. Each WRIA planning unit may receive up to two hundred fifty thousand dollars for each WRIA during the first two year period of planning, with a maximum allocation of five hundred thousand dollars for each WRIA. Funding provided under this section shall be considered a contractual obligation against the moneys appropriated for this purpose))~~ watershed planning grants in the following amounts for three phases of watershed planning:

(a) Initiating governments may apply for up to fifty thousand dollars for organizing planning units in accordance with section 4(3) of this act;

(b) A planning unit may apply for up to two hundred thousand dollars for conducting watershed assessments; and

(c) A planning unit may apply for up to two hundred fifty thousand dollars for developing a watershed plan and making recommendations for actions by local, state, and federal agencies including a prioritized list of projects that would further the purpose of the plan.

(3) Preference shall be given to planning units requesting funding for conducting multi-WRIA planning ~~((under section 108 of this act))~~.

(4) The department may retain up to one percent of funds allocated under this section to defray administrative costs.

**NEW SECTION. Sec. 4. INITIATION OF WATERSHED PLANNING.** (1) Watershed planning may be initiated for a WRIA with the concurrence of: (a) All county legislative authorities with land in the WRIA; (b) the largest city or town within the WRIA unless the WRIA does not contain a city or town; and (c) the largest water utility obtaining water from the WRIA. To make application for a grant for organizing the planning unit as provided for under RCW 90.82.040(2)(a), these entities shall designate the entity that will serve as the lead agency for the planning effort and indicate how the planning unit will be staffed.

(2) Watershed planning may be commenced for a multi-WRIA area with the concurrence of: (a) All counties within the multi-WRIA area; (b) the largest city or town in each WRIA unless the WRIA does not contain a city or town; and (c) the largest water utility obtaining water in each WRIA.

(3) The organizing grant shall be used to organize the planning unit and for determining the scope of the planning to be conducted. In determining the scope of the planning activities, consideration shall be given to all existing plans and related planning activities. The initiating governments shall work with other local governments, state government, and tribal governments in developing a planning process. The initiating government may hold public meetings as deemed necessary to develop a proposed scope of work and a proposed composition of the planning unit. In developing a proposed composition of the planning unit, the initiating governments shall attempt to provide for a balance of representation.

(4) As used in this section, "lead agency" means the entity that coordinates staff support of its own or of other local governments and receives grants for developing a watershed management plan.

**NEW SECTION. Sec. 5. WATERSHED ASSESSMENT GRANTS.** Once the initiating governments have developed a proposed scope of work and a proposed composition for the planning unit, application for a grant for conducting a watershed assessment as provided for in RCW 90.82.040(2)(b) may be filed with the department. The department may review the proposed scope of work and the proposed composition of the planning unit. The department may approve the grant application or return it to the initiating unit with specific comments.

**NEW SECTION. Sec. 6. STATE REPRESENTATION ON PLANNING GROUPS.** To assist in organizing watershed planning efforts under this chapter, the governor, executive branch state agencies, and state agencies under authority of an elected official or appointed commissions may agree and organize for their representation on watershed planning groups. The initiating governments shall consult with the governor's office regarding state agency representation.

**NEW SECTION. Sec. 7. IDENTIFICATION OF PROJECTS AND ACTIVITIES.** The planning unit may conduct an early review of existing plans and planning activities. The planning group is encouraged to identify projects and activities that are likely to serve both short-

term and long-term management goals and that warrant immediate financial assistance from the state, federal, or local government. If there are multiple projects, the planning group shall give consideration to ranking projects that have the greatest benefit and schedule those projects that should be implemented first.

NEW SECTION. Sec. 8. A new section is added to chapter 43.27A RCW to read as follows:

PLANNING CONSISTENCY. Any planning efforts initiated under this chapter shall be consistent with the planning direction and requirements of chapter 90.82 RCW.

NEW SECTION. Sec. 9. A new section is added to chapter 90.03 RCW to read as follows:

PLANNING CONSISTENCY. Any planning efforts initiated under this chapter shall be consistent with the planning direction and requirements of chapter 90.82 RCW.

NEW SECTION. Sec. 10. A new section is added to chapter 90.54 RCW to read as follows:

PLANNING CONSISTENCY. Any planning efforts initiated under this chapter shall be consistent with the planning direction and requirements of chapter 90.82 RCW.

NEW SECTION. Sec. 11. CAPTIONS. As used in this act, captions constitute no part of the law.

NEW SECTION. Sec. 12. Sections 4 through 7 of this act are each added to chapter 90.82 RCW.

NEW SECTION. Sec. 13. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

The President declared the question before the Senate to be the motion by Senator Morton that the Committee on Agriculture and Environment striking amendment to Engrossed Substitute House Bill No 2514 not be adopted.

The motion by Senator Morton carried and the committee striking amendment to Engrossed Substitute House Bill No. 2514 was not adopted.

#### MOTION

Senator Morton moved that the following amendment by Senators Morton, Rasmussen, Swecker and Fraser be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.82.040 and 1997 c 442 s 105 are each amended to read as follows:

(1) Once a WRIA planning unit has been ~~((organized))~~ initiated under section 2 of this act and ~~((designated))~~ a lead agency has been designated, it shall notify the department and may apply to the department for funding assistance for conducting the planning. Funds shall be provided from and to the extent of appropriations made by the legislature to the department expressly for this purpose.

(2) Each planning unit that has complied with subsection (1) of this section is eligible to receive ~~((fifty thousand dollars for each WRIA to initiate the planning process. The department shall allocate additional funds to WRIA planning units based on need demonstrated by a detailed proposed budget submitted by the planning unit for carrying out the duties of the planning unit. Each WRIA planning unit may receive up to two hundred fifty thousand dollars for each WRIA during the first two year period of planning, with a maximum allocation of five hundred thousand dollars for each WRIA. Funding provided under this section shall be considered a contractual obligation against the moneys appropriated for this purpose))~~ watershed planning grants in the following amounts for three phases of watershed planning:

(a) Initiating governments may apply for an initial organizing grant of up to fifty thousand dollars for a single WRIA or up to seventy-five thousand dollars for a multi-WRIA management area in accordance with section 2(4) of this act;

(b) A planning unit may apply for up to two hundred thousand dollars for each WRIA in the management area for conducting watershed assessments in accordance with section 3 of this act; and

(c) A planning unit may apply for up to two hundred fifty thousand dollars for each WRIA in the management area for developing a watershed plan and making recommendations for actions by local, state, and federal agencies, tribes, private property owners, private organizations, and individual citizens, including a recommended list of strategies and projects that would further the purpose of the plan in accordance with sections 2, 3, 4, 5, and 6 of this act.

(3) ~~((Preference shall be given to planning units requesting funding for conducting multi-WRIA planning under section 108 of this act))~~ (a) The department shall use the eligibility criteria in this subsection (3) instead of rules, policies, or guidelines when evaluating grant applications at each stage of the grants program.

(b) In reviewing grant applications under this subsection (3), the department shall evaluate whether:

(i) The planning unit meets all of the requirements of this chapter;

(ii) The application demonstrates a need for state planning funds to accomplish the objectives of the planning process; and

(iii) The application and supporting information evidences a readiness to proceed.

(c) In ranking grant applications submitted at each stage of the grants program, the department shall give preference to applications in the following order of priority:

(i) Applications from existing planning groups that have been in existence for at least one year;

(ii) Applications that address protection and enhancement of fish habitat in watersheds that have aquatic fish species listed or proposed to be listed as endangered or threatened under the federal endangered species act, 16 U.S.C. Sec. 1531 et seq. and for which there is evidence of an inability to supply adequate water for population and economic growth from:

(A) First, multi-WRIA planning; and

(B) Second, single WRIA planning;

(iii) Applications that address protection and enhancement of fish habitat in watersheds or for which there is evidence of an inability to supply adequate water for population and economic growth from:

(A) First, multi-WRIA planning; and

(B) Second, single WRIA planning.

(d) The department may not impose any local matching fund requirement as a condition for grant eligibility or as a preference for receiving a grant.

(4) The department may retain up to one percent of funds allocated under this section to defray administrative costs.

(5) Planning under this chapter should be completed as expeditiously as possible, with the focus being on local stakeholders cooperating to meet local needs.

(6) Funding provided under this section shall be considered a contractual obligation against the moneys appropriated for this purpose.

**NEW SECTION. Sec. 2. INITIATION OF WATERSHED PLANNING.** (1) Planning conducted under this chapter must provide for a process to allow the local citizens within a WRIA or multi-WRIA area to join together in an effort to: (a) Assess the status of the water resources of their WRIA or multi-WRIA area; and (b) determine how best to manage the water resources of the WRIA or multi-WRIA area to balance the competing resource demands for that area within the parameters under section 8 of this act.

(2) Watershed planning under this chapter may be initiated for a WRIA only with the concurrence of: (a) All counties within the WRIA; (b) the largest city or town within the WRIA unless the WRIA does not contain a city or town; and (c) the water supply utility obtaining the largest quantity of water from the WRIA. To apply for a grant for organizing the planning unit as provided for under RCW 90.82.040(2)(a), these entities shall designate the entity that will serve as the lead agency for the planning effort and indicate how the planning unit will be staffed.

(3) Watershed planning under this chapter may be initiated for a multi-WRIA area only with the concurrence of: (a) All counties within the multi-WRIA area; (b) the largest city or town in each WRIA unless the WRIA does not contain a city or town; and (c) the water supply utility obtaining the largest quantity of water in each WRIA.

(4) If entities in subsection (2) or (3) of this section decide jointly and unanimously to proceed, they shall invite any affected tribes within the management area.

(5) The entities in subsection (2) or (3) of this section, including the tribes if they affirmatively accept the invitation, constitute the initiating governments for the purposes of this section.

(6) The organizing grant shall be used to organize the planning unit and to determine the scope of the planning to be conducted. In determining the scope of the planning activities, consideration shall be given to all existing plans and related planning activities. The scope of planning must include water quantity elements as provided in section 3 of this act, and may include water quality elements as contained in section 5 of this act, habitat elements as contained in section 6 of this act, and instream flow elements as contained in section 4 of this act. The initiating governments shall work with state government, other local governments within the management area, and tribal governments within the management area, in developing a planning process. The initiating governments may hold public meetings as deemed necessary to develop a proposed scope of work and a proposed composition of the planning unit. In developing a proposed composition of the planning unit, the initiating governments shall provide for representation of a wide range of water resource interests.

(7) Each state agency with regulatory or other interests in the WRIA or multi-WRIA area to be planned shall assist the local citizens in the planning effort to the greatest extent practicable, recognizing any fiscal limitations. In providing such technical assistance and to facilitate representation on the planning unit, state agencies may organize and agree upon their representation on the planning unit. Such technical assistance must only be at the request of and to the extent desired by the planning unit conducting such planning. The number of state agency representatives on the planning unit shall be determined by the initiating governments in consultation with the governor's office.

(8) As used in this section, "lead agency" means the entity that coordinates staff support of its own or of other local governments and receives grants for developing a watershed plan.

**NEW SECTION. Sec. 3. WATER QUANTITY.** Watershed planning under this chapter shall address water quantity in the management area by undertaking an assessment of water supply and use in the management area and developing strategies for future use.

(1) The assessment shall include:

(a) An estimate of the surface and ground water present in the management area;

(b) An estimate of the surface and ground water available in the management area, taking into account seasonal and other variations;

(c) An estimate of the water in the management area represented by claims in the water rights claims registry, water use permits, certificated rights, existing minimum instream flow rules, federally reserved rights, and any other rights to water;

(d) An estimate of the surface and ground water actually being used in the management area;

(e) An estimate of the water needed in the future for use in the management area;

(f) An identification of the location of areas where aquifers are known to recharge surface bodies of water and areas known to provide for the recharge of aquifers from the surface; and

(g) An estimate of the surface and ground water available for further appropriation, taking into account the minimum instream flows adopted by rule or to be adopted by rule under this chapter for streams in the management area including the data necessary to evaluate necessary flows for fish.

(2) Strategies for increasing water supplies in the management area, which may include, but are not limited to, increasing water supplies through water conservation, water reuse, the use of reclaimed water, voluntary water transfers, aquifer recharge and recovery, additional water allocations, or additional water storage and water storage enhancements. The objective of these strategies is to supply water in sufficient quantities to satisfy the minimum instream flows for fish and to provide water for future out-of-stream uses for water identified in subsection (1)(e) and (g) of this section and to ensure that adequate water supplies are available for agriculture, energy production, and population and economic growth under the requirements of the state's growth management act, chapter 36.70A RCW. These strategies, in and of themselves, shall not be construed to confer new water rights. The watershed plan must address the strategies required under this subsection.

**NEW SECTION. Sec. 4. INSTREAM FLOWS.** (1)(a) If the initiating governments choose, by majority vote, to include an instream flow component, it shall be accomplished in the following manner:

(i) If minimum instream flows have already been adopted by rule for a stream within the management area, unless the members of the local governments and tribes on the planning unit by a recorded unanimous vote request the department to modify those flows, the minimum instream flows shall not be modified under this chapter. If the members of local governments and tribes request the planning unit to modify instream flows and unanimous approval of the decision to modify such flow is not achieved, then the instream flows shall not be modified under this section;

(ii) If minimum stream flows have not been adopted by rule for a stream within the management area, setting the minimum instream flows shall be a collaborative effort between the department and members of the planning unit. The department must attempt to achieve consensus and approval among the members of the planning unit regarding the minimum flows to be adopted by the department. Approval is achieved if all government members and tribes that have been invited and accepted on the planning unit present for a recorded vote unanimously vote to support the proposed minimum instream flows, and all nongovernmental members of the planning unit present for the recorded vote, by a majority, vote to support the proposed minimum instream flows.

(b) The department shall undertake rule making to adopt flows under (a) of this subsection. The department may adopt the rules either by the regular rules adoption process provided in chapter 34.05 RCW, the expedited rules adoption process as set forth in RCW 34.05.230, or through a rules adoption process that uses public hearings and notice provided by the county legislative authority as a substitute for the rules adoption requirements of chapter 34.05 RCW. If the county legislative authority hearings and notice are used as a substitute for the regular rules adoption process, the rules do not take effect until they are published in the Washington State Register as provided in chapter 34.05 RCW. Such rules do not constitute significant legislative rules as defined in RCW 34.05.328, and do not require the preparation of small business economic impact statements.

(c) If approval is not achieved within four years of the date the planning unit first receives funds from the department for conducting watershed assessments under RCW 90.82.040, the department may promptly initiate rule making under chapter 34.05 RCW to establish flows for those streams and shall have two additional years to establish the instream flows for those streams for which approval is not achieved.

(2)(a) Notwithstanding RCW 90.03.345, minimum instream flows set under this section for rivers or streams that do not have existing minimum instream flow levels set by rule of the department shall have a priority date of two years after funding is first received from the department under RCW 90.82.040, unless determined otherwise by a unanimous vote of the members of the planning unit but in no instance may it be later than the effective date of the rule adopting such flow.

(b) Any increase to an existing minimum instream flow set by rule of the department shall have a priority date of two years after funding is first received for planning in the WRIA or multi-WRIA area from the department under RCW 90.82.040 and the priority date of the portion of the minimum instream flow previously established by rule shall retain its priority date as established under RCW 90.03.345.

(c) Any existing minimum instream flow set by rule of the department that is reduced shall retain its original date of priority as established by RCW 90.03.345 for the revised amount of the minimum instream flow level.

(3) Before setting minimum instream flows under this section, the department shall engage in government-to-government consultation with affected tribes in the management area regarding the setting of such flows.

(4) Nothing in this chapter either: (a) Affects the department's authority to establish flow requirements or other conditions under RCW 90.48.260 or the federal clean water act (33 U.S.C. Sec. 1251 et seq.) for the licensing or relicensing of a hydroelectric power project under the federal power act (16 U.S.C. Sec. 791 et seq.); or (b) affects or impairs existing instream flow requirements and other conditions in a current license for a hydroelectric power project licensed under the federal power act.

(5) If the planning unit is unable to obtain unanimity under subsection (1) of this section, the department may adopt rules setting such flows.

**NEW SECTION. Sec. 5. WATER QUALITY.** If the initiating governments choose to include a water quality component, the watershed plan shall include the following elements:

- (1) An examination based on existing studies conducted by federal, state, and local agencies of the degree to which legally established water quality standards are being met in the management area;
- (2) An examination based on existing studies conducted by federal, state, and local agencies of the causes of water quality violations in the management area, including an examination of information regarding pollutants, point and nonpoint sources of pollution, and pollution-carrying capacities of water bodies in the management area. The analysis shall take into account seasonal stream flow or level variations, natural events, and pollution from natural sources that occurs independent of human activities;
- (3) An examination of the legally established characteristic uses of each of the nonmarine bodies of water in the management area;
- (4) An examination of any total maximum daily load established for nonmarine bodies of water in the management area, unless a total maximum daily load process has begun in the management area as of the date the watershed planning process is initiated under section 2 of this act.
- (5) An examination of existing data related to the impact of fresh water on marine water quality;
- (6) A recommended approach for implementing the total maximum daily load established for achieving compliance with water quality standards for the nonmarine bodies of water in the management area, unless a total maximum daily load process has begun in the management area as of the date the watershed planning process is initiated under section 2 of this act; and
- (7) Recommended means of monitoring by appropriate government agencies whether actions taken to implement the approach to bring about improvements in water quality are sufficient to achieve compliance with water quality standards.

This chapter does not obligate the state to undertake analysis or to develop strategies required under the federal clean water act (33 U.S.C. Sec. 1251 et seq.). This chapter does not authorize any planning unit, lead agency, or local government to adopt water quality standards or total maximum daily loads under the federal clean water act.

**NEW SECTION. Sec. 6. HABITAT.** If the initiating governments choose to include a habitat component, the watershed plan shall be coordinated or developed to protect or enhance fish habitat in the management area. Such planning must rely on existing laws, rules, or ordinances created for the purpose of protecting, restoring, or enhancing fish habitat, including the shoreline management act, chapter 90.58 RCW, the growth management act, chapter 36.70A RCW, and the forest practices act, chapter 76.09 RCW. Planning established under this section shall be integrated with strategies developed under other processes to respond to potential and actual listings of salmon and other fish species as being threatened or endangered under the federal endangered species act, 16 U.S.C. Sec. 1531 et seq. Where habitat restoration activities are being developed under chapter . . . , Laws of 1998 (Engrossed Substitute House Bill No. 2496), such activities shall be relied on as the primary nonregulatory habitat component for fish habitat under this chapter.

**NEW SECTION. Sec. 7. IDENTIFICATION OF PROJECTS AND ACTIVITIES.** The planning unit shall review historical data such as fish runs, weather patterns, land use patterns, seasonal flows, and geographic characteristics of the management area, and also review the planning, projects, and activities that have already been completed regarding natural resource management or enhancement in the management area and the products or status of those that have been initiated but not completed for such management in the management area, and incorporate their products as appropriate so as not to duplicate the work already performed or underway.

The planning group is encouraged to identify projects and activities that are likely to serve both short-term and long-term management goals and that warrant immediate financial assistance from the state, federal, or local government. If there are multiple projects, the planning group shall give consideration to ranking projects that have the greatest benefit and schedule those projects that should be implemented first.

**NEW SECTION. Sec. 8. PLAN PARAMETERS.** (1) Watershed planning developed and approved under this chapter shall not contain provisions that: (a) Are in conflict with existing state statutes, federal laws, or tribal treaty rights; (b) impair or diminish in any manner an existing water right evidenced by a claim filed in the water rights claims registry established under chapter 90.14 RCW or a water right certificate or permit; (c) require a modification in the basic operations of a federal reclamation project with a water right the priority date of which is before the effective date of this section or alter in any manner whatsoever the quantity of water available under the water right for the reclamation project, whether the project has or has not been completed before the effective date of this section; (d) affect or interfere with an ongoing general adjudication of water rights; (e) modify or require the modification of any waste discharge permit issued under chapter 90.48 RCW; (f) modify or require the modification of activities or actions taken or intended to be taken under a habitat restoration work schedule developed under chapter . . . , Laws of 1998 (Engrossed Substitute House Bill No. 2496); or (g) modify or require the modification of activities or actions taken to protect or enhance fish habitat if the activities or actions are: (i) Part of an approved habitat conservation plan and an incidental take permit, an incidental take statement, a management or recovery plan, or other cooperative or conservation agreement entered into with a federal or state fish and wildlife protection agency under its statutory authority for fish and wildlife protection that addresses the affected habitat; or (ii) part of a water quality program adopted by an irrigation district under chapter 87.03 RCW or a board of joint control under chapter 87.80 RCW. This subsection (1)(g) applies as long as the activities or actions continue to be taken in accordance with the plan, agreement, permit, or statement. Any assessment conducted under section 3, 5, or 6 of this act shall take into consideration such activities and actions and those taken under the forest practices rules, including watershed analysis adopted under the forest practices act, chapter 76.09 RCW.

(2) Watershed planning developed and approved under this chapter shall not change existing local ordinances or existing state rules or permits, but may contain recommendations for changing such ordinances or rules.



(3) Notwithstanding any other provision of this chapter, watershed planning shall take into account forest practices rules under the forest practices act, chapter 76.09 RCW, and shall not create any obligations or restrictions on forest practices additional to or inconsistent with the forest practices act and its implementing rules, whether watershed planning is approved by the counties or the department.

**NEW SECTION. Sec. 9. DECISIONS--HEARINGS--APPROVAL.** (1)(a) Upon completing its proposed watershed plan, the planning unit may approve the proposal by consensus of all of the members of the planning unit or by consensus among the members of the planning unit appointed to represent units of government and a majority vote of the nongovernmental members of the planning unit.

(b) If the proposal is approved by the planning unit, the unit shall submit the proposal to the counties with territory within the management area. If the planning unit has received funding beyond the initial fifty thousand dollars under RCW 90.82.040, such a proposal approved by the planning unit shall be submitted to the counties within four years of the date the funding was first received by the planning unit.

(c) If the watershed plan is not approved by the planning unit, the planning unit may submit the components of the plan for which agreement is achieved using the procedure under (a) of this subsection, or the planning unit may terminate the planning process.

(2)(a) The legislative authority of each of the counties with territory in the management area shall provide public notice of and conduct at least one public hearing on the proposed watershed plan submitted under this section. After the public hearings, the legislative authorities of these counties shall convene in joint session to consider the proposal. The counties may approve or reject the proposed watershed plan for the management area, but may not amend it. Approval of such a proposal shall be made by a majority vote of the members of each of the counties with territory in the management area.

(b) If a proposed watershed plan is not approved, it shall be returned to the planning unit with recommendations for revisions. Approval of such a revised proposal by the planning unit and the counties shall be made in the same manner provided for the original watershed plan. If approval of the revised plan is not achieved, the process shall terminate.

(3) The planning unit shall not add an element to its watershed plan that creates an obligation unless each of the governments to be obligated has at least one representative on the planning unit and the respective members appointed to represent those governments agree to adding the element that creates the obligation. A member's agreeing to add an element shall be evidenced by a recorded vote of all members of the planning unit in which the members record support for adding the element. If the watershed plan is approved under subsections (1) and (2) of this section and the plan creates obligations: (a) For agencies of state government, the obligations are binding on the state agencies, the agencies shall adopt by rule the obligations of both state and county governments and rules implementing the state obligations, and the agencies shall take other actions to fulfill their obligations as soon as possible; or (b) for counties, the obligations are binding on the counties and the counties shall adopt any necessary implementing ordinances and take other actions to fulfill their obligations as soon as possible.

(4) As used in this section, "obligation" means any action required as a result of this chapter that imposes upon a tribal government, county government, or state government, either: A fiscal impact; a redeployment of resources; or a change of existing policy.

**NEW SECTION. Sec. 10. PERMIT PROCESSING.** Nothing in this chapter may be interpreted as authorizing or directing the department to establish a moratorium on the investigation of and decisions on applications for permits for the withdrawal of surface water or ground water, or changes or transfers of water rights under existing permits.

**NEW SECTION. Sec. 11.** A new section is added to chapter 43.27A RCW to read as follows:

If planning is being conducted under chapter 90.82 RCW or a plan has been adopted under section 9 of this act, the department shall not conduct planning under this chapter that conflicts with the planning being conducted under chapter 90.82 RCW or a plan that has been adopted under section 9 of this act.

**NEW SECTION. Sec. 12.** A new section is added to chapter 90.54 RCW to read as follows:

If planning is being conducted under chapter 90.82 RCW or a plan has been adopted under section 9 of this act, the department shall not conduct planning under this chapter that conflicts with the planning being conducted under chapter 90.82 RCW or a plan that has been adopted under section 9 of this act.

**Sec. 13.** RCW 43.27A.090 and 1988 c 127 s 25 are each amended to read as follows:

The department shall be empowered as follows:

(1) To represent the state at, and fully participate in, the activities of any basin or regional commission, interagency committee, or any other joint interstate or federal-state agency, committee or commission, or publicly financed entity engaged in the planning, development, administration, management, conservation or preservation of the water resources of the state.

(2) To prepare the views and recommendations of the state of Washington on any project, plan or program relating to the planning, development, administration, management, conservation and preservation of any waters located in or affecting the state of Washington, including any federal permit or license proposal, and appear on behalf of, and present views and recommendations of the state at any proceeding, negotiation or hearing conducted by the federal government, interstate agency, state or other agency.

(3) To cooperate with, assist, advise and coordinate plans with the federal government and its officers and agencies, and serve as a state liaison agency with the federal government in matters relating to the use, conservation, preservation, quality, disposal or control of water and activities related thereto.

(4) To cooperate with appropriate agencies of the federal government and/or agencies of other states, to enter into contracts, and to make appropriate contributions to federal or interstate projects and programs and governmental bodies to carry out the provisions of this chapter.

(5) To apply for, accept, administer and expend grants, gifts and loans from the federal government or any other entity to carry out the purposes of this chapter and make contracts and do such other acts as are necessary insofar as they are not inconsistent with other provisions hereof.

(6) To develop and maintain a coordinated and comprehensive state water and water resources related development plan, and adopt, with regard to such plan, such policies as are necessary to insure that the waters of the state are used, conserved and preserved for the best interest of the state. There shall be included in the state plan a description of developmental objectives and a statement of the recommended means of accomplishing these objectives. To the extent the director deems desirable, the plan shall integrate into the state plan, the plans, programs, reports, research and studies of other state agencies. A plan adopted under chapter 90.82 RCW satisfies the requirements of planning under this section.

(7) To assemble and correlate information relating to water supply, power development, irrigation, watersheds, water use, future possibilities of water use and prospective demands for all purposes served through or affected by water resources development.

(8) To assemble and correlate state, local and federal laws, regulations, plans, programs and policies affecting the beneficial use, disposal, pollution, control or conservation of water, river basin development, flood prevention, parks, reservations, forests, wildlife refuges, drainage and sanitary systems, waste disposal, water works, watershed protection and development, soil conservation, power facilities and area and municipal water supply needs, and recommend suitable legislation or other action to the legislature, the congress of the United States, or any city, municipality, or to responsible state, local or federal executive departments or agencies.

(9) To cooperate with federal, state, regional, interstate and local public and private agencies in the making of plans for drainage, flood control, use, conservation, allocation and distribution of existing water supplies and the development of new water resource projects.

(10) To encourage, assist and advise regional, and city and municipal agencies, officials or bodies responsible for planning in relation to water aspects of their programs, and coordinate local water resources activities, programs, and plans.

(11) To promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

(12) To hold public hearings, and make such investigations, studies and surveys as are necessary to carry out the purposes of the chapter.

(13) To subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and require the production of any books or papers when the department deems such measures necessary in the exercise of its rule-making power or in determining whether or not any license, certificate, or permit shall be granted or extended.

**Sec. 14.** RCW 90.54.040 and 1997 c 32 s 2 are each amended to read as follows:

(1) The department, through the adoption of appropriate rules, is directed, as a matter of high priority to insure that the waters of the state are utilized for the best interests of the people, to develop and implement in accordance with the policies of this chapter a comprehensive state water resources program which will provide a process for making decisions on future water resource allocation and use. The department may develop the program in segments so that immediate attention may be given to waters of a given physioeconomic region of the state or to specific critical problems of water allocation and use. A plan adopted under chapter 90.82 RCW satisfies the requirements of planning under this section.

(2) In relation to the management and regulatory programs relating to water resources vested in it, the department is further directed to modify existing regulations and adopt new regulations, when needed and possible, to insure that existing regulatory programs are in accord with the water resource policy of this chapter and the program established in subsection (1) of this section.

(3) The department is directed to review all statutes relating to water resources which it is responsible for implementing. When any of the same appear to the department to be ambiguous, unclear, unworkable, unnecessary, or otherwise deficient, it shall make recommendations to the legislature including appropriate proposals for statutory modifications or additions. Whenever it appears that the policies of any such statutes are in conflict with the policies of this chapter, and the department is unable to fully perform as provided in subsection (2) of this section, the department is directed to submit statutory modifications to the legislature which, if enacted, would allow the department to carry out such statutes in harmony with this chapter.

NEW SECTION. **Sec. 15.** CAPTIONS. As used in this act, captions constitute no part of the law.

NEW SECTION. **Sec. 16.** Sections 2 through 10 of this act are each added to chapter 90.82 RCW.

NEW SECTION. **Sec. 17.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

## MOTIONS

On motion of Senator Morton, the following amendments by Senators Morton and Fraser to the striking amendment by Senators Morton, Rasmussen, Swecker and Fraser were considered simultaneously and adopted:

On page 3, line 32, after "invite" strike "any affected tribes" and insert "all tribes with reservation land"

On page 4, line 9, after "and" strike "tribal governments within the management area" and insert "affected tribal governments"

On motion of Senator Morton, the following amendment by Senators Morton and Fraser to the striking amendment by Senators Morton, Rasmussen, Swecker and Fraser was adopted:

On page 6, line 22, after "authority" strike all material through "RCW" on line 27, and insert "to the greatest extent possible"

#### MOTION

On motion of Senator Morton, the following amendments by Senators Morton and Fraser to the striking amendment by Senators Morton, Rasmussen, Swecker and Fraser were considered simultaneously and adopted:

On page 11, line 37, after "government" strike "the obligations are binding on the state agencies,"

On page 11, line 39, after "obligations," insert "the obligations on state agencies are binding upon adoption of the obligations into rule,"

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Morton, Rasmussen, Swecker and Fraser, as amended, to Engrossed Substitute House Bill No. 2514.

The motion by Senator Morton carried and the striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator Morton, the following title amendment was adopted:

On page 1, line 1 of the title, after "management;" strike the remainder of the title and insert "amending RCW 90.82.040, 43.27A.090, and 90.54.040; adding new sections to chapter 90.82 RCW; adding a new section to chapter 43.27A RCW; adding a new section to chapter 90.54 RCW; and creating new sections."

On motion of Senator Morton, the rules were suspended, Engrossed Substitute House Bill No. 2514, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2514, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2514, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 43. Voting nay: Senators Fairley, Kline, Kohl and McAuliffe - 4. Absent: Senator Prince - 1. Excused: Senator Stevens - 1. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2514, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2394, by House Committee on Appropriations (originally sponsored by Representatives Alexander, D. Schmidt, H. Sommers, Gardner, Doumit, Lambert and Thompson) (by request of Department of General Administration)

Consolidating general administration funds and accounts.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 2394 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2394.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2394 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Stevens - 1. SUBSTITUTE HOUSE BILL NO. 2394, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2831, by House Committee on Appropriations (originally sponsored by Representatives Crouse and Mielke)

Requiring electric utilities to unbundle the costs of their assets and operations.

The bill was read the second time.

#### MOTION

Senator Finkbeiner moved that the following amendments by Senators Finkbeiner and Brown be considered simultaneously and be adopted:

On page 5, line 32, after "utilities;" strike "and"

On page 5, line 35, after "reliability" insert "; and

(e) An examination of alternative formats for simple, standardized disclosure of fuel mix, air emissions, and other environmental impacts of coal, hydroelectric, natural gas, nuclear, wind, and other generating resources, including the approaches used by utilities that have offered pilot programs to their customers allowing market access"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Finkbeiner and Brown on page 5, lines 32 and 35, to Engrossed Second Substitute House Bill No. 2831.

The motion by Senator Finkbeiner carried and the amendments were adopted.

#### MOTION

Senator Fairley moved that the following amendment be adopted:

On page 6, after line 18, insert the following:

**"NEW SECTION. Sec. 5.** Any municipal electric utility formed by a municipality with a population of more than four hundred thousand as of the effective date of this section shall submit a report to its governing body by December 1, 1998, with the following information:

(1) The ratio of the municipal electric utility's customers to its employees as of the effective date of this section, and the changes in the ratio that have occurred over the previous ten years; and

(2) The annual sources of funding and the amount of annual expenditures, including federal funds, by the municipal electric utility on conservation, renewable resources, and low-income weatherization and energy bill-paying assistance programs during the previous ten years. This part of the report shall describe: (i) the amount of electricity saved by such conservation programs; (ii) the overhead costs to the municipal electric utility to administer such programs, including but not limited to amounts expended by other municipal departments and nonprofit entities in administering such programs; and (iii) for low-income weatherization programs, the overhead cost per unit weatherized as compared to the overhead costs of comparable programs administered by the state. "

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fairley on page 6, after line 18, to Engrossed Second Substitute House Bill No. 2831.

The motion by Senator Fairley carried and the amendment was adopted.

#### MOTION

On motion of Senator Finkbeiner, the rules were suspended, Engrossed Second Substitute House Bill No. 2831, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute House Bill No. 2831, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2831, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 42. Voting nay: Senators Fraser, Jacobsen, Kohl, McAuliffe and Wojahn - 5. Absent: Senators Prentice and Thibaudeau - 2. ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2831, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PARLIAMENTARY INQUIRY

Senator Johnson: "Mr. President, I rise to a point of parliamentary inquiry. Based upon precedent, would it be the Lieutenant Governor's opinion that if the Senate has made a measure a special order of business shortly before 5:00 p.m. today, and is considering another measure at the time of the special order, that the Senators after having dealt with the special order, might return to one measure previously, notwithstanding the 5:00 p.m. cutoff?"

#### REPLY BY THE PRESIDENT

President Owen: "The President believes that has been the practice of the Senate over the last several years. However, the President also believes that it would be appropriate that prior to the next session a rule be drafted that would explain that clearly, so as to not have to respond to that question in the future."

Senator Johnson: "The point is well taken, Mr. President."

#### SPECIAL ORDER OF BUSINESS.

On motion of Senator Johnson, Engrossed Second Substitute House Bill No. 2395 will be made a special order of business at 4:55 p.m. today.

#### SECOND READING

HOUSE BILL NO. 2542, by Representatives Mulliken, Thompson, Cairnes, DeBolt, McMorris, Sherstad, Koster, Mielke, Sump, Bush, Johnson, D. Sommers and Schoesler

Allowing rural counties to remove themselves and their cities from planning requirements under the growth management act.

The bill was read the second time.

#### MOTION

Senator Anderson moved that the following Committee on Government Operations amendment not be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 36.70A.040 and 1995 c 400 s 1 are each amended to read as follows:

(1) Each county that has both a population of fifty thousand or more and, until May 16, 1995, has had its population increase by more than ten percent in the previous ten years or, on or after May 16, 1995, has had its population increase by more than seventeen percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall ~~((conform with all of the requirements of this chapter))~~ plan under this section. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements ~~((of adopting comprehensive land use plans and development regulations under this chapter))~~ to plan under this section if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection (5) of this section.

Once a county meets either of these sets of criteria, the requirement to ~~((conform with all of the requirements of this chapter))~~ plan under this section remains in effect, even if the county no longer meets one of these sets of criteria.

(2) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention ~~((to have subsection (1) of this section apply to))~~ that the county plan under this section. Each city, located in a county that ~~((chooses to plan))~~ adopts a resolution under this subsection, shall ~~((conform with all of the requirements of this chapter))~~ plan under this section. Once such a resolution has been adopted, the county and the cities located within the county remain subject to all of the requirements of this ~~((chapter))~~ section, unless the county removes itself, and the cities located within the county, from the requirement to plan under this section under the procedures in subsection (7) of this section.

(3) Any county or city that is initially required to ~~((conform with all of the requirements of this chapter))~~ plan under ~~((subsection (1) of))~~ this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forest lands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forest lands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995, but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(4) Any county or city that is required to ~~((conform with all the requirements of this chapter))~~ plan under this section, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section, and the county has not removed itself, and the cities located within the county, from the requirement to plan under this section under the procedures in subsection (7) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forest lands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(5) If the office of financial management certifies that the population of a county that ~~((previously had not been required to))~~ does not plan under ~~((subsection (1) or (2) of))~~ this section has changed sufficiently to meet either of the sets of criteria specified under subsection (1) of this section, and where applicable, the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall adopt development regulations under RCW 36.70A.060 conserving agricultural lands, forest lands, and mineral resource lands it designated within one year of the certification by the office of financial management; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city located within the county shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan within four years of the certification by the office of financial management, but a county or city may obtain an additional six months before it is required to have adopted its development

regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(6) A copy of each document that is required under this section shall be submitted to the department at the time of its adoption.

(7) The county legislative authority of any county with a population of less than fifty thousand that is required to plan by reason of adopting a resolution under subsection (2) of this section, and any county with a population of less than fifty thousand that at any time has had the authority to remove itself from the requirements of this chapter by adoption of a resolution under subsection (1) of this section, may remove the county and the cities located within the county from the requirement to plan under this section under the procedures in this subsection.

(a) By December 31, 1998, the county legislative authority, by majority vote, may adopt a resolution stating its intent to remove the county, and the cities located within the county, from the requirement to plan under this section and submit the resolution to the cities located within the county.

(b) If the county has three or more cities, the county and the cities located within the county are no longer subject to the requirement to plan:

(i) If within sixty days of submission of the resolution of intent, a majority of the cities representing at least sixty percent of the cities' population in the county adopt a resolution concurring in the resolution of the county; or

(ii) If the cities do not concur within sixty days under (b)(i) of this subsection:

(A) If the county legislative authority, by unanimous vote, adopts a resolution removing itself and the cities located within the county from the requirement to plan under this section; or

(B) If a resolution removing the county and the cities located within the county from the requirement to plan under this section is submitted to and approved by a majority of the registered voters in the county at the next general election.

(c) If the county has fewer than three cities, the county and the cities located within the county are no longer subject to the requirement to plan:

(i) If within sixty days of submission of the resolution of intent, all of the cities adopt a resolution concurring in the resolution of the county; or

(ii) If the cities do not concur within sixty days under (c)(i) of this subsection:

(A) If the county legislative authority, by unanimous vote, adopts a resolution removing itself and the cities located within the county from the requirement to plan under this section; or

(B) If a resolution removing the county and the cities located within the county from the requirement to plan under this section is submitted to and approved by a majority of the registered voters in the county at the next general election.

(d) A county, and the cities located within the county, that are no longer required to plan under this section remain subject to the requirements for the designation and protection of critical areas and the designation of natural resource lands under RCW 36.70A.060(2), 36.70A.170, and 36.70A.172.

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

If a resolution is adopted or approved under RCW 36.70A.040(7) removing the county and the cities located within the county from the requirement to plan under this chapter, any claim pending before a board or court that relates to the requirement to plan under this chapter is moot and the claim shall be dismissed.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President declared the question before the Senate to be the motion by Senator Anderson that the Committee on Government Operations striking amendment to House Bill No. 2542 not be adopted.

The motion by Senator Anderson carried and the committee striking amendment to House Bill No. 2542 was not adopted.

## MOTION

Senator Anderson moved that the following amendment by Senators Anderson and Tim Sheldon be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.70A.040 and 1995 c 400 s 1 are each amended to read as follows:

(1) Each county that has:

(a) Both a population of fifty thousand or more and, until May 16, 1995, has had its population increase by more than ten percent in the previous ten years or, ~~(on or after)~~ beginning May 16, 1995, through June 30, 1998, has had its population increase by more than seventeen percent in the previous ten years~~(-); or~~

(b) On or after July 1, 1998, has both a population of sixty thousand or more and has had its population increase by more than seventeen percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall ~~(conform with~~

~~all of the requirements of this chapter~~) plan under this section. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements ~~((of adopting comprehensive land use plans and development regulations under this chapter))~~ to plan under this section if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection (5) of this section.

Once a county meets either of these sets of criteria, the requirement to ~~((conform with all of the requirements of this chapter))~~ plan under this section remains in effect, even if the county no longer meets one of these sets of criteria.

(2) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention ~~((to have subsection (1) of this section apply to))~~ that the county plan under this section. Each city, located in a county that ~~((chooses to plan))~~ adopts a resolution under this subsection, shall ~~((conform with all of the requirements of this chapter))~~ plan under this section. Once such a resolution has been adopted, the county and the cities located within the county remain subject to all of the requirements of this ~~((chapter))~~ section, unless the county removes itself, and the cities located within the county, from the requirement to plan under this section under the procedures in subsection (7) of this section.

(3) Any county or city that is initially required to ~~((conform with all of the requirements of this chapter))~~ plan under ~~((subsection (1) of))~~ this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forest lands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forest lands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995, but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(4) Any county or city that is required to ~~((conform with all the requirements of this chapter))~~ plan under this section, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section, and the county has not removed itself, and the cities located within the county, from the requirement to plan under this section under the procedures in subsection (7) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forest lands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(5) If the office of financial management certifies that the population of a county that ~~((previously had not been required to))~~ does not plan under ~~((subsection (1) or (2) of))~~ this section has changed sufficiently to meet either of the sets of criteria specified under subsection (1) of this section, and where applicable, the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall adopt development regulations under RCW 36.70A.060 conserving agricultural lands, forest lands, and mineral resource lands it designated within one year of the certification by the office of financial management; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city located within the county shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan within four years of the certification by the office of financial management, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(6) A copy of each document that is required under this section shall be submitted to the department at the time of its adoption.



(7) The county legislative authority of any county with a population of less than fifty thousand that is required to plan by reason of adopting a resolution under subsection (2) of this section, and any county with a population of less than fifty thousand that at any time has had the authority to remove itself from the requirements of this chapter by adoption of a resolution under subsection (1) of this section, may remove the county and the cities located within the county from the requirement to plan under this section under the procedures in this subsection.

(a) By December 31, 1998, the county legislative authority, by majority vote, may adopt a resolution stating its intent to remove the county, and the cities located within the county, from the requirement to plan under this section and submit the resolution to the cities located within the county.

(b) If the county has two or more cities, the county and the cities located within the county are no longer subject to the requirement to plan:

(i) If within sixty days of submission of the resolution of intent, a majority of the cities adopt resolutions concurring in the resolution of the county; or

(ii) If the cities do not concur within sixty days under (b)(i) of this subsection, if a resolution removing the county and the cities located within the county from the requirement to plan under this section is submitted to and approved by a majority of the registered voters in the county at the next general election.

(c) If the county has one city, the county and the city located within the county are no longer subject to the requirement to plan:

(i) If within sixty days of submission of the resolution of intent, the city adopts a resolution concurring in the resolution of the county;  
or

(ii) If the city does not concur within sixty days under (c)(i) of this subsection, if a resolution removing the county and the city located within the county from the requirement to plan under this section is submitted to and approved by a majority of the registered voters in the county at the next general election.

(d) A county, and the cities located within the county, that are no longer required to plan under this section remain subject to the requirements for the designation and protection of critical areas and the designation of natural resource lands under RCW 36.70A.060(2), 36.70A.170, and 36.70A.172.

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

If a resolution is adopted or approved under RCW 36.70A.040(7) removing the county and the cities located within the county from the requirement to plan under this chapter, any claim pending before a board or court that relates to the requirement to plan under this chapter is moot and the claim shall be dismissed.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### MOTION

Senator Haugen moved that the following amendment to the striking amendment by Senators Anderson and Tim Sheldon be adopted:

On page 4, beginning on line 19 of the striking amendment, strike everything from "and any county" through "section." on line 22  
Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 4, beginning on line 19, to the striking amendment by Senators Anderson and Tim Sheldon to House Bill No. 2542.

The motion by Senator Haugen failed and the amendment to the striking amendment was not adopted

#### MOTION

Senator Haugen moved that the following amendment to the striking amendment by Senators Anderson and Tim Sheldon be adopted:

On page 4, line 24 of the striking amendment, after "subsection." insert "This subsection shall not apply to a county containing in whole or in part rivers or streams providing habitat for salmon species that are listed or proposed for listing under the federal endangered species act."

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

#### MOTION

On motion of Senator Franklin, Senator Loveland was excused.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Haugen on page 4, line 24, to the striking amendment by Senators Anderson and Tim Sheldon to House Bill No. 2542.

#### ROLL CALL

The Secretary called the roll and the amendment to the striking amendment was not adopted by the following vote: Yeas, 19; Nays, 29; Absent, 0; Excused, 1.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Haugen, Heavey, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Spanel, Thibaudeau and Wojahn - 19. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 29. Excused: Senator Loveland - 1. MOTION

Senator Haugen moved that the following amendment to the striking amendment by Senators Anderson and Tim Sheldon be adopted:

On page 4, line 32 of the striking amendment, delete everything beginning with "¿" through "election." on page 5, line 12, and insert "if within sixty days of submission of the resolution of intent, a majority of the cities adopt resolutions concurring in the resolution of the county. If the county has one city, the county and the city located within the county are no longer subject to the requirement to plan if within sixty days of submission of the resolution of intent, the city adopts a resolution concurring in the resolution of the county."

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 4, line 32, to the striking amendment by Senators Anderson and Tim Sheldon to House Bill No. 2542.

The motion by Senator Haugen failed and the amendment to the striking amendment was not adopted.

#### MOTION

Senator Haugen moved that the following amendments to the striking amendment by Senators Anderson and Tim Sheldon be considered simultaneously and be adopted:

On page 5, on line 22 of the striking amendment, delete "this chapter" and insert "RCW 36.70A.040"

On page 5, line 23 of the striking amendment, after "under" delete "this chapter" and insert "RCW 36.70A.040"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator Haugen on page 5, lines 22 and 23, to the striking amendment by Senators Anderson and Tim Sheldon to House Bill No. 2542.

The motion by Senator Haugen failed and the amendments to the striking amendment were not adopted.

#### MOTION

Senator Haugen moved that the following amendment to the striking amendment by Senators Anderson and Tim Sheldon be adopted:

On page 5, after line 24 of the striking amendment, delete everything through "immediately." on line 28

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 5, line 24, to the striking amendment by Senators Anderson and Tim Sheldon to House Bill No. 2542.

The motion by Senator Haugen failed and the amendment to the striking amendment was not adopted.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Anderson and Tim Sheldon to House Bill No. 2542.

The motion by Senator Anderson carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Anderson, the following title amendment was adopted:

On page 1, line 3 of the title, after "act;" strike the remainder of the title and insert "amending RCW 36.70A.040; adding a new section to chapter 36.70A RCW; and declaring an emergency."

On motion of Senator Anderson, the rules were suspended, House Bill No. 2542, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2542, as amended by the Senate.

#### POINT OF ORDER

Senator Spanel: "A point of order, Mr. President, I don't believe you asked for any debate. You immediately went to the roll call and I--."

#### REPLY BY THE PRESIDENT

President Owen: "We are in the middle of a roll call Senator Spanel. Your point is out of order at this time."

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2542, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Finkbeiner, Hale, Hargrove, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 30. Voting nay: Senators Bauer, Fairley, Franklin, Fraser, Goings, Haugen, Heavey, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 18. Excused: Senator Loveland - 1. HOUSE BILL NO. 2542, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Spanel: "I rise to a point of personal privilege. Mr. President, I know that in the last hours of the last day of cutoff things get very hurried, but I am very disappointed that there was no debate on this last bill. I think that the President has usually asked, 'Are there any remarks or any further remarks,' and I did not hear that and I don't believe any others around me did either and we were paying close attention. So I would ask that, at least, on further bills we do have time allowed for debate."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Spanel, I appreciate your point, but I will make it crystal clear. The President does the same thing every time. He points out that we are on final passage of such and such bill and I look around to see if anybody is standing or stands or is ready to stand to speak. I did exactly the same thing at that point and none of those factors were in play at the time, so I called for the vote. Once the vote has started, the vote cannot be interrupted, which was the case in this case. I appreciate your point and I will watch more closely, but I would urge the members to be prepared to stand up and speak at that point."

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2880, by House Committee on Appropriations (originally sponsored by Representatives Clements, Dickerson, Backlund, Gombosky, Parlette, Gardner and Delvin)

Creating a task force on agency vendor contracting practices.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the following Committee on Government Operations amendment was adopted:  
Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature finds that the practice of engaging nonprofit entities to provide social services by use of fee-for-services and/or client services contracts has become necessary to effective state agency operations. The legislature further finds that there is a need to fundamentally examine how state contracts of this type are managed. Thus, the legislature intends that a comprehensive study take place that will identify methods for improving state-wide practices relating to fee-for-services and client services contracts.

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

(1) "Agency" means every state office, department, division, bureau, board, committee, or other state agency.

(2) "Task force" means the task force on agency vendor contracting practices.

(3) "Contractor" means any nonprofit entity holding a fee-for-services and/or client services contract or grant for the provision of social services with the state of Washington, as defined in chapter 39.29 RCW.

(4) "Contract" means any fee-for-services and/or client services contract or grant for the provision of social services as defined in chapter 39.29 RCW.

**NEW SECTION. Sec. 3.** A task force on agency vendor contracting practices is established. The task force shall be convened by the office of financial management and shall be composed of nine members to be appointed by the director of the office of financial management. Two members of the task force shall be chosen as representatives of contractors. Two members of the task force shall be chosen for their personal work experiences as state employees responsible for administering contracts. All other task force members shall be selected for their knowledge and experience with state agency practices governing contracts. The director of the office of financial management shall appoint a chair from among the members of the task force. The task force shall invite and incorporate the participation of interested legislative members.

**NEW SECTION. Sec. 4.** (1) The task force shall review and propose legislative and administrative recommendations for the following issues:

(a) The adequacy of chapter 39.29 RCW in governing agency contract management. Such a review shall include, but is not limited to, whether the exemptions contained in RCW 39.29.040 (4) and (6) are appropriate in maintaining agency oversight and accountability for moneys used to engage contractors;

(b) Process improvements that ensure adequacy of contract oversight and provide accountability for taxpayer moneys, including the specific roles of the office of financial management and other state agencies in ensuring the accountability of public funds;

(c) The appropriate level of state reimbursement which will determine which contractors are eligible to be audited by the office of the state auditor using his/her authority under RCW 43.88.570. The task force shall additionally recommend appropriate funding resources for the office of the state auditor to exercise its authority to audit nonprofit corporations who provide personal services to a state agency or to clients of a state agency, under chapter 43.09 RCW, and nongovernmental entities under RCW 43.88.570;

(d) Whether uniform contract guidelines as exemplified by those adopted in other states, such as Texas, are appropriate or necessary, and the adequacy of current contract requirements and practices for contractor selection and award, contract compliance with state and federal standards, contract management and monitoring, accounting methods, payment mechanisms, postcontract procedures, contract legal remedies and performance audits, sanctions to ensure contract compliance, and financial reporting.

(2) The task force may utilize a cost-benefit analysis in preparing its recommendations. The task force shall develop proposed procedures, policies, and guidelines, and, if necessary, proposed legislation or administrative rules, to address the issues of its review.

**NEW SECTION. Sec. 5.** The task force, where feasible, shall collaborate with individuals from the public and private sector and may ask such persons to establish an advisory committee. Agencies shall cooperate with the office of financial management and provide the task force with support and assistance necessary to carry out the purposes of this act. The task force may consider the suggestions of agencies in preparing its recommendations, including any findings and information provided by the joint legislative audit and review committee.

**NEW SECTION. Sec. 6.** The task force, where feasible, shall use office of financial management staff and facilities. The office of financial management may hire additional staff with specific technical expertise if such expertise is necessary to carry out the mandates of the study in this act. Each member of the task force is eligible to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 7.** By November 1, 1999, the task force shall report its findings to the director of financial management, to the house of representatives vendor contracting and services select committee or to the most appropriate house of representatives standing committee in the event that the vendor contracting and services select committee no longer exists, and to the senate committee on government operations.

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 9.** This act expires January 1, 2000.

**NEW SECTION. Sec. 10.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

## MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, line 2 of the title, after "guidelines;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

On motion of Senator McCaslin, the rules were suspended, Engrossed Second Substitute House Bill No. 2880, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute House Bill No. 2880, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2880, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 46. Voting nay: Senators Franklin and Thibaudeau - 2. Excused: Senator Loveland - 1. ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2880, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2881, by House Committee on Appropriations (originally sponsored by Representatives Clements, Dickerson, Parlette, Gombosky, Backlund, Gardner, Delvin, O'Brien and Lambert)

Auditing state contractors.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the following Committee on Government Operations amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the state auditor lacks the needed authority to investigate the finances of state nongovernmental contractors. The legislature further finds that current contract oversight and management procedures cannot ensure that services under contract are delivered effectively and efficiently. Therefore, the legislature intends to enhance the authority of the state auditor to audit entities that provide services to the state or its clients under contract with state agencies.

**Sec. 2.** RCW 43.88.570 and 1997 c 374 s 3 are each amended to read as follows:

(1) Each state agency shall submit a report to the office of the state auditor listing each nongovernment entity that received over three hundred thousand dollars in state moneys during the previous fiscal year under contract with the agency for purposes related to the provision of social services. The report must be submitted by September 1 each year, and must be in a form prescribed by the office of the state auditor.

(2) The office of the state auditor shall select ~~((two groups of entities from the reports for audit as follows:~~

~~(a) The first group shall be selected))~~ at random a group of entities from the reports using a procedure prescribed by the office of the state auditor. The office of the state auditor shall ensure that the number of entities selected under this subsection (2)~~((a))~~ each year is sufficient to ensure a statistically representative sample of all reported entities.

~~((b) The second group shall be selected based on a risk assessment of entities conducted by the office of the state auditor in consultation with state agencies. The office of the state auditor shall consider, at a minimum, the following factors when conducting risk assessments: Findings from previous audits; decentralization of decision making and controls; turnover in officials and key personnel; changes in management structure or operations; and the presence of new programs, technologies, or funding sources.))~~

(3) Each entity selected under subsection (2) of this section shall be required to complete a comprehensive entity-wide audit in accordance with generally accepted government auditing standards. The audit shall be completed by, or under the supervision of, a certified public accountant licensed in this state. The audit shall determine, at a minimum, whether:

(a) The financial statements of the entity are presented fairly in all material respects in conformity with generally accepted accounting principles;

(b) The schedule of expenditures of state moneys is presented fairly in all material respects in relation to the financial statements taken as a whole;

(c) Internal accounting controls exist and are effective; and

(d) The entity has complied with laws, regulations, and contract and grant provisions that have a direct and material effect on performance of the contract and the expenditure of state moneys.

(4) The office of the state auditor shall also select a second group based on a risk assessment of entities conducted by the office of the state auditor in consultation with state agencies. The office of the state auditor shall consider, at a minimum, the following factors when conducting risk assessments: Findings from audits of entities under contract with the state to provide services for the same state or federal program; findings from previous audits; decentralization of decision making and controls; turnover in officials and key personnel; changes in management structure or operations; and the presence of new programs, technologies, or funding sources.

(5) The office of the state auditor is required to complete a comprehensive entity-wide audit, in accordance with generally accepted government auditing standards, of each entity selected under subsection (4) of this section. The office of the state auditor may procure the services of a certified public accountant to perform such an audit, as set forth under RCW 43.09.045. The audit shall determine, at a minimum, whether:

(a) The financial statements of the entity are presented fairly in all material respects in conformity with generally accepted accounting principles;

(b) The schedule of expenditures of state moneys is presented fairly in all material respects in relation to the financial statements taken as a whole;

(c) Internal accounting controls exist and are effective; and

(d) The entity has complied with statutes, rules, regulations, and contract and grant provisions that have a direct and material effect on performance of the contract and the expenditure of state moneys.

(6) The office of the state auditor shall prescribe policies and procedures for the conduct of audits under this section. The office of the state auditor shall deem single audits completed in compliance with federal requirements to be in fulfillment of the requirements of this section if the audit meets the requirements of subsection (3)(a) through (d) or subsection (5)(a) through (d) of this section. If the entity is selected under subsection (4) of this section, the office of the state auditor shall review the single audit to determine if there is evidence of misuse of public moneys.

~~((5))~~ (7) Completed audits must be delivered to the office of the state auditor and the state agency by April 1 in the year following the selection of the entity for audit. Entities must resolve any findings contained in the audit within six months of the delivery of the audit. Entities may not enter into new contracts with state agencies until all major audit findings are resolved.

~~((6))~~ (8) Nothing in this section limits the authority of the state auditor to carry out statutorily and contractually prescribed powers and duties.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.09 RCW to read as follows:

The state auditor may, where there is reasonable cause to believe that a misuse of state moneys has occurred, conduct an audit of financial and legal compliance of any entity that receives public moneys through contract or grant in return for services. This authority includes examinations of not-for-profit corporations who provide personal services to a state agency or to clients of a state agency. Such a financial audit shall be performed in a manner consistent with this chapter, and may be performed according to an agreed upon procedures engagement as in the existing 1998 standards of the American institute of certified public accountants professional standards section 600.

The state auditor may charge the contracting agency, whether state or local, for the costs of an audit of a not-for-profit corporation that receives public moneys through contract or grant in return for services. Any contracting agency that is responsible to the state auditor for such costs shall use due diligence to recover costs from the audited entity.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.09 RCW to read as follows:

If after a financial audit of an entity that receives public moneys under contract or grant in return for services, there is reasonable cause to believe that a criminal misuse of public moneys has occurred, the office of the state auditor, within thirty days from receipt of the report, shall deliver a copy of the report to the appropriate local prosecuting authority.

**NEW SECTION. Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

## MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, line 2 of the title, after "auditor;" strike the remainder of the title and insert "amending RCW 43.88.570; adding new sections to chapter 43.09 RCW; and creating new sections."

On motion of Senator McCaslin, the rules were suspended, Engrossed Second Substitute House Bill No. 2881, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute House Bill No. 2881, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2881, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 47. Voting nay: Senators Thibaudeau and Wojahn - 2. ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2881, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2417, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Pennington, Mielke, Hatfield, Doumit, Ogden, Carlson, Alexander and Hankins)

Authorizing local vehicle license fees adopted to fund transportation projects.

The bill was read the second time.

#### MOTION

Senator Zarelli moved that the following Committee on Transportation amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.80.020 and 1996 c 139 s 4 are each amended to read as follows:

(1) The legislative authority of a county, or subject to subsection (7) of this section, a qualifying city or town located in a county that has not imposed a fifteen-dollar fee under this section, may fix and impose an additional fee, not to exceed fifteen dollars per vehicle, for each vehicle that is subject to license fees under RCW 46.16.060 and for each vehicle that is subject to RCW 46.16.070 with an unladen weight of six thousand pounds or less, and that is determined by the department of licensing to be registered within the boundaries of the county.

(2) The department of licensing shall administer and collect the fee. The department shall deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected, for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer for monthly distribution under RCW 82.80.080.

(3) The proceeds of this fee shall be used strictly for transportation purposes in accordance with RCW 82.80.070.

(4) A county or qualifying city or town imposing this fee or initiating an exemption process shall delay the effective date at least six months from the date the ordinance is enacted to allow the department of licensing to implement administration and collection of or exemption from the fee.

(5) The legislative authority of a county or qualifying city or town may develop and initiate an exemption process of the fifteen dollar fee for the registered owners of vehicles residing within the boundaries of the county or qualifying city or town: (a) Who are sixty-one years old or older at the time payment of the fee is due and whose household income for the previous calendar year is less than an amount prescribed by the county or qualifying city or town legislative authority((:)); or (b) who ((has)) have a physical disability.

(6) The legislative authority of a county or qualifying city or town shall develop and initiate an exemption process of the fifteen-dollar fee for vehicles registered within the boundaries of the county that are licensed under RCW 46.16.374.

(7) For purposes of this section, a "qualifying city or town" means a city or town residing within a county having a population of greater than seventy-five thousand in which is located all or part of a national monument. A qualifying city or town may impose the fee authorized in subsection (1) of this section subject to the following conditions and limitations:

(a) The city or town may impose the fee only if authorized to do so by a majority of voters voting at a general or special election on a proposition for that purpose. At a minimum, the ballot measure shall contain: (i) A description of the transportation project proposed for funding, properly identified by mileposts or other designations that specify the project parameters; (ii) the proposed number of months or years necessary to fund the city or town's share of the project cost; and (iii) the amount of fee to be imposed for the project.

(b) The city or town may not impose a fee that, if combined with the county fee, exceeds fifteen dollars. If a county imposes or increases a fee under this section that, if combined with the fee imposed by a city or town, exceeds fifteen dollars, the city or town fee shall be

reduced or eliminated as needed so that in no city or town does the combined fee exceed fifteen dollars. All revenues from county-imposed fees shall be distributed as called for in RCW 82.80.020.

(c) Any fee imposed by a city or town under this section shall expire at the end of the term of months or years provided in the ballot measure, or when the city or town's bonded indebtedness on the project is retired, whichever is sooner.

(8) The fee imposed under subsection (7) of this section shall apply only to renewals and shall not apply to ownership transfer transactions.

**Sec. 2.** RCW 82.80.080 and 1990 c 42 s 213 are each amended to read as follows:

(1) The state treasurer shall distribute revenues, less authorized deductions, generated by the local option taxes authorized in RCW 82.80.010 and 82.80.020, levied by counties to the levying counties, and cities contained in those counties, based on the relative per capita population. County population for purposes of this section is equal to one and one-half of the unincorporated population of the county. In calculating the distributions, the state treasurer shall use the population estimates prepared by the state office of financial management and shall further calculate the distribution based on information supplied by the departments of licensing and revenue, as appropriate.

(2) The state treasurer shall distribute revenues, less authorized deductions, generated by the local option taxes authorized in RCW 82.80.010 and 82.80.020 levied by qualifying cities and towns to the levying cities and towns."

#### POINT OF ORDER

Senator Haugen: "Mr. President, I rise to a point of order. This bill came over after the cutoff and I am not opposing, necessarily, acting on it, but I just wonder what happens in a situation where we have a bill out here that came over after the cutoff?"

#### MOTION

On motion of Senator Johnson, and there being no objection, further consideration of Engrossed Substitute House Bill No. 2417 was deferred.

#### MOTION

Senator Bauer moved that the Senate immediately consider House Bill No. 1405.

Senator Johnson objected to the motion to immediately consider House Bill No. 1405.

Senator Bauer demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the motion by Senator Bauer to immediately consider House Bill No. 1405.

#### ROLL CALL

The Secretary called the roll and the motion to immediately consider House Bill No. 1405 failed by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2761, by House Committee on Children and Family Services (originally sponsored by Representatives Carrell, Wolfe, B. Thomas, Cooke, Boldt, Smith, Gombosky, Talcott, D. Schmidt, D. Sommers, McDonald and Backlund)

Revising provisions relating to at-risk youth.

The bill was read the second time.

#### MOTION

Senator Long moved that the following Committee on Human Services and Corrections amendment be adopted:



Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds it is often necessary for parents to obtain mental health or chemical dependency treatment for their minor children prior to the time the child's condition presents a likelihood of serious harm or the child becomes gravely disabled. The legislature finds that treatment of such conditions is not the equivalent of incarceration or detention, but is a legitimate act of parental discretion, when supported by decisions of credentialed professionals. The legislature finds that, consistent with *Parham v. J.R.*, 442 U.S. 584 (1979), state action is not involved in the determination of a parent and professional person to admit a minor child to treatment and finds this act provides sufficient independent review by the department of social and health services, as a neutral fact-finder, to protect the interests of all parties. The legislature intends and recognizes that children affected by the provisions of this act are not children whose mental health or substance abuse problems are adequately addressed by chapters 70.96A and 71.34 RCW. Therefore the legislature finds it is necessary to provide parents a statutory process, other than the petition process provided in chapters 70.96A and 71.34 RCW, to obtain treatment for their minor children without the consent of the children.

The legislature finds that differing standards of admission and review in parent-initiated mental health and chemical dependency treatment for their minor children are necessary and the admission standards and procedures under state involuntary treatment procedures are not adequate to provide safeguards for the safety and well-being of all children. The legislature finds the timeline for admission and reviews under existing law do not provide sufficient opportunities for assessment of the mental health and chemically dependent status of every minor child and that additional time and different standards will facilitate the likelihood of successful treatment of children who are in need of assistance but unwilling to obtain it voluntarily. The legislature finds there are children whose behavior presents a clear need of medical treatment but is not so extreme as to require immediate state intervention under the state involuntary treatment procedures.

## **PART I - MENTAL HEALTH**

**Sec. 2.** RCW 71.34.010 and 1992 c 205 s 302 are each amended to read as follows:

It is the purpose of this chapter to ~~((ensure))~~ assure that minors in need of mental health care and treatment receive an appropriate continuum of culturally relevant care and treatment, ~~((from))~~ including prevention and early intervention ~~((to)), self-directed care, parent-directed care, and~~ involuntary treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the department that provide mental health services to minors shall jointly plan and deliver those services.

It is also the purpose of this chapter to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment. The mental health care and treatment providers shall encourage the use of voluntary services and, whenever clinically appropriate, the providers shall offer less restrictive alternatives to inpatient treatment. Additionally, all mental health care and treatment providers shall ~~((ensure))~~ assure that minors' parents are given an opportunity to participate in the treatment decisions for their minor children. The mental health care and treatment providers shall, to the extent possible, offer services that involve minors' parents or family.

It is also the purpose of this chapter to assure the ability of parents to exercise reasonable, compassionate care and control of their minor children when there is a medical necessity for treatment and without the requirement of filing a petition under this chapter.

**Sec. 3.** RCW 71.34.020 and 1985 c 354 s 2 are each amended to read as follows:

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

(1) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(2) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(3) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(4) "County-designated mental health professional" means a mental health professional designated by one or more counties to perform the functions of a county-designated mental health professional described in this chapter.

(5) "Department" means the department of social and health services.

(6) "Evaluation and treatment facility" means a public or private facility or unit that is certified by the department to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the department or federal agency does not require certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(7) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(8) "Gravely disabled minor" means a minor who, as a result of a mental disorder, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(9) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, or residential treatment facility certified by the department as an evaluation and treatment facility for minors.

(10) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(11) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(12) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder; or (b) prevent the worsening of mental conditions that endanger life or cause suffering and pain, or result in illness or infirmity or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(13) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or mental retardation alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

~~((13))~~ (14) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under this chapter.

~~((14))~~ (15) "Minor" means any person under the age of eighteen years.

~~((15))~~ (16) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed services providers as identified by RCW 71.24.025(3).

~~((16))~~ (17) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

~~((17))~~ (18) "Professional person in charge" or "professional person" means a physician or other mental health professional empowered by an evaluation and treatment facility with authority to make admission and discharge decisions on behalf of that facility.

~~((18))~~ (19) "Psychiatric nurse" means a registered nurse who has a bachelor's degree from an accredited college or university, and who has had, in addition, at least two years' experience in the direct treatment of mentally ill or emotionally disturbed persons, such experience gained under the supervision of a mental health professional. "Psychiatric nurse" shall also mean any other registered nurse who has three years of such experience.

~~((19))~~ (20) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

~~((20))~~ (21) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

~~((21))~~ (22) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

~~((22))~~ (23) "Secretary" means the secretary of the department or secretary's designee.

~~((23))~~ (24) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

**Sec. 4.** RCW 71.34.025 and 1995 c 312 s 56 are each amended to read as follows:

(1) ~~((The admission of any child under RCW 71.34.030 may be reviewed by the county-designated mental health professional between fifteen and thirty days following admission. The county-designated mental health professional may undertake the review on his or her own initiative and may seek reimbursement from the parents, their insurance, or medicaid for the expense of the review.~~

~~((2))~~ The department shall ~~((ensure))~~ assure that, for any minor admitted to inpatient treatment under section 11 of this act, a review is conducted ~~((no later than sixty days))~~ by a physician or other mental health professional who is employed by the department, or an agency under

~~contract with the department, and who neither has a financial interest in continued inpatient treatment of the minor nor is affiliated with the facility providing the treatment. The physician or other mental health professional shall conduct the review not less than seven nor more than fourteen days following ((admission)) the date the minor was brought to the facility under section 11(1) of this act to determine whether it is ((medically appropriate)) a medical necessity to continue the ((child's)) minor's treatment on an inpatient basis. ((The department may, subject to available funds, contract with a county for the conduct of the review conducted under this subsection and may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.~~

~~If the county designated mental health professional determines that continued inpatient treatment of the child is no longer medically appropriate, the professional shall notify the facility, the child, the child's parents, and the department of the finding within twenty-four hours of the determination.~~

~~(3) For purposes of eligibility for medical assistance under chapter 74.09 RCW, children in inpatient mental health or chemical dependency treatment shall be considered to be part of their parent's or legal guardian's household, unless the child has been assessed by the department of social and health services or its designee as likely to require such treatment for at least ninety consecutive days, or is in out-of-home care in accordance with chapter 13.34 RCW, or the child's parents are found to not be exercising responsibility for care and control of the child. Payment for such care by the department of social and health services shall be made only in accordance with rules, guidelines, and clinical criteria applicable to inpatient treatment of minors established by the department.)~~

~~(2) In making a determination under subsection (1) of this section, the department shall consider the opinion of the treatment provider, the safety of the minor, and the likelihood the minor's mental health will deteriorate if released from inpatient treatment. The department shall consult with the parent in advance of making its determination.~~

~~(3) If, after any review conducted by the department under this section, the department determines it is no longer a medical necessity for a minor to receive inpatient treatment, the department shall immediately notify the parents and the facility. The facility shall release the minor to the parents within twenty-four hours of receiving notice. If the professional person in charge and the parent believe that it is a medical necessity for the minor to remain in inpatient treatment, the minor shall be released to the parent on the second judicial day following the department's determination in order to allow the parent time to file an at-risk youth petition under chapter 13.32A RCW. If the department determines it is a medical necessity for the minor to receive outpatient treatment and the minor declines to obtain such treatment, such refusal shall be grounds for the parent to file an at-risk youth petition.~~

~~(4) If the evaluation conducted under section 11 of this act is done by the department, the reviews required by subsection (1) of this section shall be done by contract with an independent agency.~~

~~(5) The department may, subject to available funds, contract with other governmental agencies to conduct the reviews under this section. The department may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.~~

~~(6) In addition to the review required under this section, the department may periodically determine and redetermine the medical necessity of treatment for purposes of payment with public funds.~~

~~NEW SECTION. Sec. 5. A new section is added to chapter 71.34 RCW to read as follows:~~

~~For purposes of eligibility for medical assistance under chapter 74.09 RCW, minors in inpatient mental health treatment shall be considered to be part of their parent's or legal guardian's household, unless the minor has been assessed by the department or its designee as likely to require such treatment for at least ninety consecutive days, or is in out-of-home care in accordance with chapter 13.34 RCW, or the parents are found to not be exercising responsibility for care and control of the minor. Payment for such care by the department shall be made only in accordance with rules, guidelines, and clinical criteria applicable to inpatient treatment of minors established by the department.~~

## **PART II - VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

**Sec. 6.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to read as follows:

~~((1)) Any minor thirteen years or older may request and receive outpatient treatment without the consent of the minor's parent. Parental authorization is required for outpatient treatment of a minor under the age of thirteen.~~

~~((2) When in the judgment of the professional person in charge of an evaluation and treatment facility there is reason to believe that a minor is in need of inpatient treatment because of a mental disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to an evaluation and treatment facility in accordance with the following requirements:~~

~~(a) A minor may be voluntarily admitted by application of the parent. The consent of the minor is not required for the minor to be evaluated and admitted as appropriate.~~

~~(b) A minor thirteen years or older may, with the concurrence of the professional person in charge of an evaluation and treatment facility, admit himself or herself without parental consent to the evaluation and treatment facility, provided that notice is given by the facility to the minor's parent in accordance with the following requirements:~~

~~(i) Notice of the minor's admission shall be in the form most likely to reach the parent within twenty-four hours of the minor's voluntary admission and shall advise the parent that the minor has been admitted to inpatient treatment; the location and telephone number of the facility providing such treatment; and the name of a professional person on the staff of the facility providing treatment who is designated to discuss the minor's need for inpatient treatment with the parent.~~

~~(ii) The minor shall be released to the parent at the parent's request for release unless the facility files a petition with the superior court of the county in which treatment is being provided setting forth the basis for the facility's belief that the minor is in need of inpatient treatment and that release would constitute a threat to the minor's health or safety.~~

~~(iii) The petition shall be signed by the professional person in charge of the facility or that person's designee.~~

~~(iv) The parent may apply to the court for separate counsel to represent the parent if the parent cannot afford counsel.~~

~~(v) There shall be a hearing on the petition, which shall be held within three judicial days from the filing of the petition.~~

~~(vi) The hearing shall be conducted by a judge, court commissioner, or licensed attorney designated by the superior court as a hearing officer for such hearing. The hearing may be held at the treatment facility.~~

~~(vii) At such hearing, the facility must demonstrate by a preponderance of the evidence presented at the hearing that the minor is in need of inpatient treatment and that release would constitute a threat to the minor's health or safety. The hearing shall not be conducted using the rules of evidence, and the admission or exclusion of evidence sought to be presented shall be within the exercise of sound discretion by the judicial officer conducting the hearing.~~

~~(e) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months.~~

~~(d) The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days.~~

~~(3) A notice of intent to leave shall result in the following:~~

~~(a) Any minor under the age of thirteen must be discharged immediately upon written request of the parent.~~

~~(b) Any minor thirteen years or older voluntarily admitted may give notice of intent to leave at any time. The notice need not follow any specific form so long as it is written and the intent of the minor can be discerned.~~

~~(c) The staff member receiving the notice shall date it immediately, record its existence in the minor's clinical record, and send copies of it to the minor's attorney, if any, the county-designated mental health professional, and the parent.~~

~~(d) The professional person in charge of the evaluation and treatment facility shall discharge the minor, thirteen years or older, from the facility within twenty-four hours after receipt of the minor's notice of intent to leave, unless the county-designated mental health professional or a parent or legal guardian files a petition or an application for initial detention within the time prescribed by this chapter.~~

~~(4) The ability of a parent to apply to a certified evaluation and treatment program for the involuntary admission of his or her minor child does not create a right to obtain or benefit from any funds or resources of the state. However, the state may provide services for indigent minors to the extent that funds are available therefor.))~~

NEW SECTION. Sec. 7. For the purpose of gathering information related to parental notification of outpatient mental health treatment of minors, the department of health shall conduct a survey of providers of outpatient treatment, as defined in chapter 71.34 RCW. The survey shall gather information from a statistically valid sample of providers. In accordance with confidentiality statutes and the physician-patient privilege, the survey shall secure information from the providers related to:

- (1) The number of minors receiving outpatient treatment;
- (2) The number of parents of minors in treatment notified of the minor's treatment;
- (3) The average number of outpatient visits prior to parental notification;
- (4) The average number of treatments with parental notification;
- (5) The average number of treatments without parental notification;
- (6) The percentage of minors in treatment who are prescribed medication;
- (7) The medication prescribed;
- (8) The number of patients terminating treatment due to parental notification; and
- (9) Any other pertinent information.

The department shall submit the survey results to the governor and the appropriate committees of the legislature by December 1, 1998. This section expires June 1, 1999.

### **PART III - VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

NEW SECTION. Sec. 8. A new section is added to chapter 71.34 RCW to read as follows:

(1) A minor thirteen years or older may admit himself or herself to an evaluation and treatment facility for inpatient mental treatment, without parental consent. The admission shall occur only if the professional person in charge of the facility concurs with the need for inpatient treatment.

(2) When, in the judgment of the professional person in charge of an evaluation and treatment facility, there is reason to believe that a minor is in need of inpatient treatment because of a mental disorder, and the facility provides the type of evaluation and treatment needed by the

minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to an evaluation and treatment facility.

(3) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months. The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days.

**NEW SECTION. Sec. 9.** A new section is added to chapter 71.34 RCW to read as follows:

The administrator of the treatment facility shall provide notice to the parents of a minor when the minor is voluntarily admitted to inpatient treatment under section 8 of this act. The notice shall be in the form most likely to reach the parent within twenty-four hours of the minor's voluntary admission and shall advise the parent: (1) That the minor has been admitted to inpatient treatment; (2) of the location and telephone number of the facility providing such treatment; (3) of the name of a professional person on the staff of the facility providing treatment who is designated to discuss the minor's need for inpatient treatment with the parent; and (4) of the medical necessity for admission.

**NEW SECTION. Sec. 10.** A new section is added to chapter 71.34 RCW to read as follows:

(1) Any minor thirteen years or older voluntarily admitted to an evaluation and treatment facility under section 8 of this act may give notice of intent to leave at any time. The notice need not follow any specific form so long as it is written and the intent of the minor can be discerned.

(2) The staff member receiving the notice shall date it immediately, record its existence in the minor's clinical record, and send copies of it to the minor's attorney, if any, the county-designated mental health professional, and the parent.

(3) The professional person shall discharge the minor, thirteen years or older, from the facility upon receipt of the minor's notice of intent to leave.

#### **PART IV - PARENT-INITIATED MENTAL HEALTH TREATMENT**

**NEW SECTION. Sec. 11.** A new section is added to chapter 71.34 RCW to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to an evaluation and treatment facility and request that the professional person examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if the parent brings the minor to the facility.

(3) An appropriately trained professional person may evaluate whether the minor has a mental disorder. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the department if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the facility based solely on his or her request.

(6) For the purposes of this section "professional person" does not include a social worker, unless the social worker is certified under RCW 18.19.110 and appropriately trained and qualified by education and experience, as defined by the department, in psychiatric social work.

**NEW SECTION. Sec. 12.** A new section is added to chapter 71.34 RCW to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to a provider of outpatient mental health treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a mental disorder and is in need of outpatient treatment.

(2) The consent of the minor is not required for evaluation if the parent brings the minor to the provider.

(3) The professional person may evaluate whether the minor has a mental disorder and is in need of outpatient treatment.

(4) Any minor admitted to inpatient treatment under section 8 or 11 of this act shall be discharged immediately from inpatient treatment upon written request of the parent.

**NEW SECTION. Sec. 13.** A new section is added to chapter 71.34 RCW to read as follows:

Following the review conducted under RCW 71.34.025, a minor child may petition the superior court for his or her release from the facility. The petition may be filed not sooner than five days following the review. The court shall release the minor unless it finds, upon a preponderance of the evidence, that it is a medical necessity for the minor to remain at the facility.

**NEW SECTION. Sec. 14.** A new section is added to chapter 71.34 RCW to read as follows:

If the minor is not released as a result of the petition filed under section 13 of this act, he or she shall be released not later than thirty days following the later of: (1) The date of the department's determination under RCW 71.34.025(2); or (2) the filing of a petition for judicial review under section 13 of this act, unless a professional person or the county designated mental health professional initiates proceedings under this chapter.

NEW SECTION. **Sec. 15.** A new section is added to chapter 71.34 RCW to read as follows:

The ability of a parent to bring his or her minor child to a certified evaluation and treatment program for evaluation and treatment does not create a right to obtain or benefit from any funds or resources of the state. The state may provide services for indigent minors to the extent that funds are available.

#### **PART V - CHEMICAL DEPENDENCY**

**Sec. 16.** RCW 70.96A.020 and 1996 c 178 s 23 and 1996 c 133 s 33 are each reenacted and amended to read as follows:

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

- (1) "Alcoholic" means a person who suffers from the disease of alcoholism.
- (2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.
- (3) "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department of social and health services as meeting standards adopted under this chapter.
- (4) "Chemical dependency" means alcoholism or drug addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires.
- (5) "Chemical dependency program" means expenditures and activities of the department designed and conducted to prevent or treat alcoholism and other drug addiction, including reasonable administration and overhead.
- (6) "Department" means the department of social and health services.
- (7) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and qualified to do so by meeting standards adopted by the department.
- (8) "Director" means the person administering the chemical dependency program within the department.
- (9) "Drug addict" means a person who suffers from the disease of drug addiction.
- (10) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.
- (11) "Emergency service patrol" means a patrol established under RCW 70.96A.170.
- (12) "Gravely disabled by alcohol or other drugs" means that a person, as a result of the use of alcohol or other drugs: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by a repeated and escalating loss of cognition or volitional control over his or her actions and is not receiving care as essential for his or her health or safety.
- (13) "Incapacitated by alcohol or other psychoactive chemicals" means that a person, as a result of the use of alcohol or other psychoactive chemicals, has his or her judgment so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment and presents a likelihood of serious harm to himself or herself, to any other person, or to property.
- (14) "Incompetent person" means a person who has been adjudged incompetent by the superior court.
- (15) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.
- (16) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.
- (17) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on one's self; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior that has caused the harm or that places another person or persons in reasonable fear of sustaining the harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others.
- (18) "Medical necessity" for inpatient care of a minor means a requested certified inpatient service that is reasonably calculated to: (a) Diagnose, arrest, or alleviate a chemical dependency; or (b) prevent the worsening of chemical dependency conditions that endanger life or cause suffering and pain, or result in illness or infirmity or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no adequate less restrictive alternative available.
- (19) "Minor" means a person less than eighteen years of age.
- ~~((19))~~ (20) "Parent" means the parent or parents who have the legal right to custody of the child. Parent includes custodian or guardian.

~~((20))~~ (21) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

~~((21))~~ (22) "Person" means an individual, including a minor.

~~((22))~~ (23) "Professional person in charge" or "professional person" means a physician or chemical dependency counselor as defined in rule by the department, who is empowered by a certified treatment program with authority to make assessment, admission, continuing care, and discharge decisions on behalf of the certified program.

(24) "Secretary" means the secretary of the department of social and health services.

~~((23))~~ (25) "Treatment" means the broad range of emergency, detoxification, residential, and outpatient services and care, including diagnostic evaluation, chemical dependency education and counseling, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and other drug addicts and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons.

~~((24))~~ (26) "Treatment program" means an organization, institution, or corporation, public or private, engaged in the care, treatment, or rehabilitation of alcoholics or other drug addicts.

## PART VI - VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT

**Sec. 17.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to read as follows:

~~((1))~~ Any person thirteen years of age or older may give consent for himself or herself to the furnishing of outpatient treatment by a chemical dependency treatment program certified by the department. ~~((Consent of the parent of a person less than eighteen years of age for inpatient treatment is necessary to authorize the care unless the child meets the definition of a child in need of services in RCW 13.32A.030(4)(c), as determined by the department.))~~ Parental authorization is required for any treatment of a minor under the age of thirteen. ~~((The parent of a minor is not liable for payment of care for such persons pursuant to this chapter, unless they have joined in the consent to the treatment.))~~

~~(2)~~ The parent of any minor child may apply to a certified treatment program for the admission of his or her minor child for purposes authorized in this chapter. The consent of the minor child shall not be required for the application or admission. The certified treatment program shall accept the application and evaluate the child for admission. The ability of a parent to apply to a certified treatment program for the admission of his or her minor child does not create a right to obtain or benefit from any funds or resources of the state. However, the state may provide services for indigent minors to the extent that funds are available therefor.

~~(3)~~ Any provider of outpatient treatment who provides outpatient treatment to a minor thirteen years of age or older shall provide notice of the minor's request for treatment to the minor's parents if: (a) The minor signs a written consent authorizing the disclosure; or (b) the treatment program director determines that the minor lacks capacity to make a rational choice regarding consenting to disclosure. The notice shall be made within seven days of the request for treatment, excluding Saturdays, Sundays, and holidays, and shall contain the name, location, and telephone number of the facility providing treatment, and the name of a professional person on the staff of the facility providing treatment who is designated to discuss the minor's need for treatment with the parent.

**NEW SECTION. Sec. 18.** A new section is added to chapter 70.96A RCW to read as follows:

Any provider of outpatient treatment who provides outpatient treatment to a minor thirteen years of age or older shall provide notice of the minor's request for treatment to the minor's parents if: (1) The minor signs a written consent authorizing the disclosure; or (2) the treatment program director determines that the minor lacks capacity to make a rational choice regarding consenting to disclosure. The notice shall be made within seven days of the request for treatment, excluding Saturdays, Sundays, and holidays, and shall contain the name, location, and telephone number of the facility providing treatment, and the name of a professional person on the staff of the facility providing treatment who is designated to discuss the minor's need for treatment with the parent.

## PART VII - VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT

**NEW SECTION. Sec. 19.** A new section is added to chapter 70.96A RCW to read as follows:

Parental consent is required for inpatient chemical dependency treatment of a minor, unless the child meets the definition of a child in need of services in RCW 13.32A.030(4)(c) as determined by the department: PROVIDED, That parental consent is required for any treatment of a minor under the age of thirteen.

This section does not apply to petitions filed under this chapter.

**NEW SECTION. Sec. 20.** A new section is added to chapter 70.96A RCW to read as follows:

(1) The parent of a minor is not liable for payment of inpatient or outpatient chemical dependency treatment unless the parent has joined in the consent to the treatment.

(2) The ability of a parent to apply to a certified treatment program for the admission of his or her minor child does not create a right to obtain or benefit from any funds or resources of the state. However, the state may provide services for indigent minors to the extent that funds are available therefor.

## PART VIII - PARENT-INITIATED CHEMICAL DEPENDENCY TREATMENT

NEW SECTION. **Sec. 21.** A new section is added to chapter 70.96A RCW to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to a certified treatment program and request that a chemical dependency assessment be conducted by a professional person to determine whether the minor is chemically dependent and in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if the parent brings the minor to the program.

(3) An appropriately trained professional person may evaluate whether the minor is chemically dependent. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the program, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the department if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the program based solely on his or her request.

**Sec. 22.** RCW 70.96A.097 and 1995 c 312 s 48 are each amended to read as follows:

~~(1) (The admission of any child under RCW 70.96A.095 may be reviewed by the county-designated chemical dependency specialist between fifteen and thirty days following admission. The county-designated chemical dependency specialist may undertake the review on his or her own initiative and may seek reimbursement from the parents, their insurance, or medicaid for the expense of the review.)~~

~~(2)) The department shall ensure that, for any minor admitted to inpatient treatment under section 21 of this act, a review is conducted ((no later than sixty days)) by a physician or chemical dependency counselor, as defined in rule by the department, who is employed by the department or an agency under contract with the department and who neither has a financial interest in continued inpatient treatment of the minor nor is affiliated with the program providing the treatment. The physician or chemical dependency counselor shall conduct the review not less than seven nor more than fourteen days following ((admission)) the date the minor was brought to the facility under section 21(1) of this act to determine whether it is ((medically appropriate)) a medical necessity to continue the ((child's)) minor's treatment on an inpatient basis. ((The department may, subject to available funds, contract with a county for the conduct of the review conducted under this subsection and may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.~~

~~If the county-designated chemical dependency specialist determines that continued inpatient treatment of the child is no longer medically appropriate, the specialist shall notify the facility, the child, the child's parents, and the department of the finding within twenty-four hours of the determination.~~

~~(3) For purposes of eligibility for medical assistance under chapter 74.09 RCW, children in inpatient mental health or chemical dependency treatment shall be considered to be part of their parent's or legal guardian's household, unless the child has been assessed by the department of social and health services or its designee as likely to require such treatment for at least ninety consecutive days, or is in out-of-home care in accordance with chapter 13.34 RCW, or the child's parents are found to not be exercising responsibility for care and control of the child. Payment for such care by the department of social and health services shall be made only in accordance with rules, guidelines, and clinical criteria applicable to inpatient treatment of minors established by the department.)~~

~~(2) In making a determination under subsection (1) of this section whether it is a medical necessity to release the minor from inpatient treatment, the department shall consider the opinion of the treatment provider, the safety of the minor, the likelihood the minor's chemical dependency recovery will deteriorate if released from inpatient treatment, and the wishes of the parent.~~

~~(3) If, after any review conducted by the department under this section, the department determines it is no longer a medical necessity for a minor to receive inpatient treatment, the department shall immediately notify the parents and the professional person in charge. The professional person in charge shall release the minor to the parents within twenty-four hours of receiving notice. If the professional person in charge and the parent believe that it is a medical necessity for the minor to remain in inpatient treatment, the minor shall be released to the parent on the second judicial day following the department's determination in order to allow the parent time to file an at-risk youth petition under chapter 13.32A RCW. If the department determines it is a medical necessity for the minor to receive outpatient treatment and the minor declines to obtain such treatment, such refusal shall be grounds for the parent to file an at-risk youth petition.~~

~~(4) The department may, subject to available funds, contract with other governmental agencies for the conduct of the reviews conducted under this section and may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.~~

~~(5) In addition to the review required under this section, the department may periodically determine and redetermine the medical necessity of treatment for purposes of payment with public funds.~~

NEW SECTION. **Sec. 23.** A new section is added to chapter 70.96A RCW to read as follows:



(1) A parent may bring, or authorize the bringing of, his or her minor child to a provider of outpatient chemical dependency treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a chemical dependency and is in need of outpatient treatment.

(2) The consent of the minor is not required for evaluation if the parent brings the minor to the provider.

(3) The professional person in charge of the program may evaluate whether the minor has a chemical dependency and is in need of outpatient treatment.

(4) Any minor admitted to inpatient treatment under section 21 of this act shall be discharged immediately from inpatient treatment upon written request of the parent.

**NEW SECTION. Sec. 24.** A new section is added to chapter 70.96A RCW to read as follows:

Following the review conducted under RCW 70.96A.097, a minor child may petition the superior court for his or her release from the facility. The petition may be filed not sooner than five days following the review. The court shall release the minor unless it finds, upon a preponderance of the evidence, that it is a medical necessity for the minor to remain at the facility.

**NEW SECTION. Sec. 25.** A new section is added to chapter 70.96A RCW to read as follows:

If the minor is not released as a result of the petition filed under section 24 of this act, he or she shall be released not later than thirty days following the later of: (1) The date of the department's determination under RCW 70.96A.097(2); or (2) the filing of a petition for judicial review under section 24 of this act, unless a professional person or the designated chemical dependency specialist initiates proceedings under this chapter.

**NEW SECTION. Sec. 26.** A new section is added to chapter 70.96A RCW to read as follows:

For purposes of eligibility for medical assistance under chapter 74.09 RCW, minors in inpatient chemical dependency treatment shall be considered to be part of their parent's or legal guardian's household, unless the minor has been assessed by the department or its designee as likely to require such treatment for at least ninety consecutive days, or is in out-of-home care in accordance with chapter 13.34 RCW, or the parents are found to not be exercising responsibility for care and control of the minor. Payment for such care by the department shall be made only in accordance with rules, guidelines, and clinical criteria applicable to inpatient treatment of minors established by the department.

**NEW SECTION. Sec. 27.** It is the purpose of sections 21 and 23 of this act to assure the ability of parents to exercise reasonable, compassionate care and control of their minor children when there is a medical necessity for treatment and without the requirement of filing a petition under chapter 70.96A RCW.

**NEW SECTION. Sec. 28.** The department of social and health services shall adopt rules defining "appropriately trained professional person" for the purposes of conducting mental health and chemical dependency evaluations under sections 11(3), 12(1), 21(3), and 23(1) of this act.

## PART IX - MISCELLANEOUS

**Sec. 29.** RCW 7.21.030 and 1989 c 373 s 3 are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e) In cases under chapters 13.32A, 13.34, and 28A.225 RCW, commitment to juvenile detention for a period of time not to exceed seven days. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

**Sec. 30.** RCW 13.32A.250 and 1996 c 133 s 28 are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter. Except as

otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party to comply with an order entered under this chapter is a civil contempt of court as provided in ~~((chapter 7.21))~~ RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to seven days, or both for contempt of court under this section.

(4) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(5) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(6) Whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court may issue an order directing law enforcement to pick up and take the child to detention. The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.

**Sec. 31.** RCW 13.34.165 and 1996 c 133 s 29 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in ~~((chapter 7.21))~~ RCW 7.21.030(2)(e).

(2) The maximum term of imprisonment that may be imposed as a ~~((punitive))~~ remedial sanction for contempt of court under this section is confinement for up to seven days.

(3) A child imprisoned for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

(5) Whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court may issue an order directing law enforcement to pick up and take the child to detention. The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.

**Sec. 32.** RCW 28A.225.030 and 1996 c 134 s 3 are each amended to read as follows:

(1) If a child is required to attend school under RCW 28A.225.010 and if the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an enrolled student's absences from public school, not later than the seventh unexcused absence by a child within any month during the current school year or not later than the tenth unexcused absence during the current school year the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010:

(a) By the parent; (b) by the child; or (c) by the parent and the child. Except as provided in this subsection, no additional documents need be filed with the petition. The petition may be served on the child or parent in any manner reasonably likely to provide adequate notice of the filing.

(2) The district shall not later than the fifth unexcused absence in a month:

(a) Enter into an agreement with a student and parent that establishes school attendance requirements;

(b) Refer a student to a community truancy board as defined in RCW 28A.225.025. The community truancy board shall enter into an agreement with the student and parent that establishes school attendance requirements and take other appropriate actions to reduce the child's absences; or

(c) File a petition under subsection (1) of this section.

(3) The petition may be filed by a school district employee who is not an attorney.

(4) If the school district fails to file a petition under this section, the parent of a child with five or more unexcused absences in any month during the current school year or upon the tenth unexcused absence during the current school year may file a petition with the juvenile court alleging a violation of RCW 28A.225.010.

**Sec. 33.** RCW 28A.225.090 and 1997 c 68 s 2 are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to:

(a) Attend the child's current school;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the

child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Be referred to a community truancy board, if available; or

(e) Submit to testing for the use of controlled substances or alcohol based on a determination that such testing is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law.

(2) If the child fails to comply with the court order, the court may order the child to be punished by detention, as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as community service. Failure by a child to comply with an order issued under this subsection shall not be punishable by detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW.

(3) Any parent violating any of the provisions of either RCW 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community service instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

NEW SECTION. Sec. 34. Part headings used in this act do not constitute any part of the law."

#### MOTION

Senator Fairley moved that the following amendment to the Committee on Human Services and Corrections amendment be adopted:

On page 6, line 18, strike "less than seven nor more than fourteen days" and insert "more than seventy-two hours"

#### MOTION

On motion of Senator Johnson, further consideration of Engrossed Substitute House Bill No. 2761 was deferred.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2936, by House Committee on Law and Justice (originally sponsored by Representatives Dyer, Backlund, Skinner and Sherstad)

Clarifying statute of limitations on actions for professional negligence against health care providers.

The bill was read the second time.

#### MOTION

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 2936 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Franklin, Senator Heavey was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2936.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2936 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Heavey - 1. SUBSTITUTE HOUSE BILL NO. 2936, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1074, by House Committee on Law and Justice (originally sponsored by Representatives Sheahan, Costa, Hatfield and Constantine)

Protecting personality rights.

The bill was read the second time.

## MOTION

Senator Johnson moved that the following Committee on Law and Justice amendment not be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Every individual or personality, as the case may be, has a property right in the use of his or her name, voice, signature, photograph, or likeness, and such right shall be freely transferable, assignable, and licensable, in whole or in part, by any otherwise permissible form of inter vivos or testamentary transfer, including without limitation a will, trust, contract, community property agreement, or cotenancy with survivorship provisions or payable-on-death provisions, or, if none is applicable, under the laws of intestate succession applicable to interests in intangible personal property. The property right does not expire upon the death of the individual or personality, as the case may be. The right exists whether or not it was commercially exploited by the individual or the personality during the individual's or the personality's lifetime.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Deceased personality" means any individual whose name, voice, signature, photograph, or likeness had commercial value at the time of his or her death, whether or not during the lifetime of that individual he or she used his or her name, voice, signature, photograph, or likeness on or in products, merchandise or goods, or for purposes of advertising or selling, or soliciting the purchase or sale of, products, merchandise, goods, or services. A "deceased personality" includes, without limitation, any such individual who has died within fifty years before January 1, 1998.

(2) "Definable group" means an assemblage of individuals existing or brought together with or without interrelation, orderly form, or arrangement, including but not limited to: A crowd at any sporting event; a crowd in any street or public building; the audience at any theatrical, musical, or stage production; or a performing group or sports team.

(3) "Fund raising" means an organized activity to solicit donations of money or other goods or services from persons or entities by an organization, company, or public entity. A fund-raising activity does not include a live, public performance by an individual or group of individuals for which money is received in solicited or unsolicited gratuities.

(4) "Individual" means a natural person, living or dead.

(5) "Likeness" means an image, painting, sketching, model, diagram, or other clear representation, other than a photograph, of an individual's face, body, or parts thereof, or the distinctive appearance, gestures, or mannerisms of an individual.

(6) "Name" means the actual or assumed name, or nickname, of a living or deceased individual that is intended to identify that individual.

(7) "Person" means any natural person, firm, association, partnership, corporation, joint stock company, syndicate, receiver, common law trust, conservator, statutory trust, or any other concern by whatever name known or however organized, formed, or created, and includes not-for-profit corporations, associations, educational and religious institutions, political parties, and community, civic, or other organizations.

(8) "Personality" means any individual whose name, voice, signature, photograph, or likeness has commercial value, whether or not that individual uses his or her name, voice, signature, photograph, or likeness on or in products, merchandise, or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods, or services.

(9) "Photograph" means any photograph or photographic reproduction, still or moving, or any videotape, online or live television transmission, of any individual, so that the individual is readily identifiable.

(10) "Signature" means the one handwritten or otherwise legally binding form of an individual's name, written or authorized by that individual, that distinguishes the individual from all others.

**NEW SECTION. Sec. 3.** (1) Every individual or personality, as the case may be, has a property right in the use of his or her name, voice, signature, photograph, or likeness, and such right shall be freely transferable, assignable, and licensable, in whole or in part, by contract or inter vivos transfer, and shall not expire upon the death of the individual or personality, as the case may be, so protected but shall pass:

(a) Under the deceased individual's or personality's, as the case may be, last will and testament or, if none, then under the laws of intestate succession applicable to interests in intangible personal property of the individual's or personality's, as the case may be, domicile; or

(b) If the individual or personality, as the case may be, transferred or assigned any interest in the personality rights during his or her life, then the transferred or assigned interest shall pass as follows:

(i) If the transferred or assigned interest was held in trust, in accordance with the terms of the trust;

(ii) If the interest is subject to a cotenancy with any survivorship provisions or payable-on-death provisions, in accordance with those provisions;

(iii) If the interest is subject to any contract, including without limitation a community property agreement, in accordance with the terms of the applicable contract or contracts;

(iv) If the interest has been transferred or assigned to a third person in a form that is not addressed earlier in this section, then the interest may be transferred, assigned, or licensed by such third person, in whole or in part, by any otherwise permissible form of inter vivos or testamentary transfer or, if none is applicable, under the laws of intestate succession applicable to interests in intangible personal property of the third person's domicile.

(2) A property right exists whether or not such rights were commercially exploited by the individual or the personality during the individual's or the personality's, as the case may be, lifetime.

**NEW SECTION. Sec. 4.** (1) For individuals, except to the extent that the individual may have assigned or licensed such rights, the rights protected in this chapter are exclusive to the individual, subject to the assignment or licensing of such rights, during such individual's lifetime and are exclusive to the persons entitled to such rights under section 3 of this act for a period of ten years after the death of the individual except to the extent that the persons entitled to such rights under section 3 of this act may have assigned or licensed such rights to others.

(2) For personalities, except to the extent that the personality may have assigned or licensed such rights, the rights protected in this chapter are exclusive to the personality, subject to the assignment or licensing of such rights, during such personality's lifetime and to the persons entitled to such rights under section 3 of this act for a period of seventy-five years after the death of the personality except to the extent that the persons entitled to such rights under section 3 of this act may have assigned or licensed such rights to others.

(3) The rights granted in this chapter may be exercised by a personal representative, attorney in fact, or guardian, or as authorized by a court of competent jurisdiction. The terms "personal representative", "attorney in fact", and "guardian" shall have the same meanings in this chapter as they have in Title 11 RCW.

**NEW SECTION. Sec. 5.** Any person who uses or authorizes the use of a living or deceased individual's or personality's name, voice, signature, photograph, or likeness, on or in goods, merchandise, or products entered into commerce in this state, or for purposes of advertising products, merchandise, goods, or services, or for purposes of fund raising or solicitation of donations, or if any person disseminates or publishes such advertisements in this state, without the prior written consent of the owner of the right, has infringed such right. An infringement may occur under this section without regard to whether the use or activity is for profit or not for profit.

**NEW SECTION. Sec. 6.** (1) The superior courts of this state may grant injunctions on reasonable terms to prevent or restrain the unauthorized use of the rights in a living or deceased individual's or personality's name, voice, signature, photograph, or likeness.

(2) Any person who infringes the rights under this chapter shall be liable for the greater of one thousand five hundred dollars or the actual damages sustained as a result of the infringement, and any profits that are attributable to the infringement and not taken into account when calculating actual damages. To prove profits under this section, the injured party or parties must submit proof of gross revenues attributable to the infringement, and the infringing party is required to prove his or her deductible expenses.

(3) At any time while an action under this chapter is pending, the court may order the impounding, on reasonable terms, of all materials or any part thereof claimed to have been made or used in violation of the injured party's rights, and the court may enjoin the use of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such materials may be reproduced.

(4) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all materials found to have been made or used in violation of the injured party's rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such materials may be reproduced.

(5) The prevailing party may recover reasonable attorneys' fees, expenses, and court costs incurred in recovering any remedy or defending any claim brought under this section.

(6) The remedies provided for in this section are cumulative and are in addition to any others provided for by law.

**NEW SECTION. Sec. 7.** (1) For purposes of section 5 of this act, the use of a name, voice, signature, photograph, or likeness in connection with matters of cultural, historical, political, religious, educational, newsworthy, or public interest, including, without limitation, comment, criticism, satire, and parody relating thereto, shall not constitute a use for which consent is required under this chapter. A matter exempt from consent under this subsection does not lose such exempt status because it appears in the form of a paid advertisement if it is clear that the principal purpose of the advertisement is to comment on such matter.

(2) This chapter does not apply to the use or authorization of use of an individual's or personality's name, voice, signature, photograph, or likeness, in any of the following:

(a) Single and original works of fine art, including but not limited to photographic, graphic, and sculptural works of art that are not published in more than five copies;

(b) A literary work, theatrical work, musical composition, film, radio, online or television program, magazine article, news story, public affairs report, or sports broadcast or account, or with any political campaign when the use does not inaccurately claim or state an endorsement by the individual or personality;

(c) An advertisement or commercial announcement for a use permitted by subsection (1) of this section and (a) or (b) of this subsection;

(d) An advertisement, commercial announcement, or packaging for the authorized sale, distribution, performance, broadcast, or display of a literary, musical, cinematographic, or other artistic work using the name, voice, signature, photograph, or likeness of the writer, author, composer, director, actor, or artist who created the work, where such individual or personality consented to the use of his or her name, voice, signature, photograph, or likeness on or in connection with the initial sale, distribution, performance, or display thereof; and

(e) The advertisement or sale of a rare or fine product, including but not limited to books, which incorporates the signature of the author.

(3) It is no defense to an infringement action under this chapter that a photograph includes more than one individual or personality so identifiable. However, the individuals or personalities complaining of the use shall be represented on their own rather than solely as members of a definable group represented in the photograph.

(4) Section 5 of this act does not apply to the owners or employees of any medium used for advertising, including but not limited to, newspapers, magazines, radio and television stations, on-line service providers, billboards, and transit ads, who have published or disseminated any advertisement or solicitation in violation of this chapter, unless the advertisement or solicitation was intended to promote the medium itself.

(5) This chapter does not apply to a use or authorization of use of an individual's or personality's name that is merely descriptive and used fairly and in good faith only to identify or describe something other than the individual or personality, such as, without limitation, to describe or identify a place, a legacy, a style, a theory, an ownership interest, or a party to a transaction or to accurately describe the goods or services of a party.

NEW SECTION. Sec. 8. Nothing contained in this chapter is intended to invalidate any community property rights.

NEW SECTION. Sec. 9. Sections 1 through 8 of this act constitute a new chapter in Title 63 RCW."

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Johnson that the Committee on Law and Justice striking amendment to Engrossed Substitute House Bill No. 1074 not be adopted.

The motion by Senator Johnson carried and the committee striking amendment to Engrossed Substitute House Bill No. 1074 was not adopted.

#### MOTION

Senator Johnson moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. Every individual or personality, as the case may be, has a property right in the use of his or her name, voice, signature, photograph, or likeness, and such right shall be freely transferable, assignable, and licensable, in whole or in part, by any otherwise permissible form of inter vivos or testamentary transfer, including without limitation a will, trust, contract, community property agreement, or cotenancy with survivorship provisions or payable-on-death provisions, or, if none is applicable, under the laws of intestate succession applicable to interests in intangible personal property. The property right does not expire upon the death of the individual or personality, as the case may be. The right exists whether or not it was commercially exploited by the individual or the personality during the individual's or the personality's lifetime.

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

(1) "Deceased personality" means any individual whose name, voice, signature, photograph, or likeness had commercial value at the time of his or her death, whether or not during the lifetime of that individual he or she used his or her name, voice, signature, photograph, or likeness on or in products, merchandise or goods, or for purposes of advertising or selling, or soliciting the purchase or sale of, products, merchandise, goods, or services. A "deceased personality" includes, without limitation, any such individual who has died within fifty years before January 1, 1998.

(2) "Definable group" means an assemblage of individuals existing or brought together with or without interrelation, orderly form, or arrangement, including but not limited to: A crowd at any sporting event; a crowd in any street or public building; the audience at any theatrical, musical, or stage production; or a performing group or sports team.

(3) "Fund raising" means an organized activity to solicit donations of money or other goods or services from persons or entities by an organization, company, or public entity. A fund-raising activity does not include a live, public performance by an individual or group of individuals for which money is received in solicited or unsolicited gratuities.

(4) "Individual" means a natural person, living or dead.

(5) "Likeness" means an image, painting, sketching, model, diagram, or other clear representation, other than a photograph, of an individual's face, body, or parts thereof, or the distinctive appearance, gestures, or mannerisms of an individual.

(6) "Name" means the actual or assumed name, or nickname, of a living or deceased individual that is intended to identify that individual.

(7) "Person" means any natural person, firm, association, partnership, corporation, joint stock company, syndicate, receiver, common law trust, conservator, statutory trust, or any other concern by whatever name known or however organized, formed, or created, and includes not-for-profit corporations, associations, educational and religious institutions, political parties, and community, civic, or other organizations.

(8) "Personality" means any individual whose name, voice, signature, photograph, or likeness has commercial value, whether or not that individual uses his or her name, voice, signature, photograph, or likeness on or in products, merchandise, or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods, or services.

(9) "Photograph" means any photograph or photographic reproduction, still or moving, or any videotape, online or live television transmission, of any individual, so that the individual is readily identifiable.

(10) "Signature" means the one handwritten or otherwise legally binding form of an individual's name, written or authorized by that individual, that distinguishes the individual from all others.

**NEW SECTION. Sec. 3.** (1) Every individual or personality, as the case may be, has a property right in the use of his or her name, voice, signature, photograph, or likeness, and such right shall be freely transferable, assignable, and licensable, in whole or in part, by contract or inter vivos transfer, and shall not expire upon the death of the individual or personality, as the case may be, so protected but shall pass:

(a) Under the deceased individual's or personality's, as the case may be, last will and testament or, if none, then under the laws of intestate succession applicable to interests in intangible personal property of the individual's or personality's, as the case may be, domicile; or

(b) If the individual or personality, as the case may be, transferred or assigned any interest in the personality rights during his or her life, then the transferred or assigned interest shall pass as follows:

(i) If the transferred or assigned interest was held in trust, in accordance with the terms of the trust;

(ii) If the interest is subject to a cotenancy with any survivorship provisions or payable-on-death provisions, in accordance with those provisions;

(iii) If the interest is subject to any contract, including without limitation a community property agreement, in accordance with the terms of the applicable contract or contracts;

(iv) If the interest has been transferred or assigned to a third person in a form that is not addressed earlier in this section, then the interest may be transferred, assigned, or licensed by such third person, in whole or in part, by any otherwise permissible form of inter vivos or testamentary transfer or, if none is applicable, under the laws of intestate succession applicable to interests in intangible personal property of the third person's domicile.

(2) A property right exists whether or not such rights were commercially exploited by the individual or the personality during the individual's or the personality's, as the case may be, lifetime.

**NEW SECTION. Sec. 4.** (1) For individuals, except to the extent that the individual may have assigned or licensed such rights, the rights protected in this chapter are exclusive to the individual, subject to the assignment or licensing of such rights, during such individual's lifetime and are exclusive to the persons entitled to such rights under section 3 of this act for a period of ten years after the death of the individual except to the extent that the persons entitled to such rights under section 3 of this act may have assigned or licensed such rights to others.

(2) For personalities, except to the extent that the personality may have assigned or licensed such rights, the rights protected in this chapter are exclusive to the personality, subject to the assignment or licensing of such rights, during such personality's lifetime and to the persons entitled to such rights under section 3 of this act for a period of seventy-five years after the death of the personality except to the extent that the persons entitled to such rights under section 3 of this act may have assigned or licensed such rights to others.

(3) The rights granted in this chapter may be exercised by a personal representative, attorney in fact, or guardian, or as authorized by a court of competent jurisdiction. The terms "personal representative", "attorney in fact", and "guardian" shall have the same meanings in this chapter as they have in Title 11 RCW.

**NEW SECTION. Sec. 5.** Any person who uses or authorizes the use of a living or deceased individual's or personality's name, voice, signature, photograph, or likeness, on or in goods, merchandise, or products entered into commerce in this state, or for purposes of advertising products, merchandise, goods, or services, or for purposes of fund raising or solicitation of donations, or if any person disseminates or publishes such advertisements in this state, without written or oral, express or implied consent of the owner of the right, has infringed such right. An infringement may occur under this section without regard to whether the use or activity is for profit or not for profit.

**NEW SECTION. Sec. 6.** (1) The superior courts of this state may grant injunctions on reasonable terms to prevent or restrain the unauthorized use of the rights in a living or deceased individual's or personality's name, voice, signature, photograph, or likeness.

(2) Any person who infringes the rights under this chapter shall be liable for the greater of one thousand five hundred dollars or the actual damages sustained as a result of the infringement, and any profits that are attributable to the infringement and not taken into account when calculating actual damages. To prove profits under this section, the injured party or parties must submit proof of gross revenues attributable to the infringement, and the infringing party is required to prove his or her deductible expenses. For the purposes of computing statutory damages, use of a name, voice, signature, photograph, and/or likeness in or related to one work constitutes a single act of infringement regardless of the number of copies made or the number of times the name, voice, signature, photograph, or likeness is displayed.

(3) At any time while an action under this chapter is pending, the court may order the impounding, on reasonable terms, of all materials or any part thereof claimed to have been made or used in violation of the injured party's rights, and the court may enjoin the use of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such materials may be reproduced.

(4) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all materials found to have been made or used in violation of the injured party's rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such materials may be reproduced.

(5) The prevailing party may recover reasonable attorneys' fees, expenses, and court costs incurred in recovering any remedy or defending any claim brought under this section.

(6) The remedies provided for in this section are cumulative and are in addition to any others provided for by law.

**NEW SECTION. Sec. 7.** (1) For purposes of section 5 of this act, the use of a name, voice, signature, photograph, or likeness in connection with matters of cultural, historical, political, religious, educational, newsworthy, or public interest, including, without limitation, comment, criticism, satire, and parody relating thereto, shall not constitute a use for which consent is required under this chapter. A matter exempt from consent under this subsection does not lose such exempt status because it appears in the form of a paid advertisement if it is clear that the principal purpose of the advertisement is to comment on such matter.

(2) This chapter does not apply to the use or authorization of use of an individual's or personality's name, voice, signature, photograph, or likeness, in any of the following:

(a) Single and original works of fine art, including but not limited to photographic, graphic, and sculptural works of art that are not published in more than five copies;

(b) A literary work, theatrical work, musical composition, film, radio, online or television program, magazine article, news story, public affairs report, or sports broadcast or account, or with any political campaign when the use does not inaccurately claim or state an endorsement by the individual or personality;

(c) An advertisement or commercial announcement for a use permitted by subsection (1) of this section and (a) or (b) of this subsection;

(d) An advertisement, commercial announcement, or packaging for the authorized sale, distribution, performance, broadcast, or display of a literary, musical, cinematographic, or other artistic work using the name, voice, signature, photograph, or likeness of the writer, author, composer, director, actor, or artist who created the work, where such individual or personality consented to the use of his or her name, voice, signature, photograph, or likeness on or in connection with the initial sale, distribution, performance, or display thereof; and

(e) The advertisement or sale of a rare or fine product, including but not limited to books, which incorporates the signature of the author.

(3) It is no defense to an infringement action under this chapter that the use of an individual's or personality's name, voice, signature, photograph, or likeness includes more than one individual or personality so identifiable. However, the individuals or personalities complaining of the use shall not bring their cause of action as a class action.

(4) Section 5 of this act does not apply to the owners or employees of any medium used for advertising, including but not limited to, newspapers, magazines, radio and television stations, on-line service providers, billboards, and transit ads, who have published or disseminated any advertisement or solicitation in violation of this chapter, unless the advertisement or solicitation was intended to promote the medium itself.

(5) This chapter does not apply to a use or authorization of use of an individual's or personality's name that is merely descriptive and used fairly and in good faith only to identify or describe something other than the individual or personality, such as, without limitation, to describe or identify a place, a legacy, a style, a theory, an ownership interest, or a party to a transaction or to accurately describe the goods or services of a party.

(6) This chapter does not apply to the use of an individual's or personality's name, voice, signature, photograph, or likeness when the use of the individual's or personality's name, voice, signature, photograph, or likeness is an insignificant, de minimis, or incidental use.

**NEW SECTION. Sec. 8.** Nothing contained in this chapter is intended to invalidate any community property rights.

**NEW SECTION. Sec. 9.** Sections 1 through 8 of this act constitute a new chapter in Title 63 RCW."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Johnson to Engrossed Substitute House Bill No. 1074.



The motion by Senator Johnson carried and the striking amendment to Engrossed Substitute House Bill No. 1074 was adopted on a rising vote.

#### MOTIONS

On motion of Senator Johnson, the following title amendment was adopted:

On page 1, line 1 of the title, after "rights;" strike the remainder of the title and insert "adding a new chapter to Title 63 RCW; and prescribing penalties."

On motion of Senator Johnson, the rules were suspended, Engrossed Substitute House Bill No. 1074, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF ORDER

Senator Heavey: "A point of order, Mr. President. Comedians imitating personalities is not--(microphone not working)"

#### REPLY BY THE PRESIDENT

President Owen: "Senator Hargrove, please continue."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 1074, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1074, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley and Zarelli - 32. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Hargrove, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Sheldon, B., Spanel, Thibaudeau, Wojahn and Wood - 17. ENGROSSED SUBSTITUTE HOUSE BILL NO. 1074, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1374, by House Committee on Appropriations (originally sponsored by Representatives Smith, Johnson, Hickel, Talcott, B. Thomas and Thompson)

Establishing alternate teacher certification.

The bill was read the second time.

#### MOTION

Senator McAuliffe moved that the following amendments be considered simultaneously and be adopted:

On page 2, after line 15 strike all the material down to and including "state;" and insert:

"(c) The individual passes a basic skills assessment in reading, writing, communications, and mathematics developed by the superintendent of public instruction for persons seeking alternative certification;

(d) The individual passes an assessment of teaching knowledge developed by the superintendent of public instruction for persons seeking alternative certification. The results of the assessment shall be used by the school district to develop a written plan of assistance;"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 5, line 2, after "year" insert "or when the superintendent of public instruction has developed the assessments required under section 2 of this act, whichever is earlier. The superintendent of public instruction shall develop the assessments as soon as funding is provided for their development."

#### POINT OF ORDER

Senator Johnson: "Mr. President, I rise to a point of order. We have now reached the time for the Special Order of Business on Engrossed Substitute House Bill No. 2395."

There being no objection, the President deferred further consideration of Engrossed Second Substitute House Bill No. 1374.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2395, by House Committee on Law and Justice (originally sponsored by Representatives Sterk, Mulliken, D. Schmidt, Johnson, D. Sommers, Koster, Sherstad, Sheahan, Thompson, Mielke, Smith, Dunn, Boldt and Backlund)

Limiting partial-birth abortions.

The bill was read the second time.

#### MOTION

Senator Roach moved that the following Committee on Law and Justice amendment be adopted:

On page 2, after line 36, insert the following:

**"NEW SECTION. Sec. 4.** The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

Senator Roach demanded a roll call and the demand was sustained.

Debate ensued.

The President declared the question before the Senate to be roll call on the adoption of the Committee on Law and Justice amendment on page 2, after line 36, to Engrossed Substitute House Bill No. 2395.

#### ROLL CALL

The Secretary called the roll and the committee amendment was not adopted by the following vote: Yeas, 19; Nays, 30; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Hargrove, Hochstatter, Johnson, Long, McDonald, Morton, Oke, Roach, Rossi, Schow, Stevens, Strannigan, Swecker, West, Wood and Zarelli - 19. Voting nay: Senators Bauer, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Horn, Jacobsen, Kline, Kohl, Loveland, McAuliffe, McCaslin, Newhouse, Patterson, Prentice, Prince, Rasmussen, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau, Winsley and Wojahn - 30.

#### MOTION

Senator Winsley moved that the following amendment by Senators Winsley, Haugen, Prince, Rasmussen, Finkbeiner, Horn, Patterson, Tim Sheldon and Goings be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 9.02 RCW to read as follows:

It is a class C felony for a physician to perform a partial-birth abortion on a viable fetus except to protect the life or health of the mother."

#### MOTION

Senator Swecker moved that the following amendment to the striking amendment by Senators Winsley, Haugen, Prince, Rasmussen, Finkbeiner, Horn, Patterson, Tim Sheldon and Goings be adopted:

On page 1, line 10, after "except" insert "when in the opinion of the physician the procedure is the only appropriate treatment available, and is necessary"

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 1, line 10, to the striking amendment by Senators Winsley, Haugen, Prince, Rasmussen, Finkbeiner, Horn, Patterson, Tim Sheldon and Goings to Engrossed Substitute House Bill No. 2395.

The motion by Senator Swecker failed and the amendment to the striking amendment was not adopted.

#### MOTION

Senator Swecker moved that the following amendment to the striking amendment by Senators Winsley, Haugen, Prince, Rasmussen, Finkbeiner, Horn, Patterson, Tim Sheldon and Goings be adopted:

On page 1, after line 11, insert the following:

"Sec. 2. RCW 9.02.110 and 1992 c 1 s 2 are each amended to read as follows:

The state may not deny or interfere with a woman's right to choose to have an abortion prior to viability of the fetus, or to protect her life or health. Provided, that if a physician determines that a surgical procedure is necessary to protect the life or health of the mother, then every reasonable effort shall be made by the physician to protect and preserve the life of the viable fetus. The term surgical procedure includes a partial-birth abortion.

A physician may terminate and a health care provider may assist a physician in terminating a pregnancy as permitted by this section."

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

Senator Swecker demanded a roll call and the demand was sustained.

Further debate ensued.

The President declared the question before the Senate to be the roll call on the adoption of the amendment by Senator Swecker on page 1, after line 11, to the striking amendment by Senators Winsley, Haugen, Prince, Rasmussen, Finkbeiner, Horn, Patterson, Tim Sheldon and Goings to Engrossed Substitute House Bill No. 2395.

#### ROLL CALL

The Secretary called the roll and the amendment to the striking amendment was not adopted by the following vote: Yeas, 20; Nays, 28; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Hargrove, Hochstatter, Johnson, Long, McDonald, Morton, Oke, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Wood and Zarelli - 20. Voting nay: Senators Bauer, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Haugen, Heavey, Horn, Jacobsen, Kline, Kohl, Loveland, McAuliffe, McCaslin, Newhouse, Patterson, Prentice, Prince, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau, Winsley and Wojahn - 28. Absent: Senator Hale - 1. The President declared the question before the Senate to be the adoption of the striking amendment Senators Winsley, Haugen, Prince, Rasmussen, Finkbeiner, Horn, Patterson, Tim Sheldon and Goings to Engrossed Substitute House Bill No. 2395.

Debate ensued.

The motion by Senator Winsley carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Winsley, the following title amendment was adopted:

On page 1, line 1 of the title, after "abortions;" strike all material through "RCW" on line 2 and insert "adding a new section to chapter 9.02 RCW;"

On motion of Senator Winsley, the rules were suspended, Engrossed Substitute House Bill No. 2395, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2395, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2395, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau, Winsley, Wojahn and Wood - 41.

Voting nay: Senators Benton, Hochstatter, Schow, Stevens, Strannigan, Swecker, West and Zarelli - 8. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2395, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of Engrossed Second Substitute House Bill No. 1374 and the pending amendments by Senator McAuliffe on page 2, line 15, and page 5, line 2, deferred before the Senate went to the special order of business. Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator McAuliffe on page 2, line 15, and page 5, line 2, to Engrossed Second Substitute House Bill No. 1374.

The motion by Senator McAuliffe failed and the amendments were not adopted on a rising vote.

#### MOTION

Senator McAuliffe moved that the following amendment be adopted:

On page 3, after line 9, strike all material down to and including "requirements." on line 26

Renumber the remaining sections consecutively and correct any internal references accordingly

Debate ensued.

#### POINT OF INQUIRY

Senator Rasmussen: "Senator Hochstatter, did we not pass a bill earlier in this session that said that there was a three year probationary period for teachers to be certified?"

Senator Hochstatter: "Senator Rasmussen, I am not sure that we got that out of here or not. I know we considered it. Yes, I have word from the gallery that we did pass that bill--probationary period--a third year probationary period for teachers. Whether that gets the Governor's signature or not is moot at this time."

Senator Rasmussen: "So, then if we are saying that a two year probationary period is unacceptable and we passed the three year--what is your wish? Do you want us to turn down this amendment--and yet we passed an amendment that said a three year probationary period?"

Senator Hochstatter: "Senator Rasmussen, again not being a lawyer, my understanding is that if you apply then for a permanent teaching certificate, the probations necessary or the probationary period necessary for that certificate would apply to that certificate. So, my understanding would be a total of five years of probation before you would be permanent. Thank you."

Senator Rasmussen: "Thank you."

Further debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe on page 3, after line 9, to Engrossed Second Substitute House Bill No. 1374.

The motion by Senator McAuliffe failed and the amendment was not adopted on a rising vote.

#### MOTION

Senator Haugen moved that the following amendment be adopted:

On page 5, after line 2, strike all material down to and including "immediately." on line 6

Renumber the remaining section consecutively.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 5, after line 2, to Engrossed Second Substitute House Bill No. 1374.

The motion by Senator Haugen carried and the amendment was adopted.

#### MOTIONS

On motion of Senator Hochstatter, the following title amendments were considered simultaneously and were adopted:

On page 1, line 3 of the title, after "RCW;" insert "and"

On page 1, line 3 of the title, strike "; and declaring an emergency"

On motion of Senator Hochstatter, the rules were suspended, Engrossed Second Substitute House Bill No. 1374, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF ORDER

Senator Horn: "A point of order. I thought the Senator was standing up to ask Senator Hochstatter a question."

#### REPLY BY THE PRESIDENT

President Owen: "It is not necessary that she do that, Senator Horn. She can use her three minutes pretty freely."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute House Bill No. 1374, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1374, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley and Wood - 27. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 21. Absent: Senator Zarelli - 1. ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1374, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 5:58 p.m., on motion of Senator Johnson, the Senate adjourned until 9:00 a.m., Saturday, March 7, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

FIFTY-FOURTH DAY, MARCH 6, 1998

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**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**FIFTY-FIFTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Saturday, March 7, 1998

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Bauer, Heavey, Schow, Strannigan and Zarelli. On motion of Senator Franklin, Senators Bauer and Heavey were excused. On motion of Senator Hale, Senators Schow, Strannigan and Zarelli were excused.

The Sergeant at Arms Color Guard, consisting of Pages Phillip Youngren and Erin Peach, presented the Colors. Senator Margarita Prentice offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**MESSAGE FROM THE HOUSE**

March 5, 1998

**MR. PRESIDENT:**

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1211,  
HOUSE BILL NO. 1248,  
HOUSE BILL NO. 1250,  
SUBSTITUTE HOUSE BILL NO. 1253,  
SUBSTITUTE HOUSE BILL NO. 1971,  
HOUSE BILL NO. 2309,  
HOUSE BILL NO. 2429,  
HOUSE BILL NO. 2436,  
SUBSTITUTE HOUSE BILL NO. 2452,  
ENGROSSED HOUSE BILL NO. 2465,  
HOUSE BILL NO. 2537,  
HOUSE BILL NO. 2598,  
SUBSTITUTE HOUSE BILL NO. 2634,  
SUBSTITUTE HOUSE BILL NO. 2680,  
HOUSE BILL NO. 2692,  
HOUSE BILL NO. 2732,  
HOUSE BILL NO. 2784,  
SUBSTITUTE HOUSE BILL NO. 2790,  
SUBSTITUTE HOUSE BILL NO. 2822,  
HOUSE BILL NO. 2837,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2900,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2901,  
HOUSE BILL NO. 2990,  
HOUSE BILL NO. 3053,  
HOUSE BILL NO. 3103,  
HOUSE JOINT MEMORIAL NO. 4030, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
SUBSTITUTE HOUSE BILL NO. 1211,  
HOUSE BILL NO. 1248,  
HOUSE BILL NO. 1250,  
SUBSTITUTE HOUSE BILL NO. 1253,  
SUBSTITUTE HOUSE BILL NO. 1971,  
HOUSE BILL NO. 2309,  
HOUSE BILL NO. 2429,  
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ENGROSSED SUBSTITUTE HOUSE BILL NO. 2901,  
HOUSE BILL NO. 2990,  
HOUSE BILL NO. 3053,  
HOUSE BILL NO. 3103,  
HOUSE JOINT MEMORIAL NO. 4030.

INTRODUCTION AND FIRST READING

SB 6762 by Senators Horn and McCaslin

AN ACT Relating to taxation authority of cities for zoos and aquariums; amending RCW 84.52.010; and adding a new chapter to Title 35 RCW.

Referred to Committee on Government Operations.

MOTION

On motion of Senator Brown, the following resolution was adopted:

SENATE RESOLUTION 1998-8691

By Senator Brown

WHEREAS, Our senior population and retirees are important segments of society capable of providing such joy to their communities; and

WHEREAS, Bringing joy to others through community service is one of the greatest personal joys in life; and

WHEREAS, In May 1972, Marion Herzer designed an innovative arts program for seniors in the Spokane area; and  
WHEREAS, The Washington State Office on Aging, the Spokane Parks and Recreation Department and private organizations supported this senior cultural service program; and

WHEREAS, Today, Project JOY provides multiple entertainment programs for Spokane seniors and the general public; and

WHEREAS, Both the young and old benefit from Project JOY's performances at nursing homes, hospitals, civic organizations, retirement centers, and schools; and

WHEREAS, Project JOY's two hundred and eighty volunteer entertainers include clowns, square dancers, choirs, puppeteers, vaudeville actors, a senior orchestra and a kitchen band; and

WHEREAS, The program also provides employment and leadership opportunities for qualified seniors;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize the value of twenty-five years of entertainment and cultural value Project JOY has provided the Spokane community.

#### MOTION

On motion of Senator Johnson, the Senate reverted to the sixth order of business.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENT

#### MOTION

On motion of Senator Fraser, Gubernatorial Appointment No. 9224, Joan K. Thomas, as a member of the Parks and Recreation Commission, was confirmed.

Senators Fraser, Oke and Thibaudeau spoke to the confirmation of Joan K. Thomas as a member of the Parks and Recreation Commission.

#### APPOINTMENT OF JOAN K. THOMAS

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 44. Excused: Senators Bauer, Heavey, Schow, Strannigan and Zarelli - 5.

#### MOTION

At 9:21 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 10:22 a.m. by President Owen.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 4, 1998

#### MR. PRESIDENT:

The House has passed SENATE BILL NO. 5164 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 59.20.030 and 1993 c 66 s 15 are each amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" as it relates to a mobile home owned by a tenant in a mobile home park, mobile home park cooperative, or mobile home park subdivision or tenancy in a mobile home lot means the tenant has defaulted in rent and by absence and by words or actions reasonably indicates the intention not to continue tenancy;

(2) "Landlord" means the owner of a mobile home park and includes the agents of a landlord;

(3) "Mobile home lot" means a portion of a mobile home park designated as the location of one mobile home and its accessory buildings, and intended for the exclusive use as a primary residence by the occupants of that mobile home;



(4) "Mobile home park" means any real property which is rented or held out for rent to others for the placement of two or more mobile homes for the primary purpose of production of income, except where such real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy;

(5) "Mobile home park cooperative" means real property consisting of common areas and two or more lots held out for placement of mobile homes in which both the individual lots and the common areas are owned by an association of shareholders which leases or otherwise extends the right to occupy individual lots to its own members;

(6) "Mobile home park subdivision" means real property, whether it is called a subdivision, condominium, or planned unit development, consisting of common areas and two or more lots held for placement of mobile homes in which there is private ownership of the individual lots and common, undivided ownership of the common areas by owners of the individual lots;

(7) "Recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot;

(8) "Tenant" means any person, except a transient, who rents a mobile home lot; ~~((and))~~

(9) "Transient" means a person who rents a mobile home lot for a period of less than one month for purposes other than as a primary residence;

(10) "Occupant" means any person, including a live-in care provider, other than a tenant, who occupies a mobile home and mobile home lot.

**Sec. 2.** RCW 59.20.080 and 1993 c 66 s 19 are each amended to read as follows:

(1) A landlord shall not terminate or fail to renew a tenancy of a tenant or the occupancy of an occupant, of whatever duration except for one or more of the following reasons:

(a) Substantial violation, or repeated or periodic violations of the rules of the mobile home park as established by the landlord at the inception of the tenancy or as assumed subsequently with the consent of the tenant or for violation of the tenant's duties as provided in RCW 59.20.140. The tenant shall be given written notice to cease the rule violation immediately. The notice shall state that failure to cease the violation of the rule or any subsequent violation of that or any other rule shall result in termination of the tenancy, and that the tenant shall vacate the premises within fifteen days: PROVIDED, That for a periodic violation the notice shall also specify that repetition of the same violation shall result in termination: PROVIDED FURTHER, That in the case of a violation of a "material change" in park rules with respect to pets, tenants with minor children living with them, or recreational facilities, the tenant shall be given written notice under this chapter of a six month period in which to comply or vacate;

(b) Nonpayment of rent or other charges specified in the rental agreement, upon five days written notice to pay rent and/or other charges or to vacate;

(c) Conviction of the tenant of a crime, commission of which threatens the health, safety, or welfare of the other mobile home park tenants. The tenant shall be given written notice of a fifteen day period in which to vacate;

(d) Failure of the tenant to comply with local ordinances and state laws and regulations relating to mobile homes or mobile home living within a reasonable time after the tenant's receipt of notice of such noncompliance from the appropriate governmental agency;

(e) Change of land use of the mobile home park including, but not limited to, conversion to a use other than for mobile homes or conversion of the mobile home park to a mobile home park cooperative or mobile home park subdivision: PROVIDED, That the landlord shall give the tenants twelve months' notice in advance of the effective date of such change, except that for the period of six months following April 28, 1989, the landlord shall give the tenants eighteen months' notice in advance of the proposed effective date of such change;

(f) Engaging in "criminal activity." "Criminal activity" means a criminal act defined by statute or ordinance that threatens the health, safety, or welfare of the tenants. A park owner seeking to evict a tenant or occupant under this subsection need not produce evidence of a criminal conviction, even if the alleged misconduct constitutes a criminal offense. Notice from a law enforcement agency of criminal activity constitutes sufficient grounds, but not the only grounds, for an eviction under this subsection. Notification of the seizure of illegal drugs under RCW 59.20.155 is evidence of criminal activity and is grounds for an eviction under this subsection. The requirement that any tenant or occupant register as a sex offender under RCW 9A.44.130 is grounds for eviction under this subsection. If criminal activity is alleged to be a basis of termination, the park owner may proceed directly to an unlawful detainer action;

(g) The tenant's application for tenancy contained a material misstatement that induced the park owner to approve the tenant as a resident of the park, and the park owner discovers and acts upon the misstatement within one year of the time the resident began paying rent;

(h) If the landlord serves a tenant three fifteen-day notices within a twelve-month period to comply or vacate for failure to comply with the material terms of the rental agreement or park rules. The applicable twelve-month period shall commence on the date of the first violation;

(i) Failure of the tenant to comply with obligations imposed upon tenants by applicable provisions of municipal, county, and state codes, statutes, ordinances, and regulations, including chapter 59.20 RCW. The landlord shall give the tenant written notice to comply immediately. The notice must state that failure to comply will result in termination of the tenancy and that the tenant shall vacate the premises within fifteen days;

(j) The tenant engages in disorderly or substantially annoying conduct upon the park premises that results in the destruction of the rights of others to the peaceful enjoyment and use of the premises. The landlord shall give the tenant written notice to comply immediately. The notice must state that failure to comply will result in termination of the tenancy and that the tenant shall vacate the premises within fifteen days;

(k) The tenant creates a nuisance that materially affects the health, safety, and welfare of other park residents. The landlord shall give the tenant written notice to cease the conduct that constitutes a nuisance immediately. The notice must state that failure to cease the conduct will result in termination of the tenancy and that the tenant shall vacate the premises in five days;

(l) Any other substantial just cause that materially affects the health, safety, and welfare of other park residents. The landlord shall ~~((be))~~ give ~~((shall give))~~ the tenant written notice to comply immediately. The notice must state that failure to comply will result in termination of the tenancy and that the tenant shall vacate the premises within fifteen days; or

(m) Failure to pay rent by the due date provided for in the rental agreement three or more times in a twelve-month period, commencing with the date of the first violation, after service of a five-day notice to comply or vacate.

(2) Within five days of a notice of eviction as required by subsection (1)(a) of this section, the landlord and tenant shall submit any dispute to mediation. The parties may agree in writing to mediation by an independent third party or through industry mediation procedures. If the parties cannot agree, then mediation shall be through industry mediation procedures. A duty is imposed upon both parties to participate in the mediation process in good faith for a period of ten days for an eviction under subsection (1)(a) of this section. It is a defense to an eviction under subsection (1)(a) of this section that a landlord did not participate in the mediation process in good faith.

(3) Chapters 59.12 and 59.18 RCW govern the eviction of recreational vehicles from mobile home parks.

**Sec. 3.** RCW 59.20.090 and 1980 c 152 s 2 are each amended to read as follows:

(1) Unless otherwise agreed rental agreements shall be for a term of one year. Any rental agreement of whatever duration shall be automatically renewed for the term of the original rental agreement, unless~~((:~~

~~((a)))~~ a different specified term is agreed upon~~((:~~

~~((b))~~ The landlord serves notice of termination without cause upon the tenant prior to the expiration of the rental agreement: **PROVIDED**, That under such circumstances, at the expiration of the prior rental agreement the tenant shall be considered a month-to-month tenant upon the same terms as in the prior rental agreement until the tenancy is terminated~~)).~~

(2) A landlord seeking to increase the rent upon expiration of the term of a rental agreement of any duration shall notify the tenant in writing three months prior to the effective date of any increase in rent~~((:~~ **PROVIDED**, That if a landlord serves a tenant with notice of a rental increase at the same time or subsequent to serving the tenant with notice of termination without cause, such rental increase shall not become effective until the date the tenant is required to vacate the leased premises pursuant to the notice of termination or three months from the date notice of rental increase is served, whichever is later~~)).~~

(3) A tenant shall notify the landlord in writing one month prior to the expiration of a rental agreement of an intention not to renew.

(4)(a) The tenant may terminate the rental agreement upon thirty days written notice whenever a change in the location of the tenant's employment requires a change in his residence, and shall not be liable for rental following such termination unless after due diligence and reasonable effort the landlord is not able to rent the mobile home lot at a fair rental. If the landlord is not able to rent the lot, the tenant shall remain liable for the rental specified in the rental agreement until the lot is rented or the original term ends;

(b) Any tenant who is a member of the armed forces may terminate a rental agreement with less than thirty days notice if he receives reassignment orders which do not allow greater notice."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Winsley, the Senate concurred in the House amendment to Senate Bill No. 5164.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5164, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5164, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 6; Absent, 4; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Stevens, Swecker, Winsley, Wood and Zarelli - 37. Voting nay: Senators Fairley, Heavey, Kline, Kohl, Thibaudeau and Wojahn - 6. Absent: Senators Oke, Snyder, Spanel and West - 4. Excused: Senators Schow and Strannigan - 2. SENATE BILL NO. 5164, as amended by the

House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5527 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that significant water savings may be realized through the installation and use of more efficient irrigation systems and techniques. The legislature also finds that positive economic incentives, establishment of necessary legal procedures, and removal of legal barriers are needed to stimulate the development of workable technologies and farming systems that rely on lesser quantities of water.

The purpose of this act is to foster the use of water-efficient irrigation systems by allowing the saved water to be voluntarily transferred by the water right holder to other uses or other places of use. Additionally, the purpose is to establish incentives through enabling self-funded, private capital or public funds to provide improved market-based incentives for adopting water saving technologies and to allow the benefits of the conserved water to be fully realized. It is the intent of this act that sufficient protections be provided to assure that existing water users are not adversely affected by transfers approved under this act.

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

(1) "Contract" means a written legal instrument that provides for the transfer of a portion of a water right from an existing water right holder to another person for consideration.

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

(3) "Net water savings" has the same meaning as defined in RCW 90.42.020.

(4) "Person" means a person, corporation, quasi-municipal corporation, municipal corporation, or state agency.

(5) "Reduction in evaporative loss" means the amount of water that is no longer lost to further use as a result of changing from a conventional irrigation system to a water-efficient irrigation system. "Reduction in evaporative loss" includes the reduction in the amount of water consumed through evaporation during the conveyance and/or the application of water to crops and through transpiration by nonproductive plants such as cover crops associated with the change in irrigation systems, but does not include any water that contributed to return flows used to satisfy existing rights.

(6) "Transfer" means a transfer of, change in, or amendment to a surface or ground water right described in RCW 90.03.380 and 90.44.100 or to transfer, change, or amend such a right.

(7) "Trust water right" means a water right transferred to and managed by the department for the benefit of instream flows or for the allocation to new uses as provided in chapter 90.38 or 90.42 RCW.

(8) "Water-efficient irrigation system" means a system, the use of which results in a water savings when compared to the use or loss of water experienced in conveying water and/or applying water to a crop or crops before the installation of the system.

**NEW SECTION. Sec. 3.** (1) A person holding a valid water right who installs a water-efficient irrigation system for use under the right may apply to the department for a transfer of the use of the water resulting from the reduction in evaporative loss plus any additional net water savings resulting from the installation. The water use may be transferred:

(a) To other land owned by the person with less senior water rights or that lacks a full and sufficient supply of water or for the irrigation of an additional parcel or parcels of land owned by the person. The application for such a transfer must be processed based upon the same criteria as if the transfer were to be made to another person; or

(b) To another person for use on other land.

In the latter case, the person holding the valid water right may enter into a contract with another person for the transfer of water saved through installation of the water-efficient irrigation system. A contract may allow for a permanent transfer of a portion of the original water right, or for lease agreements with set expiration dates. The applicant shall state that the contract is not permanent in the application if the contract is not permanent. Such a contract shall be filed with the department with or as a supplement to the application and the department shall maintain a record of such a contract with the certificate of water right for the transferred water.

(2) In determining the amount that is transferrable as a result of the installation of a water-efficient irrigation system, the department shall allow the transfer of an amount equal to the reduction in the evaporative loss. The reduction in evaporative loss is a readily transferrable component of net water savings.

In addition, the department shall evaluate whether there are additional net water savings that result directly from installation of the water-efficient irrigation system that could be transferred without detriment to other existing water users. The department may not delay because of decisions on the determination of additional net water savings the approval of the transfer of the water that constitutes the reduction in evaporative loss.

(3) The use of water supplied by an irrigation district that is saved through installation of a water-efficient irrigation system as described in this section shall be regulated solely as provided by the board of directors of the irrigation district.

(4) A person wishing to make application for a transfer of a water right under this chapter, whether for surface or ground water, shall comply with RCW 90.03.380. The transferred portion of the water right has the same date of priority as the water right from which it originated, but between them the transferred portion of the right is inferior in priority unless otherwise provided by the parties by contract filed with the department.

**NEW SECTION. Sec. 4.** The department may adopt rules, in accordance with chapter 34.05 RCW, for procedures to be used to facilitate the processing of requests for water right transfers made under this chapter and to establish a streamlined procedure to quantify the reduction in the evaporative loss. The methods used by the department for calculating reductions in evaporative loss, including but not limited to those for determining the exposure of water to evaporative loss using various irrigation systems, and the pan evaporation data to be used shall be the methods and data recommended by the Washington state cooperative extension service.

The rules may establish procedures for the department to make preliminary findings that can be used as an initial basis for developing contracts by applicants.

**NEW SECTION. Sec. 5.** An applicant shall accompany an application for a water right transfer under this chapter with a fee established in RCW 90.03.470.

**NEW SECTION. Sec. 6.** In processing applications for transfers of portions of water rights under this chapter, if the department is unable to conclusively determine the validity of the original water right, the department may include a presumption of validity in the certificate of water rights. The presumption must provide to the contract purchaser the same right to the use of water embodied in the original water right.

The presumption of validity may not be used as evidence as to the existence or nonexistence in a water right adjudication conducted under chapter 90.03 RCW.

**NEW SECTION. Sec. 7.** A holder of a water right may voluntarily enter into a contract with the department. The department may utilize funds that are now or hereafter authorized for the purchase of water savings made available under this chapter. The department shall utilize the same methods of calculating water that is transferrable to another party under this chapter in determining the amount of water that is transferrable to the state. If additional net water saved is available for the benefit of only a stream segment, the calculations may be made on a case-by-case basis while assuring no detriment to existing water users occurs.

**NEW SECTION. Sec. 8.** This chapter may be known and cited as the agricultural water conservation incentives act.

**Sec. 9.** RCW 90.03.380 and 1997 c 442 s 801 are each amended to read as follows:

(1) The right to the use of water which has been applied to a beneficial use in the state shall be and remain appurtenant to the land or place upon which the same is used (~~(= PROVIDED, HOWEVER, That the)~~). However, all or a portion of a right may be transferred to another or to others and become appurtenant to any other land or place of use without loss of priority of right theretofore established if such change can be made without detriment or injury to existing rights. The point of diversion of water for beneficial use or the purpose of use may be changed, if such change can be made without detriment or injury to existing rights. A change in the place of use, point of diversion, and/or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right. For purposes of this section, "annual consumptive quantity" means the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, averaged over the most recent five-year period of continuous beneficial use of the water right. Before any transfer of such right to use water or change of the point of diversion of water or change of purpose of use can be made, any person having an interest in the transfer or change, shall file a written application therefor with the department, and the application shall not be granted until notice of the application is published as provided in RCW 90.03.280. If it shall appear that such transfer or such change may be made without injury or detriment to existing rights, the department shall issue to the applicant an authorization to make the change or transfer. When the applicant has completed the change or transfer, the department shall issue to the applicant a certificate in duplicate granting the right for such transfer or for such change of point of diversion or of use. The certificate so issued shall be filed and be made a record with the department and the duplicate certificate issued to the applicant may be filed with the county auditor in like manner and with the same effect as provided in the original certificate or permit to divert water.

(2) If an application for change proposes to transfer water rights from one irrigation district to another, the department shall, before publication of notice, receive concurrence from each of the irrigation districts that such transfer or change will not adversely affect the ability to deliver water to other landowners or impair the financial integrity of either of the districts.

(3) A change in place of use by an individual water user or users of water provided by an irrigation district need only receive approval for the change from the board of directors of the district if the use of water continues within the irrigation district, and when water is provided by an irrigation entity that is a member of a board of joint control created under chapter 87.80 RCW, approval need only be received from the board of joint control if the use of water continues within the area of jurisdiction of the joint board and the change can be made without detriment or injury to existing rights. The board of directors of an irrigation district may approve such a change if the board determines that the change: Will not adversely affect the district's ability to deliver water to other landowners; will not require the construction by the district of

diversion or drainage facilities unless the board finds that the construction by the district is in the interest of the district; will not impair the financial or operational integrity of the district; and is consistent with the contractual obligations of the district.

(4) This section shall not apply to trust water rights acquired by the state through the funding of water conservation projects under chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

**NEW SECTION. Sec. 10.** Sections 2 through 8 of this act constitute a new chapter in Title 90 RCW."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Morton, the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 5527.

#### MOTION

On motion of Senator Hale, Senators Deccio and Johnson were excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5527, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5527, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 42. Voting nay: Senators Fairley, Kline, Kohl and Wojahn - 4. Excused: Senators Deccio, Johnson and Strannigan - 3. ENGROSSED SUBSTITUTE SENATE BILL NO. 5527, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5769 with the following amendment(s):

On page 5, beginning on line 12, strike everything through "misdemeanor." on line 19, and insert the following:

"(1) A person is guilty of possessing stolen property in the third degree if he or she possesses (a) stolen property which does not exceed two hundred fifty dollars in value, or (b) ten or more stolen merchandise pallets, or ten or more stolen beverage crates, or a combination of ten or more stolen merchandise pallets and beverage crates.

(2) Possessing stolen property in the third degree is a gross misdemeanor."

On page 6, beginning on line 6, strike everything through "misdemeanor." on line 12, and insert the following:

"(1) A person is guilty of theft in the third degree if he or she commits theft of property or services which (a) does not exceed two hundred and fifty dollars in value, or (b) includes ten or more merchandise pallets, or ten or more beverage crates, or a combination of ten or more merchandise pallets and beverage crates.

(2) Theft in the third degree is a gross misdemeanor.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Roach moved that the Senate concur in the House amendments to Engrossed Substitute Senate Bill No. 5769. Debate ensued.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendments to Engrossed Substitute Senate Bill No. 5769.

The motion by Senator Roach carried and the Senate concurred in the House amendments to Engrossed Substitute Senate Bill No. 5769.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5769, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5769, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Fraser, Goings, Hale, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 32. Voting nay: Senators Brown, Fairley, Finkbeiner, Franklin, Hargrove, Haugen, Kohl, Loveland, McAuliffe, Patterson, Prentice, Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 16. Excused: Senator Deccio - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 5769, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6114 with the following amendment(s):

On page 3, beginning on line 16, strike all of sections 5 and 6

Renumber the remaining sections consecutively and correct internal references accordingly.

On page 4, after line 2, insert the following:

"NEW SECTION. Sec. 9. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Oke moved that the Senate concur in the House amendments to Substitute Senate Bill No. 6114.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Oke that the Senate concur in the House amendments to Substitute Senate Bill No. 6114.

The motion by Senator Oke carried and the Senate concurred in the House amendments to Substitute Senate Bill No. 6114.

#### MOTION

On motion of Senator Loveland, Senator Spanel was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6114, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6114, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Deccio and Spanel - 2. SUBSTITUTE SENATE BILL NO. 6114, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MESSAGE FROM THE HOUSE

February 27, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6122 with the following amendment(s):

On page 22, line 12, delete subsection (15)

Renumber the remaining subsections consecutively and correct the title accordingly

On page 22, after line 25, insert the following new section:

"NEW SECTION. **Sec. 38.** RCW 15.17.950 is decodified."

Correct the title accordingly., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Morton moved that the Senate concur in the House amendments to Senate Bill No. 6122.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Morton that the Senate concur in the House amendments to Senate Bill No. 6122.

The motion by Senator Morton carried and the Senate concurred in the House amendments to Senate Bill No. 6122.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6122, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6122, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Spanel - 1. SENATE BILL NO. 6122, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6130 with the following amendment(s):

On page 6, line 26, after "to" strike "July 1" and insert "June 30"

On page 6, line 35, after "to" strike "July 1st" and insert "June 30th", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Morton moved that the Senate concur in the House amendments to Substitute Senate Bill No. 6130.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Morton that the Senate concur in the House amendments to Substitute Senate Bill No. 6130.

The motion by Senator Morton carried and the Senate concurred in the House amendments to Substitute Senate Bill No. 6130.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6130, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6130, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 6130, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 6139 with the following amendment(s):

On page 10, after line 33, insert the following:

**"NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

Correct the title accordingly., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

## MOTION

Senator Roach moved that the Senate concur in the House amendment to Engrossed Senate Bill No. 6139.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendment to Engrossed Senate Bill No. 6139.

The motion by Senator Roach carried and the Senate concurred in the House amendment to Engrossed Senate Bill No. 6139.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6139, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6139, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SENATE BILL NO. 6139, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 6142 with the following amendment(s):

On page 11, after line 2, insert the following:

**"NEW SECTION. Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

On page 11, after line 2, add the following:



"NEW SECTION. Sec. 6 This act takes effect January 1, 1999."  
Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Roach moved that the Senate concur in the House amendments to Engrossed Senate Bill No. 6142.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendments to Engrossed Senate Bill No. 6142.

The motion by Senator Roach carried and the Senate concurred in the House amendments to Engrossed Senate Bill No. 6142. The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6142, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6142, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 43. Voting nay: Senators Benton, Brown, Finkbeiner, Horn and Zarelli - 5. Absent: Senator Hochstatter - 1. ENGROSSED SENATE BILL NO. 6142, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Roach: "I rise to a point of personal privilege, Mr. President. I would like the attention of the members of the Senate, those in the galleries, security, everybody up at the desk and anybody who is going to listen. I came in here today and noticed that there was something, that everybody knew, was very conspicuous on the corner of my desk. Everybody knows I had a very nice array of flowers here. But, my flowers were not on my desk when I came here today and nobody asked me if they could pick up them up and move them. I asked around and nobody knows who moved them. We did find them; they are housed carefully over here in a little cubby hole. But, I want to go on record, 'I don't want even a pencil moved on my desk.' I certainly don't want anything removed from my desk and I think every member of the Senate would feel the same way.

"Now, before the cutoff time--right at the cutoff--when we had Senate Bills that we had finished passing over to the House, I came in here to get my personal notes on our DUI legislation, because I was keeping them as a history of what we were doing here in the state of Washington--and they were gone--missing from my desk, along with other things. It was so offensive to me that I had a little sign brought up and I put it on my desk. I am incensed that anyone would move or touch anything on a Senator's desk and I want to find out who took my flowers and moved them and I intend to take action on whoever in the world would move something as personal and private as that. I did inquire-- nobody had asked the President of the Senate to have them moved. It was just done. Thank you, Mr. President. That is why I rose."

#### REPLY BY THE PRESIDENT

President Owen: "Message received. I would note, Senator Roach, that there were considerable requests to the President about a policy on that, because of the magnitude and size of the arrangements and I think that we need to address that in the future. You are correct. Members should not interfere with other people's personal property or anything on their desks. Message received."

#### PERSONAL PRIVILEGE

Senator McCaslin: "A point of personal privilege, Mr. President. I did not take them, Pam. But, I want to give this body permission to wipe my desk clean anytime they want."

MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6156 with the following amendment(s):

On page 2, line 7, after "revenue;" strike "and"

On page 2, line 8, after "(f)" insert "Evaluate the impacts of water-dependent rates on economic development in economically distressed counties; and

(g)"

On page 4, after line 17, insert the following:

**"NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator West, the Senate concurred in the House amendments to Second Substitute Senate Bill No. 6156. The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6156, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6156, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SECOND SUBSTITUTE SENATE BILL NO. 6156, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6181 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"PART I--TESTAMENTARY DISPOSITION OF NONPROBATE ASSETS**

**NEW SECTION. Sec. 101. SHORT TITLE.** This chapter may be known and cited as the testamentary disposition of nonprobate assets act.

**NEW SECTION. Sec. 102. PURPOSES.** The purposes of this chapter are to:

- (1) Enhance and facilitate the power of testators to control the disposition of assets that pass outside their wills;
- (2) Provide simple procedures for resolution of disputes regarding entitlement to such assets; and
- (3) Protect any financial institution or other third party having possession of or control over such an asset and transferring it to a beneficiary duly designated by the testator, unless that third party has been provided notice of a testamentary disposition as required in this chapter.

**NEW SECTION. Sec. 103. CONSTRUCTION--JURISDICTION.** (1) When construing sections and provisions of this chapter, the sections and provisions must:

- (a) Be liberally construed and applied to promote the purposes of this chapter;
- (b) Be considered part of a general act that is intended as unified coverage of the subject matter, and no part of this chapter may be deemed impliedly repealed by subsequent legislation if the construction can be reasonably avoided;

(c) Not be held invalid because of the invalidity of other sections or provisions of this chapter as long as the section or provision in question can be given effect without regard to the invalid section or provision, and to this end the sections or provisions of this chapter are severable;

(d) Not be construed by reference to section or subsection headings as used in this chapter, since these do not constitute any part of the law;

(e) Not be deemed to alter the community or separate property nature of any asset passing outside a testator's will or any individual's community or separate rights to the asset, and a testator's community or separate property rights to the asset are not affected by whether it passes outside the will or, under this chapter, by disposition under the will; and

(f) Not be construed as authorizing or extending the authority of any financial institution or other third party to sell or otherwise create assets that would pass outside a testator's will upon such terms as would contravene any other applicable federal or state law.

(2) The sections and provisions of this chapter apply to an owner who dies while a resident of this state on or after the effective date of this section and to a nonprobate asset the disposition of which on the death of the owner would otherwise be governed by the law of this state.

**NEW SECTION. Sec. 104. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Actual knowledge" means:

(i) For a financial institution, whether acting as personal representative or otherwise, or other third party in possession or control of a nonprobate asset, receipt of written notice that: (A) Complies with section 109 of this act; (B) pertains to the testamentary disposition or ownership of a nonprobate asset in its possession or control; and (C) is received by the financial institution or third party after the death of the owner in a time sufficient to afford the financial institution or third party a reasonable opportunity to act upon the knowledge; and

(ii) For a personal representative that is not a financial institution, personal knowledge or possession of documents relating to the testamentary disposition or ownership of a nonprobate asset of the owner sufficient to afford the personal representative reasonable opportunity to act upon the knowledge, including reasonable opportunity for the personal representative to provide the written notice under section 109 of this act.

(b) For the purposes of (a) of this subsection, notice of more than thirty days is presumed to be notice that is sufficient to afford the party a reasonable opportunity to act upon the knowledge, but notice of less than five business days is presumed not to be a sufficient notice for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(2) "Beneficiary" means the person designated to receive a nonprobate asset upon the death of the owner by means other than the owner's will.

(3) "Broker" means a person defined as a broker or dealer under the federal securities laws.

(4) "Date of will" means, as to any nonprobate asset, the date of signature of the will or codicil that refers to the asset and disposes of it.

(5) "Designate" means a written means by which the owner selects a beneficiary, including but not limited to instruments under contractual arrangements and registration of accounts, and "designation" means the selection.

(6) "Financial institution" means: A bank, trust company, mutual savings bank, savings and loan association, credit union, broker, or issuer of stock or its transfer agent.

(7)(a) "Nonprobate asset" means a nonprobate asset within the meaning of RCW 11.02.005, but excluding the following:

(i) A right or interest in real property passing under a joint tenancy with right of survivorship;

(ii) A deed or conveyance for which possession has been postponed until the death of the owner;

(iii) A right or interest passing under a community property agreement; and

(iv) An individual retirement account or bond.

(b) For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, see RCW 11.07.010(5).

(8) "Owner" means a person who, during life, has beneficial ownership of the nonprobate asset.

(9) "Request" means a request by the beneficiary for transfer of a nonprobate asset after the death of the owner, if it complies with all conditions of the arrangement, including reasonable special requirements concerning necessary signatures and regulations of the financial institution or other third party, or by the personal representative of the owner's estate or the testamentary beneficiary, if it complies with the owner's will and any additional conditions of the financial institution or third party for such transfer.

(10) "Testamentary beneficiary" means a person named under the owner's will to receive a nonprobate asset under this chapter, including but not limited to the trustee of a testamentary trust.

(11) "Third party" means a person, including a financial institution, having possession of or control over a nonprobate asset at the death of the owner, including the trustee of a revocable living trust and surviving joint tenant or tenants.

**NEW SECTION. Sec. 105. DISPOSITION OF NONPROBATE ASSETS UNDER WILL.** (1) Subject to community property rights, upon the death of an owner the owner's interest in any nonprobate asset specifically referred to in the owner's will belongs to the

testamentary beneficiary named to receive the nonprobate asset, notwithstanding the rights of any beneficiary designated before the date of the will.

(2) A general residuary gift in an owner's will, or a will making general disposition of all of the owner's property, does not entitle the devisees or legatees to receive nonprobate assets of the owner.

(3) A disposition in a will of the owner's interest in "all nonprobate assets" or of all of a category of nonprobate asset under section 104(7) of this act, such as "all of my payable on death bank accounts" or similar language, is deemed to be a disposition of all the nonprobate assets the beneficiaries of which are designated before the date of the will.

(4) If the owner designates a beneficiary for a nonprobate asset after the date of the will, the will does not govern the disposition of that nonprobate asset. If the owner revokes the later beneficiary designation, the prior will does not govern the disposition of the nonprobate asset. A beneficiary designation with respect to an asset that renews without the signature of the owner is deemed to have been made on the date on which the account was first opened.

**NEW SECTION. Sec. 106. WAIVER OF RIGHT TO DISPOSE OF A NONPROBATE ASSET UNDER WILL.** An owner may waive the right to dispose of a specific nonprobate asset by will under this chapter, with or without consideration, by a written instrument signed by the owner and delivered to the financial institution or other third party, including but not limited to signature cards or deposit agreements. The waiver is revocable by written instrument delivered to the financial institution or other third party unless the owner has stated that the waiver is to be irrevocable.

**NEW SECTION. Sec. 107. CONTROVERSIES BETWEEN BENEFICIARIES AND TESTAMENTARY BENEFICIARIES.** This chapter is intended to establish ownership rights to nonprobate assets upon the death of the owner, as between beneficiaries and testamentary beneficiaries. This chapter is relevant only as to controversies between these persons, and has no bearing on the right of a person to transfer a nonprobate asset under its terms in the absence of a testamentary provision under this chapter.

**NEW SECTION. Sec. 108. RIGHT TO RELY ON FORM OF NONPROBATE ASSET--DISCHARGE OF FINANCIAL INSTITUTION OR OTHER THIRD PARTY.** In transferring nonprobate assets, a financial institution or other third party may rely conclusively and entirely upon the form of the nonprobate asset and the terms of the nonprobate asset arrangement in effect on the date of death of the owner, unless the financial institution or other third party has actual knowledge of the existence of a claim by a testamentary beneficiary. A financial institution or other third party is not required to inquire as to either the source or ownership of any nonprobate asset in its possession or under its control, or as to the proposed application of an asset so transferred. A transfer of a nonprobate asset in accordance with this section constitutes a complete release and discharge of the financial institution or other third party from all claims relating to the nonprobate asset, regardless of whether or not the transfer is consistent with the actual ownership of the nonprobate asset.

**NEW SECTION. Sec. 109. NOTICE--FORM--LIMITATION ON LIABILITY FOR FAILURE TO PROVIDE NOTICE.** (1) Written notice under this chapter must be served personally or by certified mail, return receipt requested and postage prepaid, on the financial institution or other third party having the nonprobate asset in its possession or control, on the beneficiary, on the testamentary beneficiary, and on the personal representative, and proof of the mailing or service must be made by affidavit and filed under the cause number assigned to the owner's estate. Notice to a financial institution must include notice delivered as follows:

(a) If the nonprobate asset was maintained at a specific office of the financial institution, notice must be delivered to the office at which the nonprobate asset was maintained, which notice must be directed to the manager of the office;

(b) If the nonprobate asset was held in a trust administered by a financial institution, notice must be delivered to the office at which the trust was administered, which notice must be directed to a named officer responsible for the administration of the trust; and

(c) In all cases, notice must be delivered to any other location and in any other manner specifically designated in a written agreement signed by the owner and the financial institution, including but not limited to a signature card or deposit agreement.

(2) Written notice to a financial institution or other third party of the testamentary disposition of a nonprobate asset under this chapter must be in a form substantially similar to the following:

NOTICE OF TESTAMENTARY  
DISPOSITION OF NONPROBATE ASSET

The undersigned personal representative, petitioner for appointment as personal representative, attorney for the personal representative or petitioner, or testamentary beneficiary under the will of the decedent named above (as that term is defined in section 104 of this act) hereby notifies you that the decedent named above died on (DATE MUST BE SUPPLIED) and left a will dated (DATE OF WILL MUST BE SUPPLIED) disposing of the following nonprobate asset or assets in your possession or control:

(EACH SUCH ASSET MUST BE DESCRIBED WITH REASONABLE SPECIFICITY. FOR ACCOUNTS AT FINANCIAL INSTITUTIONS, THE WRITTEN NOTICE MUST SPECIFY THE OFFICE AT WHICH THE ACCOUNT WAS MAINTAINED, THE NAME OR NAMES IN WHICH THE ACCOUNT WAS HELD, AND THE FULL ACCOUNT NUMBER. FOR ASSETS HELD IN TRUST, THE WRITTEN NOTICE MUST SPECIFY THE NAME OR NAMES OF THE GRANTOR, THE NAME OF THE TRUST, IF ANY, AND THE DATE OF THE TRUST INSTRUMENT.)

Under chapter 11.-- RCW (sections 101 through 116 of this act), you may not transfer, deliver, or otherwise dispose of the asset or assets listed above in accordance with the beneficiary designation, account registration, or other arrangement made with you by the decedent. You may transfer, deliver, or otherwise dispose of the asset or assets listed above only upon receipt of the written direction of the personal representative or of the testamentary beneficiary, if the personal representative consents.

(CAPACITY OF SIGNER)

(3) The personal representative of the estate of the owner, a petitioner for appointment as personal representative, or the testamentary beneficiary may provide written notice under this section. The personal representative has no duty to provide written notice under this section and has no liability for failing or refusing to give the notice.

(4) Written notice under this section may be provided at any time after the death of the owner and before discharge of the personal representative on closing of the estate, and may be provided before admission to probate of the will.

**NEW SECTION. Sec. 110. VESTING OF RIGHTS AND POWERS UNDER CHAPTER.** The right to provide notice under section 109 of this act and the entitlement of the testamentary beneficiary to the nonprobate asset vest immediately upon death of the owner. The power of the personal representative to direct the financial institution or other third party having the nonprobate asset in its possession or under its control to transfer or otherwise dispose of the asset arises upon the later of appointment of the personal representative or admission of the will to probate.

**NEW SECTION. Sec. 111. OWNERSHIP RIGHTS AS BETWEEN INDIVIDUALS PRESERVED--TESTAMENTARY BENEFICIARY MAY RECOVER NONPROBATE ASSET FROM BENEFICIARY--LIMITATION ON ACTION TO RECOVER.** (1) The protection accorded to financial institutions and other third parties under section 108 of this act has no bearing on the actual rights of ownership to nonprobate assets as between beneficiaries and testamentary beneficiaries, and their heirs, successors, personal representatives, and assigns.

(2) A testamentary beneficiary entitled to a nonprobate asset otherwise transferred to a beneficiary not so entitled, and a personal representative of the owner's estate on behalf of the testamentary beneficiary, may petition the superior court having jurisdiction over the owner's estate for an order declaring that the testamentary beneficiary is so entitled, the hearing of the petition to be held in accordance with chapter 11.96 RCW.

(3) A testamentary beneficiary claiming a nonprobate asset who has not filed such a petition within the earlier of: (a) Six months from the date of admission of the will to probate; and (b) one year from the date of the owner's death, shall be forever barred from making such a claim or commencing such an action.

**NEW SECTION. Sec. 112. NONPROBATE ASSETS NOT PROPERTY OF ESTATE.** (1) Notwithstanding any provision of this chapter, a nonprobate asset disposed of under the owner's will may not be treated as a part of the owner's probate estate for any other purpose under this title, unless:

- (a) The nonprobate asset is subject to liabilities and claims, estate taxes, and expenses of administration under RCW 11.18.200; or
- (b) Any section of this title directs otherwise, by specifically referring to this section.

(2) Provision of notice under this chapter has no effect on the administration of other assets of the estate of the owner. The personal representative has no duty to administer upon a nonprobate asset because of providing the notice, unless specifically required by this chapter or under RCW 11.18.200.

(3) RCW 11.12.110, regarding death of a devisee or legatee before the testator, does not apply to disposition of a nonprobate asset under a will.

**NEW SECTION. Sec. 113. TRANSFER OF NONPROBATE ASSET TO TESTAMENTARY BENEFICIARY.** (1) A financial institution's or third party's obligation to transfer a nonprobate asset to a testamentary beneficiary arises only after it has actual knowledge of the claim of the testamentary beneficiary, and after receiving written direction from the personal representative of the owner's estate, or if the personal representative consents in writing, from the testamentary beneficiary, to make the transfer. The financial institution may also require that its customary procedures be followed in effectuating a transfer of the nonprobate asset.

(2) Subject to subsection (1) of this section, financial institutions and other third parties may transfer a nonprobate asset that has not already been distributed to the testamentary beneficiary entitled to the nonprobate asset under the owner's will, subject to liabilities and claims, estate taxes, and expenses of administration under RCW 11.18.200.

**NEW SECTION. Sec. 114. AUTHORITY TO WITHHOLD TRANSFER.** (1) This chapter does not require any financial institution or other third party to transfer a nonprobate asset to a beneficiary, testamentary beneficiary, or other person claiming an interest in the nonprobate asset if the financial institution or third party has actual knowledge of the existence of a dispute between beneficiaries, testamentary beneficiaries, or other persons concerning rights or ownership to the nonprobate asset under this chapter, or if the financial institution or third party is otherwise uncertain as to who is entitled to receive the nonprobate asset under this chapter. In any such case, the financial institution or third party may, without liability, notify in writing all beneficiaries, testamentary beneficiaries, or other persons claiming an interest in the nonprobate asset of either its uncertainty as to who is entitled to transfer of the nonprobate asset or the existence of any dispute, and it may also, without liability, refuse to transfer a nonprobate asset to a beneficiary or a testamentary beneficiary until such time as either:

- (a) All the beneficiaries, testamentary beneficiaries, and other interested persons have consented in writing to the transfer; or

(b) The transfer is authorized or directed by a court of proper jurisdiction.

(2) The expense of obtaining the written consent or court authorization or direction may, by order of the court, be paid by the personal representative as an expense of administration.

**NEW SECTION. Sec. 115. ADVERSE CLAIM BOND.** Notwithstanding section 114 of this act, a financial institution or other third party having actual knowledge of the existence of a dispute between beneficiaries, a testamentary beneficiary, or other persons concerning rights to a nonprobate asset under this chapter may condition transfer of the nonprobate asset on execution, in form and with security acceptable to the financial institution or other third party, of a bond in an amount that is double the fair market value of the nonprobate asset on the date of the owner's death or the amount of any adverse claim, whichever is the lesser, indemnifying the financial institution or other third party from any and all liability, loss, damage, costs, and expenses, for and on account of transfer of the nonprobate asset.

**NEW SECTION. Sec. 116. APPLICATION OF CHAPTER.** This chapter applies to any will of an owner who dies while a resident of this state on or after the effective date of this section, regardless of whether the will was executed or republished before or after the effective date of this section and regardless of whether the beneficiary of the nonprobate asset was designated before or after the effective date of this section.

**Sec. 117.** RCW 11.02.005 and 1997 c 252 s 1 are each amended to read as follows:

When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian or limited guardian and special representative.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the deceased or the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the intestate but who left issue surviving the intestate; each share of a deceased person in the nearest degree shall be divided among those of the deceased person's issue who survive the intestate and have no ancestor then living who is in the line of relationship between them and the intestate, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the intestate. Posthumous children are considered as living at the death of their parent.

(4) "Issue" includes all the lawful lineal descendants of the ancestor and all lawfully adopted children.

(5) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(7) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(8) "Will" means an instrument validly executed as required by RCW 11.12.020.

(9) "Codicil" means a will that modifies or partially revokes an existing earlier will. A codicil need not refer to or be attached to the earlier will.

(10) "Guardian" or "limited guardian" means a personal representative of the person or estate of an incompetent or disabled person as defined in RCW 11.88.010 and the term may be used in lieu of "personal representative" wherever required by context.

(11) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(12) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(13) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

(14) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

(15) "Nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument or arrangement other than the person's will. "Nonprobate asset" includes, but is not limited to, a right or interest passing under a joint tenancy with right of survivorship, joint bank account with right of survivorship, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of which the person is grantor and that becomes effective or irrevocable only upon the person's death, community property agreement, individual retirement account or bond, or note or other contract the payment or performance of which is affected by the death of the person. "Nonprobate asset" does not include: A payable-on-death provision of a life insurance policy, annuity, or other similar contract, or of an

employee benefit plan; a right or interest passing by descent and distribution under chapter 11.04 RCW; a right or interest if, before death, the person has irrevocably transferred the right or interest, the person has waived the power to transfer it or, in the case of contractual arrangement, the person has waived the unilateral right to rescind or modify the arrangement; or a right or interest held by the person solely in a fiduciary capacity. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, see RCW 11.07.010(5). For the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see section 104(7) of this act.

(16) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, ((1997)) 1998.

Words that import the singular number may also be applied to the plural of persons and things.

Words importing the masculine gender only may be extended to females also.

**Sec. 118.** RCW 11.07.010 and 1997 c 252 s 2 are each amended to read as follows:

(1) This section applies to all nonprobate assets, wherever situated, held at the time of entry by a superior court of this state of a decree of dissolution of marriage or a declaration of invalidity.

(2)(a) If a marriage is dissolved or invalidated, a provision made prior to that event that relates to the payment or transfer at death of the decedent's interest in a nonprobate asset in favor of or granting an interest or power to the decedent's former spouse is revoked. A provision affected by this section must be interpreted, and the nonprobate asset affected passes, as if the former spouse failed to survive the decedent, having died at the time of entry of the decree of dissolution or declaration of invalidity.

(b) This subsection does not apply if and to the extent that:

(i) The instrument governing disposition of the nonprobate asset expressly provides otherwise;

(ii) The decree of dissolution or declaration of invalidity requires that the decedent maintain a nonprobate asset for the benefit of a former spouse or children of the marriage, payable on the decedent's death either outright or in trust, and other nonprobate assets of the decedent fulfilling such a requirement for the benefit of the former spouse or children of the marriage do not exist at the decedent's death; or

(iii) If not for this subsection, the decedent could not have effected the revocation by unilateral action because of the terms of the decree or declaration, or for any other reason, immediately after the entry of the decree of dissolution or declaration of invalidity.

(3)(a) A payor or other third party in possession or control of a nonprobate asset at the time of the decedent's death is not liable for making a payment or transferring an interest in a nonprobate asset to a decedent's former spouse whose interest in the nonprobate asset is revoked under this section, or for taking another action in reliance on the validity of the instrument governing disposition of the nonprobate asset, before the payor or other third party has actual knowledge of the dissolution or other invalidation of marriage. A payor or other third party is liable for a payment or transfer made or other action taken after the payor or other third party has actual knowledge of a revocation under this section.

(b) This section does not require a payor or other third party to pay or transfer a nonprobate asset to a beneficiary designated in a governing instrument affected by the dissolution or other invalidation of marriage, or to another person claiming an interest in the nonprobate asset, if the payor or third party has actual knowledge of the existence of a dispute between the former spouse and the beneficiaries or other persons concerning rights of ownership of the nonprobate asset as a result of the application of this section among the former spouse and the beneficiaries or among other persons, or if the payor or third party is otherwise uncertain as to who is entitled to the nonprobate asset under this section. In such a case, the payor or third party may, without liability, notify in writing all beneficiaries or other persons claiming an interest in the nonprobate asset of either the existence of the dispute or its uncertainty as to who is entitled to payment or transfer of the nonprobate asset. The payor or third party may also, without liability, refuse to pay or transfer a nonprobate asset in such a circumstance to a beneficiary or other person claiming an interest until the time that either:

(i) All beneficiaries and other interested persons claiming an interest have consented in writing to the payment or transfer; or

(ii) The payment or transfer is authorized or directed by a court of proper jurisdiction.

(c) Notwithstanding subsections (1) and (2) of this section and (a) and (b) of this subsection, a payor or other third party having actual knowledge of the existence of a dispute between beneficiaries or other persons concerning rights to a nonprobate asset as a result of the application of this section may condition the payment or transfer of the nonprobate asset on execution, in a form and with security acceptable to the payor or other third party, of a bond in an amount that is double the fair market value of the nonprobate asset at the time of the decedent's death or the amount of an adverse claim, whichever is the lesser, or of a similar instrument to provide security to the payor or other third party, indemnifying the payor or other third party for any liability, loss, damage, costs, and expenses for and on account of payment or transfer of the nonprobate asset.

(d) As used in this subsection, "actual knowledge" means, for a payor or other third party in possession or control of the nonprobate asset at or following the decedent's death, written notice to the payor or other third party, or to an officer of a payor or third party in the course of his or her employment, received after the decedent's death and within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge. The notice must identify the nonprobate asset with reasonable specificity. The notice also must be sufficient to inform the payor or other third party of the revocation of the provisions in favor of the decedent's spouse by reason of the

dissolution or invalidation of marriage, or to inform the payor or third party of a dispute concerning rights to a nonprobate asset as a result of the application of this section. Receipt of the notice for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(4)(a) A person who purchases a nonprobate asset from a former spouse or other person, for value and without actual knowledge, or who receives from a former spouse or other person payment or transfer of a nonprobate asset without actual knowledge and in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, property, or benefit nor is liable under this section for the amount of the payment or the value of the nonprobate asset. However, a former spouse or other person who, with actual knowledge, not for value, or not in satisfaction of a legally enforceable obligation, receives payment or transfer of a nonprobate asset to which that person is not entitled under this section is obligated to return the payment or nonprobate asset, or is personally liable for the amount of the payment or value of the nonprobate asset, to the person who is entitled to it under this section.

(b) As used in this subsection, "actual knowledge" means, for a person described in (a) of this subsection who purchases or receives a nonprobate asset from a former spouse or other person, personal knowledge or possession of documents relating to the revocation upon dissolution or invalidation of marriage of provisions relating to the payment or transfer at the decedent's death of the nonprobate asset, received within a time after the decedent's death and before the purchase or receipt that is sufficient to afford the person purchasing or receiving the nonprobate asset reasonable opportunity to act upon the knowledge. Receipt of the personal knowledge or possession of the documents for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(5) As used in this section, "nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under only the following written instruments or arrangements other than the decedent's will:

(a) A payable-on-death provision of a life insurance policy, employee benefit plan, annuity or similar contract, or individual retirement account;

(b) A payable-on-death, trust, or joint with right of survivorship bank account;

(c) A trust of which the person is a grantor and that becomes effective or irrevocable only upon the person's death; or

(d) Transfer on death beneficiary designations of a transfer on death or pay on death security, if such designations are authorized under Washington law.

~~(However, for the general definition of "nonprobate asset" in this title, RCW 11.02.005 applies.)~~ For the general definition in this title of "nonprobate asset," see RCW 11.02.005(15) and for the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see section 104(7) of this act.

(6) This section is remedial in nature and applies as of July 25, 1993, to decrees of dissolution and declarations of invalidity entered after July 24, 1993, and this section applies as of January 1, 1995, to decrees of dissolution and declarations of invalidity entered before July 25, 1993.

## PART II--PROBATE

**Sec. 201.** RCW 11.54.070 and 1997 c 252 s 54 are each amended to read as follows:

(1) Except as provided in ~~(subsection)~~ RCW 11.54.060(2) ~~((of this section))~~, property awarded and cash paid under this chapter is immune from all debts, including judgments and judgment liens, of the decedent and of the surviving spouse existing at the time of death.

(2) Both the decedent's and the surviving spouse's interests in any community property awarded to the spouse under this chapter are immune from the claims of creditors.

**Sec. 202.** RCW 11.68.110 and 1997 c 252 s 68 are each amended to read as follows:

(1) If a personal representative who has acquired nonintervention powers does not apply to the court for either of the final decrees provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration that must state as follows:

(a) The date of the decedent's death and the decedent's residence at the time of death;

(b) Whether or not the decedent died testate or intestate;

(c) If the decedent died testate, the date of the decedent's last will and testament and the date of the order probating the will;

(d) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of estate taxes due as the result of the decedent's death has been determined, settled, and paid;

(e) That the personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;



(f) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each heir; and

(g) The amount of fees paid or to be paid to each of the following: (i) Personal representative or representatives; (ii) lawyer or lawyers; (iii) appraiser or appraisers; and (iv) accountant or accountants; and that the personal representative believes the fees to be reasonable and does not intend to obtain court approval of the amount of the fees or to submit an estate accounting to the court for approval.

(2) Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent petitions the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, lawyers, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be automatically discharged without further order of the court and the representative's powers will cease thirty days after the filing of the declaration of completion of probate, and the declaration of completion of probate shall, at that time, be the equivalent of the entry of a decree of distribution in accordance with chapter 11.76 RCW for all legal intents and purposes.

(3) Within five days of the date of the filing of the declaration of completion, the personal representative or the personal representative's lawyer shall mail a copy of the declaration of completion to each heir, legatee, or devisee of the decedent, who: (a) Has not waived notice of the filing, in writing, filed in the cause~~(, or who, not having waived notice,);~~ and (b) either has not received the full amount of the distribution to which the heir, legatee, or devisee is entitled or has a property right that might be affected adversely by the discharge of the personal representative under this section, together with a notice which shall be substantially as follows:

CAPTION NOTICE OF FILING OF  
OF DECLARATION OF COMPLETION  
CASE OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the . . . . day of . . . . ., 19. . . ; unless you shall file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative will be automatically discharged without further order of the court, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.

Dated this . . . . day of . . . . ., 19. . .

Personal Representative

(4) If all heirs, devisees, and legatees of the decedent entitled to notice under this section waive, in writing, the notice required by this section, the personal representative will be automatically discharged without further order of the court and the declaration of completion of probate will become effective as a decree of distribution upon the date of filing thereof. In those instances where the personal representative has been required to furnish bond, and a declaration of completion is filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative.

**Sec. 203.** RCW 11.68.114 and 1997 c 252 s 70 are each amended to read as follows:

(1) The personal representative retains the powers to: Deal with the taxing authority of any federal, state, or local government; hold a reserve in an amount not to exceed three thousand dollars, for the determination and payment of any additional taxes, interest, and penalties, and of all reasonable expenses related directly or indirectly to such determination or payment; pay from the reserve the reasonable expenses, including compensation for services rendered or goods provided by the personal representative or by the personal representative's employees, independent contractors, and other agents, in addition to any taxes, interest, or penalties assessed by a taxing authority; receive and hold any credit, including interest, from any taxing authority; and distribute the residue of the reserve to the intended beneficiaries of the reserve; if:

(a) In lieu of the statement set forth in RCW 11.68.110(1)(e), the declaration of completion of probate states that:

The personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed, except for the determination of taxes and of interest and penalties thereon as permitted under this section;

and

(b) The notice of the filing of declaration of completion of probate must be in substantially the following form:

CAPTION NOTICE OF FILING OF  
OF DECLARATION OF COMPLETION  
CASE OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the . . . day of . . . , . . . ; unless you file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing:

- (i) The schedule of fees set forth in the Declaration of Completion of Probate will be deemed reasonable;
- (ii) The Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW;
- (iii) The acts that the personal representative performed before the Declaration of Completion of Probate was filed will be deemed approved, and the personal representative will be automatically discharged without further order of the court with respect to all such acts; and
- (iv) The personal representative will retain the power to deal with the taxing authorities, together with \$. . . for the determination and payment of all remaining tax obligations. Only that portion of the reserve that remains after the settlement of any tax liability, and the payment of any expenses associated with such settlement, will be distributed to the persons legally entitled to the reserve.

(2) If the requirements in subsection (1) of this section are met, the personal representative is discharged from all claims other than those relating to the settlement of any tax obligations and the actual distribution of the reserve, at the effective date of the declaration of completion. The personal representative is discharged from liability from the settlement of any tax obligations and the distribution of the reserve, and the personal representative's powers cease, thirty days after the personal representative((:

~~((a)))~~ has mailed to those persons who would have shared in the distribution of the reserve had the reserve remained intact((:)) and  
~~((b)))~~ has filed with the court copies of checks or receipts showing how the reserve was in fact distributed, unless a person with an interest in the reserve petitions the court earlier within the thirty-day period for an order requiring an accounting of the reserve or an order determining the reasonableness, or lack of reasonableness, of distributions made from the reserve. If the personal representative has been required to furnish a bond, any bond furnished by the personal representative is automatically discharged upon the final discharge of the personal representative.

**Sec. 204.** 1997 c 252 s 87 (uncodified) is amended to read as follows:

The following acts or parts of acts are each repealed, effective December 31, 1997, for estates of decedents dying after December 31, 1997:

- (1) RCW 11.40.011 and 1989 c 333 s 2, 1983 c 201 s 1, & 1967 ex.s. c 106 s 3;
- (2) RCW 11.40.012 and 1989 c 333 s 3;
- (3) RCW 11.40.013 and 1994 c 221 s 26 & 1989 c 333 s 4;
- (4) RCW 11.40.014 and 1989 c 333 s 5;
- (5) RCW 11.40.015 and 1994 c 221 s 27 & 1989 c 333 s 6;
- (6) RCW 11.42.160 and 1994 c 221 s 46;
- (7) RCW 11.42.170 and 1994 c 221 s 47;
- (8) RCW 11.42.180 and 1994 c 221 s 48;
- (9) RCW 11.44.066 and 1990 c 180 s 1 & 1974 ex.s. c 117 s 49;
- (10) RCW 11.52.010 and 1987 c 442 s 1116, 1984 c 260 s 17, 1974 ex.s. c 117 s 7, 1971 ex.s. c 12 s 2, 1967 c 168 s 12, & 1965 c 145 s 11.52.010;
- (11) RCW 11.52.012 and 1985 c 194 s 1, 1984 c 260 s 18, 1977 ex.s. c 234 s 9, 1974 ex.s. c 117 s 8, & 1965 c 145 s 11.52.012;
- (12) RCW 11.52.014 and 1965 c 145 s 11.52.014;
- (13) RCW 11.52.016 and 1988 c 202 s 18, 1972 ex.s. c 80 s 1, & 1965 c 145 s 11.52.016;
- (14) RCW 11.52.020 and 1985 c 194 s 2, 1984 c 260 s 19, 1974 ex.s. c 117 s 9, 1971 ex.s. c 12 s 3, 1967 c 168 s 13, & 1965 c 145 s 11.52.020;
- (15) RCW 11.52.022 and 1985 c 194 s 3, 1984 c 260 s 20, 1977 ex.s. c 234 s 10, 1974 ex.s. c 117 s 10, 1971 ex.s. c 12 s 4, & 1965 c 145 s 11.52.022;
- (16) RCW 11.52.024 and 1972 ex.s. c 80 s 2 & 1965 c 145 s 11.52.024;
- (17) RCW 11.52.030 and 1965 c 145 s 11.52.030;

- (18) RCW 11.52.040 and 1965 c 145 s 11.52.040;
- (19) RCW 11.52.050 and 1967 c 168 s 14;
- (20) RCW 11.68.010 and 1994 c 221 s 50, 1977 ex.s. c 234 s 18, 1974 ex.s. c 117 s 13, 1969 c 19 s 1, & 1965 c 145 s 11.68.010;
- (21) RCW 11.68.020 and 1974 ex.s. c 117 s 14 & 1965 c 145 s 11.68.020;
- (22) RCW 11.68.030 and 1977 ex.s. c 234 s 19, 1974 ex.s. c 117 s 15, & 1965 c 145 s 11.68.030; and
- (23) RCW 11.68.040 and 1977 ex.s. c 234 s 20, 1974 ex.s. c 117 s 16, & 1965 c 145 s 11.68.040.

**Sec. 205.** 1997 c 252 s 89 (uncodified) is amended to read as follows:

Sections 1 through ~~((73 of this act))~~ 72, chapter 252, Laws of 1997 apply to estates of decedents dying after December 31, 1997. Sections 81 through 86, chapter 252, Laws of 1997 apply to all estates, trusts, and governing instruments in existence on or at any time after March 7, 1984, and to all proceedings with respect thereto after March 7, 1984, whether the proceedings commenced before or after March 7, 1984, and including distributions made after March 7, 1984. Sections 81 through 86, chapter 252, Laws of 1997 do not apply to any governing instrument, the terms of which expressly or by necessary implication make the application of sections 81 through 86, chapter 252, Laws of 1997 inapplicable. The judicial and nonjudicial dispute resolution procedures of chapter 11.96 RCW apply to sections 81 through 86, chapter 252, Laws of 1997.

### **PART III--UNIFORM TRANSFERS TO MINORS ACT**

**Sec. 301.** RCW 11.114.030 and 1991 c 193 s 3 are each amended to read as follows:

(1) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: ". . . . . as custodian for . . . . . (name of minor) under the Washington uniform transfers to minors act." The nomination may name one or more persons as substitute custodians to whom the property shall be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

As an alternative to naming a specific person as custodian, the nomination may provide that the custodian may be designated by the legal representative of, or other person specified by, the person having the right to designate the recipient of the property described in this subsection. The person having the right of designation of the custodian is authorized to designate himself or herself as custodian, if he or she falls within the class of persons eligible to serve as custodian under RCW 11.114.090(1).

(2) A custodian nominated under this section shall be a person to whom a transfer of property of that kind may be made under RCW 11.114.090(1).

(3) Instead of designating one specific minor, the designation may specify multiple persons or a class or classes of persons, but when the custodial property is actually created under subsection (4) of this section, it must be constituted as a separate custodianship for each beneficiary, and each beneficiary's interest in it must be determined in accordance with the governing instrument and applicable law.

(4) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under RCW 11.114.090. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to RCW 11.114.090.

### **PART IV--INTERNAL REVENUE CODE REFERENCES**

**Sec. 401.** RCW 83.100.020 and 1994 c 221 s 70 are each amended to read as follows:

As used in this chapter:

- (1) "Decedent" means a deceased individual;
- (2) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;
- (3) "Federal credit" means (a) for a transfer, the maximum amount of the credit for state taxes allowed by section 2011 of the Internal Revenue Code; and (b) for a generation-skipping transfer, the maximum amount of the credit for state taxes allowed by section 2604 of the Internal Revenue Code;
- (4) "Federal return" means any tax return required by chapter 11 or 13 of the Internal Revenue Code;
- (5) "Federal tax" means (a) for a transfer, a tax under chapter 11 of the Internal Revenue Code; and (b) for a generation-skipping transfer, the tax under chapter 13 of the Internal Revenue Code;
- (6) "Generation-skipping transfer" means a "generation-skipping transfer" as defined and used in section 2611 of the Internal Revenue Code;
- (7) "Gross estate" means "gross estate" as defined and used in section 2031 of the Internal Revenue Code;

- (8) "Nonresident" means a decedent who was domiciled outside Washington at his death;
- (9) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;
- (10) "Person required to file the federal return" means any person required to file a return required by chapter 11 or 13 of the Internal Revenue Code, such as the personal representative of an estate; or a transferor, trustee, or beneficiary of a generation-skipping transfer; or a qualified heir with respect to qualified real property, as defined and used in section 2032A(c) of the Internal Revenue Code;
- (11) "Property" means (a) for a transfer, property included in the gross estate; and (b) for a generation-skipping transfer, all real and personal property subject to the federal tax;
- (12) "Resident" means a decedent who was domiciled in Washington at time of death;
- (13) "Transfer" means "transfer" as used in section 2001 of the Internal Revenue Code, or a disposition or cessation of qualified use as defined and used in section 2032A(c) of the Internal Revenue Code;
- (14) "Trust" means "trust" under Washington law and any arrangement described in section 2652 of the Internal Revenue Code; and
- (15) "Internal Revenue Code" means, for the purposes of this chapter and RCW 83.110.010, the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, ~~((1995))~~ 1998.

**Sec. 402.** RCW 83.110.010 and 1994 c 221 s 71 are each amended to read as follows:

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

- (1) "Estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state;
- (2) "Excise tax" means the federal excise tax imposed by section 4980A(d) of the Internal Revenue Code, and interest and penalties imposed in addition to the excise tax;
- (3) "Fiduciary" means executor, administrator of any description, and trustee;
- (4) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as ~~((amended or renumbered on January 1, 1995))~~ defined in and as of the date specified in RCW 83.100.020;
- (5) "Person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;
- (6) "Persons interested in retirement distributions" means any person determined as of the date the excise tax is due, including a personal representative, guardian, trustee, or beneficiary, entitled to receive, or who has received, by reason of or following the death of a decedent, any property or interest therein which constitutes a retirement distribution as defined in section 4980A(e) of the Internal Revenue Code, but this definition excludes any alternate payee under a qualified domestic relations order as such terms are defined in section 414(p) of the Internal Revenue Code;
- (7) "Person interested in the estate" means any person, including a personal representative, guardian, or trustee, entitled to receive, or who has received, from a decedent while alive or by reason of the death of a decedent any property or interest therein included in the decedent's taxable estate;
- (8) "Qualified heir" means a person interested in the estate who is entitled to receive, or who has received, an interest in qualified real property;
- (9) "Qualified real property" means real property for which the election described in section 2032A of the Internal Revenue Code has been made;
- (10) "State" means any state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; and
- (11) "Tax" means the federal estate tax, the excise tax defined in subsection (2) of this section, and the estate tax payable to this state and interest and penalties imposed in addition to the tax.

#### **PART V--MISCELLANEOUS--EFFECTIVE DATES**

NEW SECTION. **Sec. 501.** Part headings and section captions used in this act are not any part of the law.

NEW SECTION. **Sec. 502.** Sections 101 through 116 of this act constitute a new chapter in Title 11 RCW.

NEW SECTION. **Sec. 503.** (1) Sections 101 through 116 and 118 of this act take effect July 1, 1999.

(2) Sections 117, 201 through 205, 301, 401, and 504 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec. 504.** (1) Sections 201 through 205 of this act are remedial in nature and apply retroactively to July 27, 1997, and thereafter.

(2) Section 301 of this act is remedial in nature and applies retroactively to July 1, 1991, and thereafter.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Roach moved that the Senate refuse to concur in the House amendment to Substitute Senate Bill No. 6181 and requests of the House a conference thereon.

MOTION

Senator Fairley moved that the Senate concur in the House amendment to Substitute Senate Bill No. 6181.  
Debate ensued.  
Senator Snyder demanded a roll call and the demand was sustained.

MOTION

On motion of Senator Winsley, further consideration of Substitute Senate Bill No. 6181 was deferred.

MOTION

On motion of Senator Loveland, Senator McAuliffe was excused.

MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6182 with the following amendment(s):

On page 5, after line 29, insert the following:

"Sec. 6. RCW 18.100.114 and 1983 c 51 s 8 are each amended to read as follows:

~~((1))~~ A corporation organized under this chapter may merge or consolidate with another corporation, domestic or foreign, organized to render the same specific professional services, only if every shareholder of each corporation is eligible to be a shareholder of the surviving or new corporation.

~~((2) Upon the merger or consolidation of a corporation organized under this chapter, the surviving or new corporation, as the case may be, may render professional services in this state only if it is organized under, and complies with, the provisions of this chapter.)~~

NEW SECTION. Sec. 7 A new section is added to chapter 18.100 RCW to read as follows:

A foreign professional corporation may render professional services in this state so long as it complies with chapter 23B.15 RCW and each individual rendering professional services in this state is duly licensed or otherwise legally authorized to render such professional services within this state."

Correct the title, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Fairley, the Senate concurred in the House amendment to Substitute Senate Bill No. 6182.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6182, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6182, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McAuliffe -

1. SUBSTITUTE SENATE BILL NO. 6182, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Franklin: "Mr. President, I rise to a point of personal privilege. Since it is Saturday morning and most of us probably would prefer being someplace else other than this wonderful chamber that we have--with your permission, Mr. President, may I read from this little booklet?"

#### REPLY BY THE PRESIDENT

President Owen: "Fine with me."

Senator Franklin: "Thank you, Mr. President. We pass so many bills--so many bills--and we are out to regulate the world, but this one I think we missed. We missed the monkeys, shoplifting--shoplifting, because they do shoplift sometimes. A monkey once served five days in jail for shoplifting in Illinois. We need to probably put that on our list for the next time we make a bill."

#### MESSAGE FROM THE HOUSE

March 3, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6191 with the following amendment(s):

On page 27, line 8, after "property" insert "(;)"

On page 27, line 9, after "7.28.230(3)" strike "," and insert "; or", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Johnson moved that the Senate concur in the House amendments to Engrossed Substitute Senate Bill No. 6191.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Johnson that the Senate concur in the House amendments to Engrossed Substitute Senate Bill No. 6191.

The motion by Senator Johnson carried and the Senate concurred in the House amendments to Engrossed Substitute Senate Bill No. 6191.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6191, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6191, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 6191, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 3, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 6203 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.95.020 and 1985 c 345 s 2 are each amended to read as follows:

The purpose of this chapter is to establish a comprehensive state-wide program for solid waste handling, and solid waste recovery and/or recycling which will prevent land, air, and water pollution and conserve the natural, economic, and energy resources of this state. To this end it is the purpose of this chapter:

(1) To assign primary responsibility for adequate solid waste handling to local government, reserving to the state, however, those functions necessary to assure effective programs throughout the state;

(2) To provide for adequate planning for solid waste handling by local government;

(3) To provide for the adoption and enforcement of basic minimum performance standards for solid waste handling;

(4) To provide technical and financial assistance to local governments in the planning, development, and conduct of solid waste handling programs;

(5) To encourage storage, proper disposal, and recycling of discarded vehicle tires and to stimulate private recycling programs throughout the state; and

(6) To encourage the development and operation of waste recycling facilities and activities needed to accomplish the management priority of waste recycling and to promote consistency in the permitting requirements for such facilities and activities throughout the state.

It is the intent of the legislature that local governments be encouraged to use the expertise of private industry and to contract with private industry to the fullest extent possible to carry out solid waste recovery and/or recycling programs.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.95 RCW to read as follows:

(1) The department may by rule exempt a solid waste from the permitting requirements of this chapter for one or more beneficial uses. In adopting such rules, the department shall specify both the solid waste that is exempted from the permitting requirements and the beneficial use or uses for which the solid waste is so exempted. The department shall consider: (a) Whether the material will be beneficially used or reused; and (b) whether the beneficial use or reuse of the material will present threats to human health or the environment.

(2) The department may also exempt a solid waste from the permitting requirements of this chapter for one or more beneficial uses by approving an application for such an exemption. The department shall establish by rule procedures under which a person may apply to the department for such an exemption. The rules shall establish criteria for providing such an exemption, which shall include, but not be limited to: (a) The material will be beneficially used or reused; and (b) the beneficial use or reuse of the material will not present threats to human health or the environment. Rules adopted under this subsection shall identify the information that an application shall contain. Persons seeking such an exemption shall apply to the department under the procedures established by the rules adopted under this subsection.

(3) After receipt of an application filed under rules adopted under subsection (2) of this section, the department shall review the application to determine whether it is complete, and forward a copy of the completed application to all jurisdictional health departments for review and comment. Within forty-five days, the jurisdictional health departments shall forward to the department their comments and any other information they deem relevant to the department's decision to approve or disapprove the application. Every complete application shall be approved or disapproved by the department within ninety days of receipt. If the application is approved by the department, the solid waste is exempt from the permitting requirements of this chapter when used anywhere in the state in the manner approved by the department. If the composition, use, or reuse of the solid waste is not consistent with the terms and conditions of the department's approval of the application, the use of the solid waste remains subject to the permitting requirements of this chapter.

(4) The department shall establish procedures by rule for providing to the public and the solid waste industry notice of and an opportunity to comment on each application for an exemption under subsection (2) of this section.

(5) Any jurisdictional health department or applicant may appeal the decision of the department to approve or disapprove an application under subsection (3) of this section. The appeal shall be made to the pollution control hearings board by filing with the hearings board a notice of appeal within thirty days of the decision of the department. The hearings board's review of the decision shall be made in accordance with chapter 43.21B RCW and any subsequent appeal of a decision of the board shall be made in accordance with RCW 43.21B.180.

(6) This section shall not be deemed to invalidate the exemptions or determinations of nonapplicability in the department's solid waste rules as they exist on the effective date of this section, which exemptions and determinations are recognized and confirmed subject to the department's continuing authority to modify or revoke those exemptions or determinations by rule.

**Sec. 3.** RCW 70.95.170 and 1997 c 213 s 2 are each amended to read as follows:

Except as provided otherwise in section 5 or 6 of this act, after approval of the comprehensive solid waste plan by the department no solid waste handling facility or facilities shall be maintained, established, or modified until the county, city, or other person operating such site has obtained a permit ((from the jurisdictional health department)) pursuant to ((the provisions of)) RCW 70.95.180 or 70.95.190.

**Sec. 4.** RCW 70.95.190 and 1997 c 213 s 4 are each amended to read as follows:

(1) Every permit for an existing solid waste handling facility issued pursuant to RCW 70.95.180 shall be renewed at least every five years on a date established by the jurisdictional health department having jurisdiction of the site and as specified in the permit. If a permit is to be renewed for longer than one year, the local jurisdictional health department may hold a public hearing before making such a decision. Prior

to renewing a permit, the health department shall conduct a review as it deems necessary to assure that the solid waste handling facility or facilities located on the site continues to meet minimum functional standards of the department, applicable local regulations, and are not in conflict with the approved solid waste management plan. A jurisdictional health department shall approve or disapprove a permit renewal within forty-five days of conducting its review. The department shall review and may appeal the renewal as set forth for the approval of permits in RCW 70.95.185.

(2) The jurisdictional board of health may establish reasonable fees for permits reviewed under this section. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

**NEW SECTION. Sec. 5.** A new section is added to chapter 70.95 RCW to read as follows:

(1) Notwithstanding any other provision of this chapter, the department may by rule exempt from the requirements to obtain a solid waste handling permit any category of solid waste handling facility that it determines to:

- (a) Present little or no environmental risk; and
- (b) Meet the environmental protection and performance requirements required for other similar solid waste facilities.

(2) This section does not apply to any facility or category of facilities that:

(a) Receives municipal solid waste destined for final disposal, including but not limited to transfer stations, landfills, and incinerators;

(b) Applies putrescible solid waste on land for final disposal purposes;

(c) Handles mixed solid wastes that have not been processed to segregate solid waste materials destined for disposal from other solid waste materials destined for a beneficial use;

(d) Receives or processes organic waste materials into compost in volumes that generally far exceed those handled by municipal park departments, master gardening programs, and households; or

(e) Receives solid waste destined for recycling or reuse, the operation of which is determined by the department to present risks to human health and the environment.

(3) Rules adopted under this section shall contain such terms and conditions as the department deems necessary to ensure compliance with applicable statutes and rules. If a facility does not operate in compliance with the terms and conditions established for an exemption under subsection (1) of this section, the facility is subject to the permitting requirements for solid waste handling under this chapter.

(4) This section shall not be deemed to invalidate the exemptions or determinations of nonapplicability in the department's solid waste rules as they exist on the effective date of this section, which exemptions and determinations are recognized and confirmed subject to the department's continuing authority to modify or revoke those exemptions or determinations by rule.

**NEW SECTION. Sec. 6.** A new section is added to chapter 70.95 RCW to read as follows:

(1) Notwithstanding any other provisions of this chapter, the department shall adopt rules:

(a) Describing when a jurisdictional health department may, at its discretion, waive the requirement that a permit be issued for a facility under this chapter if other air, water, or environmental permits are issued for the same facility. As used in this section, a jurisdictional health department's waiving the requirement that a permit be issued for a facility under this chapter based on the issuance of such other permits for the facility is the health department's "deferring" to the other permits; and

(b) Allowing deferral only if the applicant and the jurisdictional health department demonstrate that other permits for the facility will provide a comparable level of protection for human health and the environment that would be provided by a solid waste handling permit.

(2) This section does not apply to any transfer station, landfill, or incinerator that receives municipal solid waste destined for final disposal.

(3) If, before the effective date of this section, either the department or a jurisdictional health department has deferred solid waste permitting or regulation of a solid waste facility to permitting or regulation under other environmental permits for the same facility, such deferral is valid and shall not be affected by the rules developed under subsection (1) of this section.

(4) Rules adopted under this section shall contain such terms and conditions as the department deems necessary to ensure compliance with applicable statutes and rules.

**NEW SECTION. Sec. 7.** A new section is added to chapter 70.95 RCW to read as follows:

The department may assess a civil penalty in an amount not to exceed one thousand dollars per day per violation to any person exempt from solid waste permitting in accordance with section 2 or 5 of this act who fails to comply with the terms and conditions of the exemption. Each such violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.

**Sec. 8.** RCW 43.21B.110 and 1993 c 387 s 22 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, the administrator of the office of marine safety, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.



(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, and 90.48.120.

(c) The issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, ~~((or))~~ the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under section 2 of this act.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Any other decision by the department, the administrator of the office of marine safety, or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings by the department relating to general adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION. **Sec. 9.** A new section is added to chapter 70.95 RCW to read as follows:

Nothing in chapter . . . , Laws of 1998 (this act) may be construed to affect chapter 81.77 RCW and the authority of the utilities and transportation commission."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Morton, the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6203.

#### MOTION

On motion of Senator Hale, Senator Johnson was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6203, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6203, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 46. Voting nay: Senators Kline and Thibaudeau - 2. Excused: Senator Johnson - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6203, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6253 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature that expenditures associated with the implementation of using credit and debit cards in state liquor stores and agency liquor vendor stores not have a negative impact to the liquor revolving fund balance and that transfers to the state general fund, the cities, and the counties not be reduced because of these costs.

**Sec. 2.** RCW 66.08.026 and 1997 c 148 s 1 are each amended to read as follows:

All administrative expenses of the board incurred on and after April 1, 1963 shall be appropriated and paid from the liquor revolving fund. These administrative expenses shall include, but not be limited to: The salaries and expenses of the board and its employees, the cost of establishing, leasing, maintaining, and operating state liquor stores and warehouses, legal services, pilot projects, annual or other audits, and other general costs of conducting the business of the board, and the costs of supplying, installing, and maintaining equipment used in state liquor stores and agency liquor vendor stores for the purchase of liquor by nonlicensees using debit or credit cards. The administrative expenses shall not, however, be deemed to include costs of liquor and lottery tickets purchased, the cost of transportation and delivery to the point of distribution, other costs pertaining to the acquisition and receipt of liquor and lottery tickets, packaging and repackaging of liquor, transaction fees associated with credit or debit card purchases for liquor in state liquor stores and in the stores of agency liquor vendors pursuant to RCW 66.16.040 and 66.16.041, sales tax, and those amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, 66.08.210 and 66.08.220.

**Sec. 3.** RCW 66.16.041 and 1997 c 148 s 2 are each amended to read as follows:

(1) The state liquor control board shall accept bank credit card and debit cards from nonlicensees for purchases in state liquor stores, under such rules as the board may adopt. The board shall authorize liquor vendors appointed under RCW 66.08.050 to accept bank credit cards and debit cards for liquor purchases under this title, under such rules as the board may adopt.

(2) If a liquor vendor operating an agency store chooses to use credit or debit cards for liquor purchases by nonlicensees, the board shall provide equipment and installation and maintenance of the equipment necessary to implement the use of credit and debit cards. Any equipment provided by the board to an agency liquor vendor store for this purpose may be used only for the purchase of liquor.

(3) If the revenues and expenditures associated with implementing the use of credit and debit cards for the purchase of alcohol by nonlicensees from state liquor stores and agency stores operated by liquor vendors results in a reduction of the liquor revolving fund balance for fiscal year 1999 and the 1999-01 biennium, the board shall consider increasing the price of alcohol products to offset the reduction.

(4) The board shall provide a report evaluating the implementation of this section, including revenue and expenditures, to the appropriate committees of the legislature by ~~((January))~~ December 1, 1998."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Schow moved that the Senate refuse to concur in the House amendment to Substitute Senate Bill No. 6253 and requests of the House a conference thereon.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Schow that the Senate refuse to concur in the House amendment to Substitute Senate Bill No. 6253 and requests of the House a conference thereon.

The motion by Senator Schow carried and the Senate refuses to concur in the House amendment to Substitute Senate Bill No. 6253 and requests of the House a conference thereon.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5582 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 66.44.200 and 1933 ex.s. c 62 s 36 are each amended to read as follows:

(1) No person shall sell any liquor to any person apparently under the influence of liquor.

(2) No person who is apparently under the influence of liquor may purchase or consume liquor on any premises licensed by the board.

(a) A violation of this subsection is a civil infraction punishable by a fine of not more than five hundred dollars.

(b) A defendant's intoxication may not be used as a defense in a civil action under this subsection.

(c) Until July 1, 2000, every establishment licensed under RCW 66.24.330 or 66.24.420 shall conspicuously post in the establishment notice of the prohibition against the purchase or consumption of liquor under this subsection.

**NEW SECTION. Sec. 2.** This act takes effect July 1, 1998.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Roach moved that the Senate refuse to concur in the House amendment to Substitute Senate Bill No. 5582 and requests of the House a conference thereon.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate refuse to concur in the House amendment to Substitute Senate Bill No. 5582 and requests of the House a conference thereon.

The motion by Senator Roach carried and the Senate refuses to concur in the House amendment to Substitute Senate Bill No. 5582 and requests of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 5582 and the House amendment(s) thereon: Senators Zarelli, Kline and Stevens.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6168 with the following amendment(s):

On page 4, line 27, after "in" strike "chapter 70.114A RCW" and insert "subsection (4) of this section"

On page 5, beginning on line 7, strike all of subsection (4) and insert the following:

"(4) For the purpose of this section, "temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110."

On page 6, after line 9, insert the following:

"NEW SECTION. Sec. 8. A new section is added to chapter 43.330 RCW to read as follows:

(1) The department of community, trade, and economic development shall work with the advisory group established in subsection (2) of this section, to review proposals and make prioritized funding recommendations to the funding approval board that oversees the distribution of housing trust fund grants and loans to be used for the development, maintenance, and operation of housing for low-income farm workers.

(2) A farm worker housing advisory group representing growers, farm workers, and other interested parties shall be formed to assist the department in the review and priority funding recommendations under this section."

Renumber the remaining section consecutively and correct the title of the bill., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Morton moved that the Senate refuse to concur in the House amendments to Second Substitute Senate Bill No. 6168 and requests of the House a conference thereon.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Morton that the Senate refuse to concur in the House amendments to Second Substitute Senate Bill No. 6168 and requests of the House a conference thereon.

The motion by Senator Morton carried and the Senate refuses to concur in the House amendments to Second Substitute Senate Bill No. 6168 and requests of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Second Substitute Senate Bill No. 6168 and the House amendment(s) thereto: Senators Morton, Prentice and Deccio.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MOTION

On motion of Senator Hale, Senator Benton was excused.

MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6306 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that teachers and school district employees share the same educational work environment and academic calendar.

It is the intent of the legislature to achieve similar retirement benefits for all educational employees by transferring the membership of classified school employees in the public employees' retirement system plan II to the Washington school employees' retirement system plan II. The transfer of membership to the Washington school employees' retirement system plan II is not intended to cause a diminution or expansion of benefits for affected members. It is enacted solely to provide public employees working under the same conditions with the same options for retirement planning.

As members of the Washington school employees' retirement system plan II, classified employees will have the same opportunity to transfer to the Washington school employees' retirement system plan III as their certificated coworkers. The ability to transfer to the Washington school employees' retirement system plan III offers members a new public retirement system that balances flexibility with stability; provides increased employee control of investments and responsible protection of the public's investment in employee benefits; and encourages the pursuit of public sector careers without creating barriers to other public or private sector employment.

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

(1) "Retirement system" means the Washington school employees' retirement system provided for in this chapter.  
(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.  
(3) "State treasurer" means the treasurer of the state of Washington.  
(4) "Employer," for plan II and plan III members, means a school district or an educational service district.  
(5) "Member" means any employee included in the membership of the retirement system, as provided for in section 4 of this act.  
(6)(a) "Compensation earnable" for plan II and plan III members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for plan II and plan III members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined.

Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under this (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(7) "Service" for plan II and plan III members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in section 19 of this act. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

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

(a) Service in any state elective position shall be deemed to be full-time service.

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

(c) For purposes of plan II and III "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(i) Less than eleven days equals one-quarter service credit month;

(ii) Eleven or more days but less than twenty-two days equals one-half service credit month;

(iii) Twenty-two days equals one service credit month;

(iv) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month; and

(v) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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

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

(10) "Membership service" means all service rendered as a member.

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

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

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

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

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

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

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

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

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

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

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

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

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

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

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

(26) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

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

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

(30) "Plan II" means the Washington school employees' retirement system plan II providing the benefits and funding provisions covering persons who first became members of the public employees' retirement system on and after October 1, 1977 and transferred to the Washington school employees' retirement system under section 113 of this act.

(31) "Plan III" means the Washington school employees' retirement system plan III providing the benefits and funding provisions covering persons who first became members of the system on and after September 1, 2000, or who transfer from plan II under section 114 of this act.

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

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

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

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

(36) "Separation from service" occurs when a person has terminated all employment with an employer.

(37) "Member account" or "member's account" for purposes of plan III means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan III.

(38) "Classified employee" means an employee of a school district or an educational service district who is not eligible for membership in the teachers' retirement system established under chapter 41.32 RCW.

**NEW SECTION. Sec. 3.** A retirement system is hereby created for the employees of school districts or educational service districts. The administration and management of the retirement system, the responsibility for making effective the provisions of this chapter, and the authority to make all rules necessary therefor are hereby vested in the department. All such rules shall be governed by the provisions of chapter 34.05 RCW. This retirement system shall be known as the Washington school employees' retirement system.

**NEW SECTION. Sec. 4.** Membership in the retirement system shall consist of all regularly compensated classified employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file on a form supplied by the department a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (2)(b);

(3) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(4) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by employers to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan;

(5) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(6) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(7) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(8) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only if payment is made for the noncredited membership service under RCW 41.50.165(2), otherwise service shall be from the date of application.

**NEW SECTION. Sec. 5.** Any person who has been employed in a nonelective position for at least nine months and who has made member contributions required under this chapter throughout such period, shall be deemed to have been in an eligible position during such period of employment.

**NEW SECTION. Sec. 6.** Within thirty days after his or her employment or his or her acceptance into membership each employee or appointive or elective official shall submit to the department a statement of his or her name and such other information as the department shall require. Compliance with the provisions set forth in this section shall be considered to be a condition of employment and failure by an employee to comply may result in separation from service.

**NEW SECTION. Sec. 7.** (1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to five months per calendar year in an eligible position without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under section 4 of this act, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with section 103 or 209 of this act. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

**NEW SECTION. Sec. 8.** Those members subject to this chapter who became disabled in the line of duty and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

(1) No member may receive more than one month's service credit in a calendar month.

(2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer contributions. No service credit shall be granted until the employee contribution has been paid.

(6) The service and compensation credit shall not be granted for a period to exceed twelve consecutive months.

(7) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

**NEW SECTION. Sec. 9.** The deductions from the compensation of members, provided for in section 104 of this act, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this chapter and receipt in full for his or her salary or compensation, and payment, less the deductions, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to benefits provided for under this chapter.

**NEW SECTION. Sec. 10.** (1) The director shall report to each employer the contribution rates required for the ensuing biennium or fiscal year, whichever is applicable.

(2) Beginning September 1, 1990, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established in chapter 41.45 RCW to the total compensation earnable of employer's members as shown on the current payrolls of the employer. Each employer shall compute at the end of each month the amount due for that month and the same shall be paid as are its other obligations.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill such employer for such employer's contribution together with such charges as the director deems appropriate in accordance with RCW 41.50.120. Such billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls.

**NEW SECTION. Sec. 11.** (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section also does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section does not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

**NEW SECTION. Sec. 12.** A member shall not receive a disability retirement benefit under section 105 or 210 of this act if the disability is the result of criminal conduct by the member committed after April 21, 1997.

**NEW SECTION. Sec. 13.** Any person who knowingly makes any false statements, or falsifies or permits to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such act, is guilty of a gross misdemeanor.

**NEW SECTION. Sec. 14.** (1) Any person who was a member of the state-wide city employees' retirement system governed by chapter 41.44 RCW and who was never reemployed by an employer as defined in RCW 41.40.010 and who is employed by an employer as defined in section 2 of this act, may, in a writing filed with the director, elect to:

(a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to this retirement system all service which was previously credited under chapter 41.44 RCW but which was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190. The service may be reestablished and transferred only upon payment by the member to the employees' savings fund of this retirement system of the amount withdrawn plus interest thereon from the date of withdrawal until the date of payment at a rate determined by the director. No additional payments are required for service credit described in this subsection if already established under this chapter; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW, upon payment in full by the member of the total employer's contribution to the benefit account fund of this retirement system that would have been made under this chapter when the initial service was rendered. The payment shall be based on the first month's compensation earnable as a member of the state-wide city employees' retirement system and as defined in RCW 41.44.030(13). However, a person who has established service credit under RCW 41.40.010(13) (c) or (d) shall not establish additional credit under this subsection nor may anyone who establishes credit under this subsection establish any additional credit under RCW 41.40.010(13) (c) or (d). No additional payments are required for service credit described in this subsection if already established under this chapter.

(2) The written election must be filed and the payments must be completed in full within one year after employment by an employer.

(3) Upon receipt of the written election and payments required by subsection (1) of this section from any retiree described in subsection (1) of this section, the department shall recompute the retiree's allowance in accordance with this section and shall pay any additional benefit resulting from such recomputation retroactively to the date of retirement from the system governed by this chapter.

(4) Any person who was a member of the state-wide city employees' retirement system under chapter 41.44 RCW and also became a member of the public employees' retirement system established under chapter 41.40 RCW or the Washington school employees' retirement



system established under this chapter, and did not make the election under RCW 41.40.058 or subsection (1) of this section because he or she was not a member of the public employees' retirement system prior to July 27, 1987, or did not meet the time limitations of RCW 41.40.058 or subsection (2) of this section, may elect to do any of the following:

- (a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;
- (b) Reestablish and transfer to this retirement system all service that was previously credited under chapter 41.44 RCW but was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190; and
- (c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW.

To make the election or elections, the person must pay the amount required under RCW 41.50.165(2) prior to retirement from this retirement system.

**NEW SECTION. Sec. 15.** Any person aggrieved by any decision of the department affecting his or her legal rights, duties, or privileges must, before he or she appeals to the courts, file with the director by mail or personally within sixty days from the day the decision was communicated to the person, a notice for a hearing before the director's designee. The notice of hearing shall set forth in full detail the grounds upon which the person considers the decision unjust or unlawful and shall include every issue to be considered by the department, and it must contain a detailed statement of facts upon which the person relies in support of the appeal. These persons shall be deemed to have waived all objections or irregularities concerning the matter on which the appeal is taken, other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system.

**NEW SECTION. Sec. 16.** Following its receipt of a notice for hearing in accordance with section 15 of this act, a hearing shall be held by the director or a duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be conducted and governed in all respects by the provisions of chapter 34.05 RCW.

**NEW SECTION. Sec. 17.** Judicial review of any final decision and order by the director is governed by the provisions of chapter 34.05 RCW.

**NEW SECTION. Sec. 18.** No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a finding of the department affecting the claimant's right to retirement or disability benefits.

**NEW SECTION. Sec. 19.** (1) Except for any period prior to the member's employment in an eligible position, a plan II or plan III member who is employed by a school district or districts or an educational service district:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten hours during that period, and is employed nine months of that period;

(c) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(i) One service credit month for each month in which compensation is earned for ninety or more hours;

(ii) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(iii) One-quarter service credit month for each month in which compensation is earned for less than seventy hours.

(2) The department shall adopt rules implementing this section.

**NEW SECTION. Sec. 20.** RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter.

**NEW SECTION. Sec. 21.** (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section.

**NEW SECTION. Sec. 22.** Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(1) The original dollar amount of the retirement allowance;

(2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(3) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(a) Produce a retirement allowance which is lower than the original retirement allowance;

(b) Exceed three percent in the initial annual adjustment; or

(c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index--Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

**NEW SECTION. Sec. 23.** (1) Upon retirement for service as prescribed in section 103 or 209 of this act or retirement for disability under section 105 or 210 of this act, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

**NEW SECTION. Sec. 24.** (1) Except as provided in section 7 of this act, no retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in section 2 of this act, RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

**NEW SECTION. Sec. 25.** Sections 1 through 24 of this act apply to members of plan II and plan III.

**NEW SECTION. Sec. 101.** A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each service credit year of service.

**NEW SECTION. Sec. 102.** (1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary, subject to the provisions of subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with section 101 of this act would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of the monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A retiree or a beneficiary, subject to the provisions of subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of RCW 41.40.625 or subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to rereading, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations under subsection (3) of this section, reinstatement of all previous service will occur if the member pays the amount required under RCW 41.50.165(2). The amount, however, shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under section 101 of this act or an earned disability allowance under section 105 of this act qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system.

**NEW SECTION. Sec. 103.** (1) **NORMAL RETIREMENT.** Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of section 101 of this act.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of section 101 of this act, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

**NEW SECTION. Sec. 104.** The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the amount of employer contributions to be deposited in the plan II fund from the total employer contributions collected under section 10 of this act.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members compensation earnable each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

**NEW SECTION. Sec. 105.** (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of sections 101 through 112 of this act. The member shall receive a monthly disability allowance computed as provided for in section 101 of this act and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

**NEW SECTION. Sec. 106.** Any member or beneficiary eligible to receive a retirement allowance under the provisions of section 103, 105, or 107 of this act shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of section 103 of this act shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to section 103 of this act, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of section 105 of this act shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of section 107 of this act shall accrue from the first day of the calendar month immediately following the member's death.

**NEW SECTION. Sec. 107.** (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall

have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in section 103 of this act, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under section 23 of this act and if the member was not eligible for normal retirement at the date of death a further reduction as described in section 103 of this act; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance, share and share alike, calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, estate, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

**NEW SECTION. Sec. 108.** (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of sections 101 through 112 of this act.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes both the plan II employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner; or

(b) If not within five years of resumption of service but prior to retirement, pay the amount required under RCW 41.50.165(2).

The contributions required under (a) of this subsection shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under section 104 of this act within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under section 104 of this act for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

**NEW SECTION. Sec. 109.** A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of section 103 of this act if such member maintains the member's accumulated contributions intact.

**NEW SECTION. Sec. 110.** A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under sections 101 through 112 of this act.

**NEW SECTION. Sec. 111.** (1) A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid.

**NEW SECTION. Sec. 112.** Sections 101 through 111 and 114 of this act apply only to plan II members.

**NEW SECTION. Sec. 113.** A new section is added to chapter 41.40 RCW to read as follows:

(1) Effective September 1, 2000, the membership of all plan II members currently employed in eligible positions in a school district or educational service district and all plan II service credit for such members, is transferred to the Washington school employees' retirement system plan II. Plan II members who have withdrawn their member contributions for prior plan II service may restore contributions and service credit to the Washington school employees' retirement system plan II as provided under RCW 41.40.740.

(2) The membership and previous service credit of a plan II member not employed in an eligible position on September 1, 2000, will be transferred to the Washington school employees' retirement system plan II when he or she becomes employed in an eligible position. Plan II members not employed in an eligible position on September 1, 2000, who have withdrawn their member contributions for prior plan II service may restore contributions and service credit to the Washington school employees' retirement system plan II as provided under RCW 41.40.740.

(3) Members who restore contributions and service credit under subsection (1) or (2) of this section shall have their contributions and service credit transferred to the Washington school employees' retirement system.

**NEW SECTION. Sec. 114.** (1) Every plan II member employed by an employer in an eligible position has the option to make an irrevocable transfer to plan III.

(2) All service credit in plan II shall be transferred to the defined benefit portion of plan III.

(3) Any plan II member who wishes to transfer to plan III after February 28, 2001, may transfer during the month of January in any following year, provided that the member earns service credit for that month.

(4) The accumulated contributions in plan II, less fifty percent of any contributions made pursuant to RCW 41.50.165(2) shall be transferred to the member's account in the defined contribution portion established in chapter 41.34 RCW, pursuant to procedures developed by the department and subject to RCW 41.34.090. Contributions made pursuant to RCW 41.50.165(2) that are not transferred to the member's account shall be transferred to the fund created in RCW 41.50.075(2), except that interest earned on all such contributions shall be transferred to the member's account.

(5) The legislature reserves the right to discontinue the right to transfer under this section.

(6) Anyone previously retired from plan II is prohibited from transferring to plan III.

**NEW SECTION. Sec. 201.** (1) Sections 201 through 213 of this act apply only to plan III members.

(2) Plan III consists of two separate elements: (a) A defined benefit portion covered under this subchapter; and (b) a defined contribution portion covered under chapter 41.34 RCW.

(3) Unless otherwise specified, all references to "plan III" in this subchapter refer to the defined benefit portion of plan III.

**NEW SECTION. Sec. 202.** All classified employees who first become employed by an employer in an eligible position on or after September 1, 2000, shall be members of plan III.

**NEW SECTION. Sec. 203.** (1) A member of the retirement system shall receive a retirement allowance equal to one percent of such member's average final compensation for each service credit year.

(2) The retirement allowance payable under section 209 of this act to a member who separates after having completed at least twenty service credit years shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date that the retirement allowance commences.

**NEW SECTION. Sec. 204.** (1) Anyone who requests to transfer under section 114 of this act before March 1, 2001, and establishes service credit for January 2001, shall have their member account increased by sixty-five percent of:

(a) The member's public employees' retirement system plan II accumulated contributions as of January 1, 2000, less fifty percent of any payments made pursuant to RCW 41.50.165(2); or

(b) All amounts withdrawn after January 1, 2000, which are completely restored before March 1, 2001.

(2) If a member who requests to transfer dies before January 1, 2001, the additional payment provided by this section shall be paid to the member's estate, or the person or persons, trust, or organization the member nominated by written designation duly executed and filed with the department.

(3) The legislature reserves the right to modify or discontinue the right to an additional payment under this section for any plan II members who have not previously transferred to plan III.

**NEW SECTION. Sec. 205.** Any member or beneficiary eligible to receive a retirement allowance under the provisions of section 209, 210, or 212 of this act is eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances payable to eligible members no longer in service, but qualifying for such an allowance pursuant to section 15 of this act shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits shall accrue from the first day of the calendar month immediately following the member's death.

**NEW SECTION. Sec. 206.** (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes the contribution on behalf of the employer, plus interest, as determined by the department; and

(b) The member makes the employee contribution, plus interest, as determined by the department, to the defined contribution portion.

The contributions required shall be based on the average of the member's earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service if within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

The department shall establish the member's service credit and shall bill the employer for its contribution required under section 213 of this act for the period of military service, plus interest as determined by the department. Service credit under this subsection may be obtained only if the member makes the employee contribution to the defined contribution portion as determined by the department.

The contributions required shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

**NEW SECTION. Sec. 207.** (1) Contributions on behalf of the employer paid by the employee to purchase plan III service credit shall be allocated to the defined benefit portion of plan III and shall not be refundable when paid to the fund described in RCW 41.50.075(4). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the statutory time limitations to purchase plan III service credit, it may be purchased under the provisions of RCW 41.50.165(2). One-half of the purchase payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

(2) No purchased plan III membership service will be credited until all payments required of the member are made, with interest. Upon receipt of all payments owed by the member, the department shall bill the employer for any contributions, plus interest, required to purchase membership service.

**NEW SECTION. Sec. 208.** (1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary a lump sum payment in lieu of a monthly benefit if the initial monthly benefit would be less than one hundred dollars. The one hundred dollar limit shall be increased annually as determined by the director. The lump sum payment shall be the actuarial equivalent of the monthly benefit.

(2) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to retiring again, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(3) Any member who receives a settlement under this section is deemed to be retired from this system.

**NEW SECTION. Sec. 209.** (1) **NORMAL RETIREMENT.** Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age fifty-four; or

(c) Completed five service credit years by September 1, 2000, under the public employees' retirement system plan II and who transferred to plan III under section 114 of this act;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of section 203 of this act.

(2) **EARLY RETIREMENT.** Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of section 203 of this act, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

**NEW SECTION. Sec. 210.** (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department shall be eligible to receive an allowance under the provisions of plan III. The member shall receive a monthly disability allowance computed as provided for in section 203 of this act and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) If the recipient of a monthly retirement allowance under this section dies, any further benefit payments shall be conditioned by the payment option selected by the retiree as provided in section 23 of this act.

**NEW SECTION. Sec. 211.** (1) Any member who elects to transfer to plan III and has eligible unrestored withdrawn contributions in plan II, may restore such contributions under the provisions of section 113 of this act with interest as determined by the department. The restored plan II service credit will be automatically transferred to plan III. Restoration payments will be transferred to the member account in plan III. If the member fails to meet the time limitations of section 113 of this act, they may restore such contributions under the provisions of RCW 41.50.165(2). The restored plan II service credit will be automatically transferred to plan III. One-half of the restoration payments under RCW 41.50.165(2) plus interest shall be allocated to the member's account.

(2) Any member who elects to transfer to plan III may purchase plan II service credit under section 113 of this act. Purchased plan II service credit will be automatically transferred to plan III. Contributions on behalf of the employer paid by the employee shall be allocated to the defined benefit portion of plan III and shall not be refundable when paid to the fund described in RCW 41.50.075(4). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the time limitations of section 113 of this act, they may subsequently restore such contributions under the provisions of RCW 41.50.165(2). Purchased plan II service credit will be automatically transferred to plan III. One-half of the payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

**NEW SECTION. Sec. 212.** If a member dies prior to retirement, the surviving spouse or eligible child or children shall receive a retirement allowance computed as provided in section 203 of this act actuarially reduced to reflect a joint and one hundred percent survivor option and if the member was not eligible for normal retirement at the date of death a further reduction as described in section 209 of this act.

If the surviving spouse who is receiving the retirement allowance dies leaving a child or children under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority.

If there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance, share and share alike. The allowance shall be calculated with the assumption that the age of the spouse and member were equal at the time of the member's death.

**NEW SECTION. Sec. 213.** The required contribution rates to the retirement system for employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost

method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the amount of employer contributions to be deposited in the plan II fund from the total employer contributions collected under section 10 of this act.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

The employer's contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

**NEW SECTION. Sec. 214.** Sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act constitute a new chapter in Title 41 RCW.

**Sec. 301.** RCW 41.34.020 and 1996 c 39 s 13 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated:

(1) "Actuary" means the state actuary or the office of the state actuary.  
(2) "Board" means the employee retirement benefits board authorized in chapter 41.50 RCW.  
(3) "Department" means the department of retirement systems.  
(4)(a) "Compensation" for teachers for purposes of this chapter is the same as "earnable compensation" for plan III in chapter 41.32 RCW except that the compensation may be reported when paid, rather than when earned.

(b) "Compensation" for classified employees for purposes of this chapter is the same as "compensation earnable" for plan III in section 2 of this act, except that the compensation may be reported when paid, rather than when earned.

(5)(a) "Employer" for teachers for purposes of this chapter means the same as "employer" for plan III in chapter 41.32 RCW.

(b) "Employer" for classified employees for purposes of this chapter means the same as "employer" for plan III in section 2 of this act.

(6) "Member" means any employee included in the membership of a retirement system as provided for in chapter 41.32 RCW of plan III or chapter 41.-- RCW (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act) of plan III.

(7) "Member account" or "member's account" means the sum of the contributions and earnings on behalf of the member.

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

(9) "Teacher" means a member of the teachers' retirement system plan III as defined in RCW 41.32.010(29).

(10) "Classified employee" means a member of the school employees' retirement system plan III as defined in section 2 of this act.

**Sec. 302.** RCW 41.34.030 and 1995 c 239 s 203 are each amended to read as follows:

(1) This chapter applies only to members of plan III retirement systems created under chapters 41.32 and 41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act) RCW.

(2) Plan III consists of two separate elements:

(a) A defined benefit portion covered under:

(i) Sections 101 through 117, chapter 239, Laws of 1995; or

(ii) Sections 1 through 25 and 201 through 213 of this act; and

(b) A defined contribution portion covered under this chapter. Unless specified otherwise, all references to "plan III" in this chapter refer to the defined contribution portion of plan III.

**Sec. 303.** RCW 41.34.060 and 1996 c 39 s 15 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the member's account shall be invested by the state investment board. ~~((All contributions under this subsection shall be invested))~~ In order to reduce transaction costs and address liquidity issues, based upon recommendations of the state investment board, the department may require members to provide up to ninety days' notice prior to moving funds from the state investment board portfolio to self-directed investment options provided under subsection (2) of this section.

(a) For members of the retirement system as provided for in chapter 41.32 RCW of plan III, investment shall be in the same portfolio as that of the teachers' retirement system combined plan II and III fund under RCW 41.50.075(2).

(b) For members of the retirement system as provided for in chapter 41.-- RCW (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act) of plan III, investment shall be in the same portfolio as that of the school employees' retirement system combined plan II and III fund under RCW 41.50.075(4).

(2) Members may elect to self-direct their investments as ~~((authorized by the board, other than as provided in subsection (1) of this section. Expenses caused by self-directed investment shall be paid by the member in accordance with rules established by the board under RCW 41.50.088))~~ set forth in sections 307 and 707 of this act.

**Sec. 304.** RCW 41.34.080 and 1995 c 239 s 208 are each amended to read as follows:



(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the various funds created by chapter 239, Laws of 1995, and chapter . . . , Laws of 1998 (this act) and all moneys and investments and income thereof, is hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and that has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

**Sec. 305.** RCW 41.34.100 and 1995 c 239 s 325 are each amended to read as follows:

(1) The benefits provided pursuant to chapter 239, Laws of 1995 are not provided to employees as a matter of contractual right prior to July 1, 1996. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 1996.

(2) The benefits provided pursuant to chapter . . . , Laws of 1998 (this act) are not provided to employees as a matter of contractual right prior to September 1, 2000. The legislature retains the right to alter or abolish these benefits at any time prior to September 1, 2000.

**NEW SECTION. Sec. 306.** A new section is added to chapter 41.34 RCW to read as follows:

All moneys in members' accounts, all property and rights purchased therewith, and all income attributable thereto, shall be held in trust by the state investment board, as set forth under RCW 43.33A.030, for the exclusive benefit of the members and their beneficiaries.

**NEW SECTION. Sec. 307.** A new section is added to chapter 41.34 RCW to read as follows:

(1) The state investment board has the full authority to invest all self-directed investment moneys in accordance with RCW 43.84.150 and 43.33A.140, and cumulative investment directions received pursuant to RCW 41.34.060 and this section. In carrying out this authority the state investment board, after consultation with the employee retirement benefits board regarding any recommendations made pursuant to RCW 41.50.088(2), shall provide a set of options for members to choose from for self-directed investment.

(2) All investment and operating costs of the state investment board associated with making self-directed investments shall be paid by members and recovered under procedures agreed to by the board and the state investment board pursuant to the principles set forth in RCW 43.33A.160 and 43.84.160. All other expenses caused by self-directed investment shall be paid by the member in accordance with rules established by the board under RCW 41.50.088. With the exception of these expenses, all earnings from self-directed investments shall accrue to the member's account.

(3) The department shall keep or cause to be kept full and adequate accounts and records of each individual member's account. The department shall account for and report on the investment of defined contribution assets or may enter into an agreement with the state investment board for such accounting and reporting under this chapter.

**NEW SECTION. Sec. 308.** A new section is added to chapter 41.34 RCW to read as follows:

(1) A state board or commission, agency, or any officer, employee, or member thereof is not liable for any loss or deficiency resulting from member defined contribution investments selected or required pursuant to RCW 41.34.060 (1) or (2).

(2) Neither the board nor the state investment board, nor any officer, employee, or member thereof is liable for any loss or deficiency resulting from reasonable efforts to implement investment directions pursuant to RCW 41.34.060 (1) or (2).

**NEW SECTION. Sec. 309.** (1) On July 1, 1998, and January 1, 2000, the member account of a person meeting the requirements of this section shall be credited by the extraordinary investment gain amount.

(2) The following persons are eligible for the benefit provided in subsection (1) of this section:

(a) Any member of the teachers' retirement system plan III who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution; or

(b) Any person in receipt of a benefit pursuant to RCW 41.32.875; or

(c) Any person who is a retiree pursuant to RCW 41.34.020(8) and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(iii) Completed five service credit years by July 1, 1996, under plan II and who transferred to plan III under RCW 41.32.817; or

(d) Any person who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who:

- (i) Completed ten service credit years; or
- (ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or
- (iii) Completed five service credit years by July 1, 1996, under plan II and who transferred to plan III under RCW 41.32.817.

(3) The extraordinary investment gain amount shall be calculated as follows:

(a) One-half of the sum of the value of the net assets held in trust for pension benefits in the public employees' retirement system plan II fund and the teachers' retirement system combined plan II and III fund at the close of the previous state fiscal year not including the amount attributable to member accounts;

(b) Multiplied by the amount which the compound average of investment returns on those assets over the previous four state fiscal years exceeds ten percent;

(c) Multiplied by the proportion of:

(i) The sum of the service credit on August 31st of the previous year of all persons eligible for the benefit provided in subsection (1) of this section; to

(ii) The sum of the service credit on August 31st of the previous year of:

(A) All persons eligible for the benefit provided in subsection (1) of this section;

(B) Any person who earned service credit in the teachers' retirement system plan II or the public employees' retirement system plan II during the twelve-month period from September 1st to August 31st immediately preceding the distribution;

(C) Any person in receipt of a benefit pursuant to RCW 41.32.765 or 41.40.630; and

(D) Any person with five or more years of service in the teachers' retirement system plan II or the public employees' retirement system plan II;

(d) Divided proportionally among persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31st of the previous year.

(4) The distribution provided for in this section shall be made solely from assets included in the teachers' retirement system combined plan II and III fund.

**NEW SECTION. Sec. 310.** Section 309 of this act is added to chapter 41.34 RCW, but because of its temporary nature, shall not be codified.

**NEW SECTION. Sec. 311.** The definitions in this section apply throughout this chapter unless the context requires otherwise.

(1) "Actuary" means the state actuary or the office of the state actuary.

(2) "Department" means the department of retirement systems.

(3) "Teacher" means any employee included in the membership of the teachers' retirement system as provided for in chapter 41.32 RCW.

(4) "Member account" or "member's account" means the sum of any contributions as provided for in chapter 41.34 RCW and the earnings on behalf of the member.

(5) "Classified employee" means the same as in section 2 of this act.

**NEW SECTION. Sec. 312.** (1) On January 1, 2002, and on January 1st of even-numbered years thereafter, the member account of a person meeting the requirements of this section shall be credited by the extraordinary investment gain amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) Any member of the teachers' retirement system plan III or the Washington school employees' retirement system plan III who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution; or

(b) Any person in receipt of a benefit pursuant to RCW 41.32.875 or section 209 of this act; or

(c) Any person who is a retiree pursuant to RCW 41.34.020(8) and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(d) Any teacher who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by July 1, 1996, under plan II and who transferred to plan III under RCW 41.32.817; or

(e) Any classified employee who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by September 1, 2000, and who transferred to plan III under section 114 of this act; or

(f) Any person who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(g) Any teacher who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by July 1, 1996, under plan II and who transferred to plan III under RCW 41.32.817; or

(h) Any classified employee who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by September 1, 2000, and who transferred to plan III under section 114 of this act.

(3) The extraordinary investment gain amount shall be calculated as follows:

(a) One-half of the sum of the value of the net assets held in trust for pension benefits in the teachers' retirement system combined plan II and III fund and the Washington school employees' retirement system combined plan II and III fund at the close of the previous state fiscal year not including the amount attributable to member accounts;

(b) Multiplied by the amount which the compound average of investment returns on those assets over the previous four state fiscal years exceeds ten percent;

(c) Multiplied by the proportion of:

(i) The sum of the service credit on August 31st of the previous year of all persons eligible for the benefit provided in subsection (1) of this section; to

(ii) The sum of the service credit on August 31st of the previous year of:

(A) All persons eligible for the benefit provided in subsection (1) of this section;

(B) Any person who earned service credit in the teachers' retirement system plan II or the Washington school employees' retirement system plan II during the twelve-month period from September 1st to August 31st immediately preceding the distribution;

(C) Any person in receipt of a benefit pursuant to RCW 41.32.765 or section 103 of this act; and

(D) Any person with five or more years of service in the teachers' retirement system plan II or the Washington school employees' retirement system plan II;

(d) Divided proportionally among persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31st of the previous year.

(4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this distribution not granted prior to that time.

**NEW SECTION. Sec. 313.** (1) On March 1, 2001, the member account of a person meeting the requirements of this section shall be credited by the 1998 retroactive extraordinary investment gain amount and the 2000 retroactive extraordinary investment gain amount.

(2) The following persons shall be eligible for the benefits provided in subsection (1) of this section:

(a) Any classified employee who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and who transferred to plan III under section 114 of this act; or

(b) Any classified employee in receipt of a benefit pursuant to section 209 of this act and who has completed five service credit years by September 1, 2000, and who transferred to plan III under section 114 of this act; or

(c) Any classified employee who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by September 1, 2000, and who transferred to plan III under section 114 of this act; or

(d) Any classified employee who has a balance of at least one thousand dollars in his or her member account and who has completed five service credit years by September 1, 2000, and who transferred to plan III under section 114 of this act.

(3) The 1998 retroactive extraordinary investment gain amount shall be calculated as follows:

(a) An amount equal to the average benefit per year of service paid to members of the teachers' retirement system plan III pursuant to section 309 of this act in 1998;

(b) Distributed to persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31, 1997.

(4) The 2000 retroactive extraordinary investment gain amount shall be calculated as follows:

(a) An amount equal to the average benefit per year of service paid to members of the teachers' retirement system plan III pursuant to section 309 of this act in 2000;

(b) Distributed to persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31, 1999.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this distribution not granted prior to that time.

**NEW SECTION. Sec. 314.** Sections 311 through 313 of this act constitute a new chapter in Title 41 RCW.

**Sec. 401.** RCW 41.45.010 and 1995 c 239 s 305 are each amended to read as follows:

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and fire fighters' retirement system, chapter 41.26 RCW; the school employees' retirement system, chapter 41.-- RCW

(sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act); and the Washington state patrol retirement system, chapter 43.43 RCW.

The funding process established by this chapter is intended to achieve the following goals:

(1) To continue to fully fund the public employees' retirement system plan II, the teachers' retirement system plans II and III, the school employees' retirement system plans II and III, and the law enforcement officers' and fire fighters' retirement system plan II as provided by law;

(2) To fully amortize the total costs of the public employees' retirement system plan I, the teachers' retirement system plan I, and the law enforcement officers' and fire fighters' retirement system plan I not later than June 30, 2024;

(3) To establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets; and

(4) To fund, to the extent feasible, benefit increases for plan I members and all benefits for plan II and III members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

**Sec. 402.** RCW 41.45.020 and 1995 c 239 s 306 are each amended to read as follows:

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

(1) "Council" means the economic and revenue forecast council created in RCW 82.33.010.

(2) "Department" means the department of retirement systems.

(3) "Law enforcement officers' and fire fighters' retirement system plan I" and "law enforcement officers' and fire fighters' retirement system plan II" mean the benefits and funding provisions under chapter 41.26 RCW.

(4) "Public employees' retirement system plan I" and "public employees' retirement system plan II" mean the benefits and funding provisions under chapter 41.40 RCW.

(5) "Teachers' retirement system plan I," "teachers' retirement system plan II," and "teachers' retirement system plan III" mean the benefits and funding provisions under chapter 41.32 RCW.

(6) "School employees' retirement system plan II" and "school employees' retirement system plan III" mean the benefits and funding provisions under chapter 41.-- RCW (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act).

(7) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

~~((7))~~ (8) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

~~((8))~~ (9) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

~~((9))~~ (10) "State retirement systems" means the retirement systems listed in RCW 41.50.030.

(11) "Classified employee" means a member of the Washington school employees' retirement system plan II or plan III as defined in section 2 of this act.

(12) "Teacher" means a member of the teachers' retirement system as defined in RCW 41.32.010(15).

**Sec. 403.** RCW 41.45.050 and 1995 c 239 s 308 are each amended to read as follows:

(1) Employers of members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, and the Washington state patrol retirement system shall make contributions to those systems based on the rates established in RCW 41.45.060 and 41.45.070.

(2) The state shall make contributions to the law enforcement officers' and fire fighters' retirement system based on the rates established in RCW 41.45.060 and 41.45.070. The state treasurer shall transfer the required contributions each month on the basis of salary data provided by the department.

(3) The department shall bill employers, and the state shall make contributions to the law enforcement officers' and fire fighters' retirement system, using the combined rates established in RCW 41.45.060 and 41.45.070 regardless of the level of pension funding provided in the biennial budget. Any member of an affected retirement system may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

(4) The contributions received for the public employees' retirement system shall be allocated between the public employees' retirement system plan I fund and public employees' retirement system plan II fund as follows: The contributions necessary to fully fund the public employees' retirement system plan II employer contribution required by RCW 41.40.650 shall first be deposited in the public employees' retirement system plan II fund. All remaining public employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan I fund.

(5) The contributions received for the teachers' retirement system shall be allocated between the plan I fund and the combined plan II and plan III fund as follows: The contributions necessary to fully fund the combined plan II and plan III employer contribution shall first be deposited in the combined plan II and plan III fund. All remaining teachers' retirement system employer contributions shall be deposited in the plan I fund.

(6) The contributions received for the school employees' retirement system shall be allocated between the public employees' retirement system plan I fund and the school employees' retirement system combined plan II and plan III fund as follows: The contributions necessary to fully fund the combined plan II and plan III employer contribution shall first be deposited in the combined plan II and plan III

fund. All remaining school employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan I fund.

(7) The contributions received under RCW 41.26.450 for the law enforcement officers' and fire fighters' retirement system shall be allocated between the law enforcement officers' and fire fighters' retirement system plan I and the law enforcement officers' and fire fighters' retirement system plan II fund as follows: The contributions necessary to fully fund the law enforcement officers' and fire fighters' retirement system plan II employer contributions shall be first deposited in the law enforcement officers' and fire fighters' retirement system plan II fund. All remaining law enforcement officers' and fire fighters' retirement system employer contributions shall be deposited in the law enforcement officers' and fire fighters' retirement system plan I fund.

**Sec. 404.** RCW 41.45.060 and 1995 c 239 s 309 are each amended to read as follows:

(1) The state actuary shall provide actuarial valuation results based on the assumptions adopted under RCW 41.45.030.

(2) Not later than September 30, 1996, and every two years thereafter, consistent with the assumptions adopted under RCW 41.45.030, the council shall adopt both:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system; ~~((and))~~

(b) Basic employer contribution rates for the public employees' retirement system plan I, the teachers' retirement system plan I, and the Washington state patrol retirement system to be used in the ensuing biennial period; and

(c) A basic employer contribution rate for the school employees' retirement system for funding the public employees' retirement system plan I.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan I, the teachers' retirement system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and the unfunded liability of the Washington state patrol retirement system not later than June 30, 2024; and

(b) To also continue to fully fund the public employees' retirement system plan II, the teachers' retirement system plans II and III, the school employees' retirement system plans II and III, and the law enforcement officers' and fire fighters' retirement system plan II in accordance with RCW 41.40.650, 41.26.450, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan II and III employer contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted.

(6) The director of the department of retirement systems shall collect those rates adopted by the council.

**Sec. 405.** RCW 41.45.061 and 1997 c 10 s 2 are each amended to read as follows:

(1) The required contribution rate for members of the plan II teachers' retirement system shall be fixed at the rates in effect on July 1, 1996, subject to the following:

(a) Beginning September 1, 1997, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan II and III rates adopted under RCW 41.45.060 and 41.45.070 for the teachers' retirement system;

(b) In addition, the employee contribution rate for plan II shall be increased by fifty percent of the contribution rate increase caused by any plan II benefit increase passed after July 1, 1996(~~(-~~

~~(2) The required plan II and III contribution rates for employers shall be adopted in the manner described in RCW 41.45.060);~~

(c) In addition, the employee contribution rate for plan II shall not be increased as a result of any distributions pursuant to sections 309 and 312 of this act.

(2) The required contribution rate for members of the school employees' retirement system plan II shall be fixed at the rates in effect on September 1, 2000, for members of the public employees' retirement system plan II, subject to the following:

(a) Except as provided in (b) of this subsection, the member contribution rate shall not exceed the school employees' retirement system employer plan II and III contribution rate adopted under RCW 41.45.060 and 41.45.070;

(b) The member contribution rate for the school employees' retirement system plan II shall be increased by fifty percent of the contribution rate increase caused by any plan II benefit increase passed after September 1, 2000.

(3) The employee contribution rate for plan II shall not be increased as a result of any distributions pursuant to sections 312 and 313 of this act.

(4) The required plan II and III contribution rates for employers shall be adopted in the manner described in RCW 41.45.060.

**Sec. 406.** RCW 41.45.070 and 1995 c 239 s 310 are each amended to read as follows:

(1) In addition to the basic employer contribution rate established in RCW 41.45.060, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsection (6) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic state contribution rate established in RCW 41.45.060 for the law enforcement officers' and fire fighters' retirement system the department shall also establish a supplemental rate to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system. This supplemental rate shall be calculated by the state actuary and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan I, the teachers' retirement system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan II, the teachers' retirement system plan II and plan III, the school employees' retirement system plan II and plan III, or the law enforcement officers' and fire fighters' retirement system plan II, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.40.650(~~(, 41.32.775,)~~) or 41.26.450, respectively.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan I and the teachers' retirement system plan I shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

~~(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.-- RCW (sections 311 through 313 of this act); section 309 of this act; or section 701, chapter . . . , Laws of 1998 (section 701 of this act).~~

NEW SECTION. Sec. 407. A new section is added to chapter 41.45 RCW to read as follows:

Upon the advice of the state actuary, the state treasurer shall divide the assets in the public employees' retirement system plan II as of September 1, 2000, in such a manner that sufficient assets remain in plan II to maintain the employee contribution rate calculated in the latest actuarial valuation of the public employees' retirement system plan II. The state actuary shall take into account changes in assets that occur between the latest actuarial valuation and the date of transfer. The balance of the assets shall be transferred to the Washington school employees' retirement system plan II and III.

**Sec. 501.** RCW 41.50.030 and 1995 c 239 s 316 are each amended to read as follows:

(1) As soon as possible but not more than one hundred and eighty days after March 19, 1976, there is transferred to the department of retirement systems, except as otherwise provided in this chapter, all powers, duties, and functions of:

- (a) The Washington public employees' retirement system;
- (b) The Washington state teachers' retirement system;
- (c) The Washington law enforcement officers' and fire fighters' retirement system;
- (d) The Washington state patrol retirement system;
- (e) The Washington judicial retirement system; and
- (f) The state treasurer with respect to the administration of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

(2) On July 1, 1996, there is transferred to the department all powers, duties, and functions of the deferred compensation committee.

(3) The department shall administer chapter 41.34 RCW.

(4) The department shall administer the Washington school employees' retirement system created under chapter 41.-- RCW (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act).

**Sec. 502.** RCW 41.50.060 and 1995 c 239 s 318 are each amended to read as follows:

The director may delegate the performance of such powers, duties, and functions, other than those relating to rule making, to employees of the department, but the director shall remain and be responsible for the official acts of the employees of the department.

The director shall be responsible for the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the judicial retirement system, the law enforcement officers' and fire fighters' retirement system, and the Washington state patrol retirement system. The director shall also be responsible for the deferred compensation program.

**Sec. 503.** RCW 41.50.075 and 1996 c 39 s 16 are each amended to read as follows:

(1) Two funds are hereby created and established in the state treasury to be known as the Washington law enforcement officers' and fire fighters' system plan I retirement fund, and the Washington law enforcement officers' and fire fighters' system plan II retirement fund which shall consist of all moneys paid into them in accordance with the provisions of this chapter and chapter 41.26 RCW, whether such moneys take the form of cash, securities, or other assets. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan I, and the plan II fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan II.

(2) All of the assets of the Washington state teachers' retirement system shall be credited according to the purposes for which they are held, to two funds to be maintained in the state treasury, namely, the teachers' retirement system plan I fund and the teachers' retirement system

combined plan II and III fund. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan I, and the combined plan II and III fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan II and III.

(3) There is hereby established in the state treasury two separate funds, namely the public employees' retirement system plan I fund and the public employees' retirement system plan II fund. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan I, and the plan II fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan II.

(4) There is hereby established in the state treasury the school employees' retirement system combined plan II and III fund. The combined plan II and III fund shall consist of all moneys paid to finance the benefits provided to members of the school employees' retirement system plan II and plan III.

**Sec. 504.** RCW 41.50.080 and 1981 c 3 s 34 are each amended to read as follows:

The state investment board shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the Washington law enforcement officers' and fire fighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, and the judges' retirement fund, pursuant to RCW 43.84.150, and may sell or exchange investments acquired in the exercise of that authority.

**Sec. 505.** RCW 41.50.086 and 1995 c 239 s 301 are each amended to read as follows:

(1) The employee retirement benefits board is created within the department of retirement systems.

(2) The board shall be composed of ~~((eight))~~ eleven members appointed by the governor and one ex officio member as follows:

(a) Three members representing the public employees' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be two years for the retired member, one year for one active member, and three years for the remaining active member.

(b) Three members representing the teachers' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be one year for the retired member, two years for one active member, and three years for the remaining active member.

(c) Three members representing classified employees of school districts and educational service districts: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be one year for the retired member, two years for one active member, and three years for the remaining active member.

(d) Two members with experience in defined contribution plan administration. The initial term for these members shall be two years for one member and three years for the remaining member.

~~((d))~~ (e) The director of the department shall serve ex officio and shall be the chair of the board.

(3) After the initial appointments, members shall be appointed to three-year terms.

(4) The board shall meet at least quarterly during the calendar year, at the call of the chair.

(5) Members of the board shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060. Such travel expenses shall be reimbursed by the department from the retirement system expense fund.

(6) The board shall adopt rules governing its procedures and conduct of business.

(7) The actuary shall perform all actuarial services for the board and provide advice and support.

~~((8) The state investment board shall provide advice and support to the board.)~~

**Sec. 506.** RCW 41.50.086 and 1995 c 239 s 301 are each amended to read as follows:

(1) The employee retirement benefits board is created within the department of retirement systems.

(2) The board shall be composed of ~~((eight))~~ eleven members appointed by the governor and one ex officio member as follows:

(a) Three members representing the public employees' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be two years for the retired member, one year for one active member, and three years for the remaining active member.

(b) Three members representing the teachers' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be one year for the retired member, two years for one active member, and three years for the remaining active member.

(c) Three members representing the school employees' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be one year for the retired member, two years for one active member, and three years for the remaining active member.

(d) Two members with experience in defined contribution plan administration. The initial term for these members shall be two years for one member and three years for the remaining member.

~~((d))~~ (e) The director of the department shall serve ex officio and shall be the chair of the board.

(3) After the initial appointments, members shall be appointed to three-year terms.

(4) The board shall meet at least quarterly during the calendar year, at the call of the chair.

(5) Members of the board shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060. Such travel expenses shall be reimbursed by the department from the retirement system expense fund.

(6) The board shall adopt rules governing its procedures and conduct of business.

(7) The actuary shall perform all actuarial services for the board and provide advice and support.

~~((8) The state investment board shall provide advice and support to the board.)~~

**Sec. 507.** RCW 41.50.088 and 1995 c 239 s 302 are each amended to read as follows:

(1) The board shall adopt rules as necessary and exercise all the powers and perform all duties prescribed by law with respect to:

~~((1) The preselection of options for members to choose from for self-directed investment deemed by the board to be in the best interest of the member. At the board's request, the state investment board may provide investment options for purposes of this subsection;~~

~~((2)) (a) The board shall recommend to the state investment board types of options for member self-directed investment in the teachers' retirement system plan III and the school employees' retirement system plan III, as deemed by the board to be reflective of the members' preferences.~~

(b) The selection of optional benefit payment schedules available to members and survivors of members upon the death, disability, retirement, or termination of the member. The optional benefit payments may include but not be limited to: Fixed and participating annuities, joint and survivor annuities, and payments that bridge to social security or defined benefit plan payments;

~~((3)) (c) Approval of actuarially equivalent annuities that may be purchased from the combined plan II and plan III funds under RCW 41.50.075 (2) or (3); and~~

~~((4)) (d) Determination of the basis for administrative charges to the self-directed investment fund to offset self-directed account expenses; (and~~

~~((5)) (2) Selection of investment options for the deferred compensation program.~~

**Sec. 508.** RCW 41.50.110 and 1996 c 39 s 17 are each amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department and the expenses of administration of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, ~~41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act)~~ and 43.43 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, section 2 of this act, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, section 2 of this act, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

(6) Expenses other than those under RCW 41.34.060(2) shall be paid pursuant to subsection (1) of this section.

**Sec. 509.** RCW 41.50.150 and 1997 c 221 s 1 are each amended to read as follows:

(1) The employer of any employee whose retirement benefits are based in part on excess compensation, as defined in this section, shall, upon receipt of a billing from the department, pay into the appropriate retirement system the present value at the time of the employee's retirement of the total estimated cost of all present and future benefits from the retirement system attributable to the excess compensation. The state actuary shall determine the estimated cost using the same method and procedure as is used in preparing fiscal note costs for the legislature. However, the director may in the director's discretion decline to bill the employer if the amount due is less than fifty dollars. Accounts unsettled within thirty days of the receipt of the billing shall be assessed an interest penalty of one percent of the amount due for each month or fraction thereof beyond the original thirty-day period.



(2) "Excess compensation," as used in this section, includes the following payments, if used in the calculation of the employee's retirement allowance:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means:

(i) Any payment in lieu of an accrual of annual leave; or

(ii) Any payment added to salary or wages, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance to the extent that payment qualifies as reportable compensation in the member's retirement system;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular daily or hourly rate of pay; and

(e) Any termination or severance payment.

(3) This section applies to the retirement systems listed in RCW 41.50.030 and to retirements occurring on or after March 15, 1984.

Nothing in this section is intended to amend or determine the meaning of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, ~~41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act)~~, or 43.43 RCW or to determine in any manner what payments are includable in the calculation of a retirement allowance under such chapters.

(4) An employer is not relieved of liability under this section because of the death of any person either before or after the billing from the department.

**Sec. 510.** RCW 41.50.152 and 1995 c 387 s 1 are each amended to read as follows:

(1) Except as limited by subsection (3) of this section, the governing body of an employer under chapter 41.32, ~~41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act)~~, or 41.40 RCW shall comply with the provisions of subsection (2) of this section prior to executing a contract or collective bargaining agreement with members under chapter 41.32, ~~41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act)~~, or 41.40 RCW which provides for:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means any payment in lieu of an accrual of annual leave or any payment added to regular salary, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular rate of pay; or

(e) Any other termination or severance payment.

(2) Any governing body entering into a contract that includes a compensation provision listed in subsection (1) of this section shall do so only after public notice in compliance with the open public meetings act, chapter 42.30 RCW. This notification requirement may be accomplished as part of the approval process for adopting a contract in whole, and does not require separate or additional open public meetings. At the public meeting, full disclosure shall be made of the nature of the proposed compensation provision, and the employer's estimate of the excess compensation billings under RCW 41.50.150 that the employing entity would have to pay as a result of the proposed compensation provision. The employer shall notify the department of its compliance with this section at the time the department bills the employer under RCW ~~((41.40.150))~~ 41.50.150 for the pension impact of compensation provisions listed in subsection (1) of this section that are adopted after July 23, 1995.

(3) The requirements of subsection (2) of this section shall not apply to the adoption of a compensation provision listed in subsection (1) of this section if the compensation would not be includable in calculating benefits under chapter 41.32, ~~41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act)~~, or 41.40 RCW for the employees covered by the compensation provision.

**Sec. 511.** RCW 41.50.255 and 1995 c 281 s 1 are each amended to read as follows:

The director is authorized to pay from the interest earnings of the trust funds of the public employees' retirement system, the teachers' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the judges' retirement system, the school district employees' retirement system, or the law enforcement officers' and fire fighters' retirement system lawful obligations of the appropriate system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the appropriate trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings.

The director may also pay from the interest earnings of the trust funds specified in this section costs incurred in investigating fraud and collecting overpayments, including expenses incurred to review and investigate cases of possible fraud against the trust funds and collection agency fees and other costs incurred in recovering overpayments. Recovered funds must be returned to the appropriate trust funds.

**Sec. 512.** RCW 41.50.500 and 1991 c 365 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.50.500 through 41.50.650, 41.50.670 through 41.50.720, and 26.09.138.

- (1) "Benefits" means periodic retirement payments or a withdrawal of accumulated contributions.
- (2) "Disposable benefits" means that part of the benefits of an individual remaining after the deduction from those benefits of any amount required by law to be withheld. The term "required by law to be withheld" does not include any deduction elective to the member.
- (3) "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state.
- (4) "Mandatory benefits assignment order" means an order issued to the department of retirement systems pursuant to RCW 41.50.570 to withhold and deliver benefits payable to an obligor under chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act), or 43.43 RCW.
- (5) "Obligee" means an ex spouse or spouse to whom a duty of spousal maintenance or property division obligation is owed.
- (6) "Obligor" means the spouse or ex spouse owing a duty of spousal maintenance or a property division obligation.
- (7) "Periodic retirement payments" means periodic payments of retirement allowances, including but not limited to service retirement allowances, disability retirement allowances, and survivors' allowances. The term does not include a withdrawal of accumulated contributions.
- (8) "Property division obligation" means any outstanding court-ordered property division or court-approved property settlement obligation incident to a decree of divorce, dissolution, or legal separation.
- (9) "Standard allowance" means a benefit payment option selected under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a), 41.40.188(1)(a), ~~((or))~~ 41.40.660(1), or section 23 of this act that ceases upon the death of the retiree. Standard allowance also means the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or chapter 2.12 RCW. Standard allowance also means the maximum retirement allowance available under RCW 41.32.530(1) following member withdrawal of accumulated contributions, if any.
- (10) "Withdrawal of accumulated contributions" means a lump sum payment to a retirement system member of all or a part of the member's accumulated contributions, including accrued interest, at the request of the member including any lump sum amount paid upon the death of the member.

**Sec. 513.** RCW 41.50.670 and 1996 c 39 s 18 are each amended to read as follows:

(1) Nothing in this chapter regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an obligee to direct payments of retirement benefits to satisfy a property division obligation ordered pursuant to a court decree of dissolution or legal separation or any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation as provided in RCW 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, 41.26.053, 41.32.052, section 11 of this act, 41.34.070(3), 41.40.052, 43.43.310, or 26.09.138, as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991. The department shall pay benefits under this chapter in a lump sum or as a portion of periodic retirement payments as expressly provided by the dissolution order. A dissolution order may not order the department to pay a periodic retirement payment or lump sum unless that payment is specifically authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.32, 41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act), 41.34, 41.40, or 43.43 RCW, as applicable.

(2) The department shall pay directly to an obligee the amount of periodic retirement payments or lump sum payment, as appropriate, specified in the dissolution order if the dissolution order filed with the department pursuant to subsection (1) of this section includes a provision that states in the following form:

If . . . . . (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to . . . . . (the obligee) . . . . . dollars from such payments or . . . percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If . . . . . (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to . . . . . (the obligee) . . . . . dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

(3) This section does not require a member to select a standard allowance upon retirement nor does it require the department to recalculate the amount of a retiree's periodic retirement payment based on a change in survivor option.

(4) A court order under this section may not order the department to pay more than seventy-five percent of an obligor's periodic retirement payment to an obligee.

(5) Persons whose court decrees were entered between July 1, 1987, and July 28, 1991, shall also be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders comply or are modified to comply with this

section and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.053, 41.32.052, section 11 of this act, 41.34.070, 41.40.052, 43.43.310, and 26.09.138.

(6) The obligee must file a copy of the dissolution order with the department within ninety days of that order's entry with the court of record.

(7) A division of benefits pursuant to a dissolution order under this section shall be based upon the obligor's gross benefit prior to any deductions. If the department is required to withhold a portion of the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of that amount plus the amount owed to the obligee exceeds the total benefit, the department shall satisfy the withholding requirements under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee. The provisions of this subsection do not apply to amounts withheld pursuant to 26 U.S.C. Sec. 3402(i).

**Sec. 514.** RCW 41.50.790 and 1996 c 175 s 1 are each amended to read as follows:

(1) The department shall designate an obligee as a survivor beneficiary of a member under RCW 2.10.146, 41.26.460, 41.32.530, 41.32.785, section 23 of this act, 41.40.188, or 41.40.660 if the department has been served by registered or certified mail with a dissolution order as defined in RCW 41.50.500 at least thirty days prior to the member's retirement. The department's duty to comply with the dissolution order arises only if the order contains a provision that states in substantially the following form:

When . . . . . (the obligor) applies for retirement the department shall designate . . . . . (the obligee) as survivor beneficiary with a . . . . . survivor benefit.

The survivor benefit designated in the dissolution order must be consistent with the survivor benefit options authorized by statute or administrative rule.

(2) The obligee's entitlement to a survivor benefit pursuant to a dissolution order filed with the department in compliance with subsection (1) of this section shall cease upon the death of the obligee.

(3)(a) A subsequent dissolution order may order the department to divide a survivor benefit between a survivor beneficiary and an alternate payee. In order to divide a survivor benefit between more than one payee, the dissolution order must:

- (i) Be ordered by a court of competent jurisdiction following notice to the survivor beneficiary;
- (ii) Contain a provision that complies with subsection (1) of this section designating the survivor beneficiary;
- (iii) Contain a provision clearly identifying the alternate payee or payees; and
- (iv) Specify the proportional division of the benefit between the survivor beneficiary and the alternate payee or payees.

(b) The department will calculate actuarial adjustment for the court-ordered survivor benefit based upon the life of the survivor beneficiary.

(c) If the survivor beneficiary dies, the department shall terminate the benefit. If the alternate payee predeceases the survivor beneficiary, all entitlement of the alternate payee to a benefit ceases and the entire benefit will revert to the survivor beneficiary.

(d) For purposes of this section, "survivor beneficiary" means:

- (i) The obligee designated in the provision of dissolution filed in compliance with subsection (1) of this section; or
- (ii) In the event of more than one dissolution order, the obligee named in the first decree of dissolution received by the department.

(e) For purposes of this section, "alternate payee" means a person, other than the survivor beneficiary, who is granted a percentage of a survivor benefit pursuant to a dissolution order.

(4) The department shall under no circumstances be held liable for not designating an obligee as a survivor beneficiary under subsection (1) of this section if the dissolution order or amendment thereto is not served on the department by registered or certified mail at least thirty days prior to the member's retirement.

(5) If a dissolution order directing designation of a survivor beneficiary has been previously filed with the department in compliance with this section, no additional obligation shall arise on the part of the department upon filing of a subsequent dissolution order unless the subsequent dissolution order:

- (a) Specifically amends or supersedes the dissolution order already on file with the department; and
- (b) Is filed with the department by registered or certified mail at least thirty days prior to the member's retirement.

(6) The department shall designate a court-ordered survivor beneficiary pursuant to a dissolution order filed with the department before June 6, 1996, only if the order:

- (a) Specifically directs the member or department to make such selection;
- (b) Specifies the survivor option to be selected; and
- (c) The member retires after June 6, 1996.

**NEW SECTION. Sec. 515.** A new section is added to chapter 41.50 RCW to read as follows:

(1) If the department determines that due to employer error a member of plan III has suffered a loss of investment return, the employer shall pay the department for credit to the member's account the amount determined by the department as necessary to correct the error.

(2) If the department determines that due to departmental error a member of plan III has suffered a loss of investment return, the department shall credit to the member's account from the school employees' retirement system combined plan II and III fund the amount determined by the department as necessary to correct the error.

**Sec. 601.** RCW 41.40.010 and 1997 c 254 s 10 and 1997 c 88 s 6 are each reenacted and amended to read as follows:

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

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

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

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

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

(b) "Employer" for plan II members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan II.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

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

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

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

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

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

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

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

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

(8)(a) "Compensation earnable" for plan I members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

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

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. ~~((Standby compensation is regular salary for the purposes of RCW 41.50.150(2).))~~

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

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

"Compensation earnable" for plan II members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined.

Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. ~~((Standby compensation is regular salary for the purposes of RCW 41.50.150(2).))~~

(9)(a) "Service" for plan I members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan I "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan II members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

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

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

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

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan II "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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

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

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

(13) "Membership service" means:

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

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

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

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

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

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

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

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

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

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

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

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

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

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

(22) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

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

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

(25) "Eligible position" means:

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

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

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

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

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

(29) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

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

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

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

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

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

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

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

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

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

(40) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(41) "Separation from service" occurs when a person has terminated all employment with an employer.

**Sec. 602.** RCW 41.40.062 and 1995 c 286 s 4 are each amended to read as follows:

(1) The members and appointive and elective officials of any political subdivision or association of political subdivisions of the state may become members of the retirement system by the approval of the local legislative authority.

(2) On and after September 1, 1965, every school district of the state of Washington shall be an employer under this chapter. Every member of each school district who is eligible for membership under RCW 41.40.023 shall be a member of the retirement system and participate on the same basis as a person who first becomes a member through the admission of any employer into the retirement system on and after April 1, 1949, except that after August 31, 2000, school districts will no longer be employers for the public employees' retirement system plan II.

**Sec. 603.** RCW 41.40.088 and 1991 c 343 s 9 and 1991 c 35 s 96 are each reenacted and amended to read as follows:

(1) A plan I member who is employed by a school district or districts, an educational service district, the state school for the deaf, the state school for the blind, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for six hundred thirty hours or more during that period, and is employed during nine months of that period, except that a member may not receive credit for any period prior to the member's employment in an eligible position;

(b) If a member in an eligible position does not meet the requirements of (a) of this subsection, the member is entitled to a service credit month for each month of the period he or she earns earnable compensation for seventy or more hours; and the member is entitled to a one-quarter service credit month for those calendar months during which he or she earned compensation for less than seventy hours.

(2) Except for any period prior to the member's employment in an eligible position, a plan II member who is employed by a school district or districts, an educational service district, the state school for the blind, the state school for the deaf, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten hours during that period, and is employed nine months of that period.

(c) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(i) One service credit month for each month in which compensation is earned for ninety or more hours;

(ii) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(iii) One-quarter service credit month for each month in which compensation is earned for less than seventy hours.

(d) After August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan II.

(3) The department shall adopt rules implementing this section.

**Sec. 604.** RCW 41.26.500 and 1990 c 274 s 12 are each amended to read as follows:

(1) No retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 ((~~or~~), 41.32.010, or section 2 of this act, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

**Sec. 605.** RCW 41.32.800 and 1997 c 254 s 6 are each amended to read as follows:

(1) Except as provided in RCW 41.32.802, no retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 ((~~or~~), 41.32.010, or section 2 of this act, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

**Sec. 606.** RCW 41.40.690 and 1997 c 254 s 13 are each amended to read as follows:

(1) Except as provided in RCW 41.40.037, no retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 ((~~or~~), 41.32.010, or section 2 of this act, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

**Sec. 701.** RCW 41.32.8401 and 1997 c 10 s 1 are each amended to read as follows:

(1) Anyone who requests to transfer under RCW 41.32.817 before January 1, 1998, and establishes service credit for January 1998, shall have their member account increased by forty percent of:

(a) Plan II accumulated contributions as of January 1, 1996, less fifty percent of any payments made pursuant to RCW 41.50.165(2);

or



(b) All amounts withdrawn after January 1, 1996, which are completely restored before January 1, 1998.

(2) A further additional payment of twenty-five percent, for a total of sixty-five percent, shall be paid subject to the conditions contained in subsection (1) of this section on July 1, 1998.

(3) Substitute teachers shall receive the additional payment provided in subsection (1) of this section if they:

(a) Establish service credit for January 1998; and

(b) Establish any service credit from July 1996 through December 1997; and

(c) Elect to transfer on or before March 1, 1999.

~~((3))~~ (4) If a member who requests to transfer dies before January 1, 1998, the additional payment provided by this section shall be paid to the member's estate, or the person or persons, trust, or organization the member nominated by written designation duly executed and filed with the department.

~~((4))~~ (5) The legislature reserves the right to modify or discontinue the right to an incentive payment under this section for any plan II members who have not previously transferred to plan III.

**Sec. 702.** RCW 41.54.010 and 1993 c 517 s 8 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes wages and salaries deferred under provisions of the United States internal revenue code, but shall exclude overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

(2) "Department" means the department of retirement systems.

(3) "Director" means the director of the department of retirement systems.

(4) "Dual member" means a person who (a) is or becomes a member of a system on or after July 1, 1988, (b) has been a member of one or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or subsection (6) of this section.

(5) "Service" means the same as it may be defined in each respective system. For the purposes of RCW 41.54.030, military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

(6) "System" means the retirement systems established under chapters 41.32, 41.40, 41.44, ~~41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act)~~, and 43.43 RCW; plan II of the system established under chapter 41.26 RCW; and the city employee retirement systems for Seattle, Tacoma, and Spokane. The inclusion of an individual first class city system is subject to the procedure set forth in RCW 41.54.061.

**Sec. 703.** RCW 41.54.030 and 1996 c 55 s 4, 1996 c 55 s 3, and 1996 c 39 s 19 are each reenacted and amended to read as follows:

(1) A dual member may combine service in all systems for the purpose of:

(a) Determining the member's eligibility to receive a service retirement allowance; and

(b) Qualifying for a benefit under RCW 41.32.840(2) or section 203 of this act.

(2) A dual member who is eligible to retire under any system may elect to retire from all the member's systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age may be received immediately or deferred to a later date. The allowances shall be actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system.

(4) The service retirement eligibility requirements of RCW 41.40.180 shall apply to any dual member whose prior system is plan I of the public employees' retirement system established under chapter 41.40 RCW.

**Sec. 704.** RCW 41.54.040 and 1996 c 55 s 5 are each amended to read as follows:

(1) The allowances calculated under RCW 41.54.030, 41.54.032, and 41.54.034 shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) The department shall adopt rules under chapter 34.05 RCW to ensure that where a dual member has service in a system established under chapter 41.32, 41.40, 41.44, ~~41.-- (sections 1 through 25, 101 through 112, 114, and 201 through 213 of this act)~~, or 43.43 RCW; service in plan II of the system established under chapter 41.26 RCW; and service under the city employee retirement system for Seattle, Tacoma, or Spokane, the additional cost incurred as a result of the dual member receiving a benefit under this chapter shall be borne by the retirement system incurring the additional cost.

NEW SECTION. **Sec. 705.** A new section is added to chapter 41.54 RCW to read as follows:

Persons who were members of the public employees' retirement system plan II prior to the effective date of this section and were transferred or mandated into membership pursuant to chapter . . ., Laws of 1998 (this act) shall suffer no diminution of benefits guaranteed to public employees' retirement system plan II members as of the date of their change in membership.

**Sec. 706.** RCW 41.05.011 and 1996 c 39 s 21 are each amended to read as follows:

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

- (1) "Administrator" means the administrator of the authority.
- (2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.
- (3) "Authority" means the Washington state health care authority.
- (4) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.
- (5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.
- (6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes: (a) Employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205; (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; and (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350.
- (7) "Board" means the public employees' benefits board established under RCW 41.05.055.
- (8) "Retired or disabled school employee" means:
  - (a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;
  - (b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32 or 41.40 RCW;
  - (c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32 or 41.40 RCW.
- (9) "Benefits contribution plan" means a premium only contribution plan, a medical flexible spending arrangement, or a cafeteria plan whereby state and public employees may agree to a contribution to benefit costs which will allow the employee to participate in benefits offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.
- (10) "Salary" means a state employee's monthly salary or wages.
- (11) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the benefits contribution plan.
- (12) "Plan year" means the time period established by the authority.
- (13) "Separated employees" means persons who separate from employment with an employer as defined in:
  - (a) RCW 41.32.010(11) on or after July 1, 1996~~(<sup>(1)</sup>)~~; or
  - (b) Section 2 of this act on or after September 1, 2000;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan III as defined in RCW 41.32.010(40) or the Washington school employees' retirement system plan III as defined in section 2 of this act.

**Sec. 707.** RCW 43.33A.190 and 1995 c 239 s 321 are each amended to read as follows:

~~Pursuant to ((RCW 41.50.088, the state investment board, at the request of the employee retirement benefits board, is authorized to offer investment options for self-directed investment under plan III))~~ section 307 of this act, the state investment board shall invest all self-directed investment moneys under teachers' retirement system plan III and the school employees' retirement system plan III, with full power to establish investment policy, develop investment options, and manage self-directed investment funds.

**Sec. 708.** RCW 43.84.092 and 1997 c 218 s 5 are each amended to read as follows:

- (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.
- (2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation

is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve fund, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system combined plan II and plan III account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington school employees' retirement system combined plan II and III account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the department of licensing services account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the gasohol exemption holding account, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the marine operating fund, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the small city account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation revolving loan account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION. Sec. 709.** (1) The legislature declares that changing the numerical designation of the different retirement plans within the retirement systems from Roman numerals to Arabic numerals is of no substantive importance.

(2) The code reviser, under RCW 1.08.025, is directed to change the numerical designation of the retirement plans as follows:

- (a) Where "I" is used, replace with "1";
- (b) Where "II" is used, replace with "2"; and
- (c) Where "III" is used, replace with "3."

**NEW SECTION. Sec. 710.** The state investment board, in consultation with the employee retirement benefits board, shall develop and implement administrative changes to mitigate the impact on the other pension funds of the movement of plan III members in and out of the state investment board portfolio. The changes shall be designed to meet the goals of minimizing the impact of the self-directed investing option on the state investment board's (1) asset allocation strategy, (2) liquidity needs, and (3) transaction costs. The changes may include but not be limited to restricting the frequency and timing of transfers in and out of the state investment board portfolio and charging appropriate fees to cover additional transaction costs caused by such transfers. At the September 1998 meeting of the joint committee on pension policy, the state investment board shall report on its progress in identifying and implementing administrative changes required by this section. If the state investment board determines that statutory changes are required to achieve the goals specified in this section, the state investment board shall recommend alternatives at the September 1998 meeting of the joint committee on pension policy.

**NEW SECTION. Sec. 711.** The joint committee on pension policy shall study the policy and the costs of merging the teachers' retirement system and the Washington school employees' retirement system and shall report their findings to the legislature by January 15, 1999.

**NEW SECTION. Sec. 712.** The department of retirement systems shall study the ongoing costs of administering the plan III systems, ways to decrease those costs, and methods of charging members for higher-cost investment options. The department shall report to the joint committee on pension policy by September 1998.

**NEW SECTION. Sec. 713.** The benefits provided pursuant to chapter . . . , Laws of 1998 (this act) are not provided to employees as a matter of contractual right prior to September 1, 2000. The legislature retains the right to alter or abolish these benefits at any time prior to September 1, 2000.

**NEW SECTION. Sec. 714.** Except for sections 303, 306 through 309, 404, 505, 507, 515, 701, 707, and 710 through 713 of this act, this act takes effect September 1, 2000.

**NEW SECTION. Sec. 715.** Section 505 of this act expires September 1, 2000.

**NEW SECTION. Sec. 716.** Sections 303, 306 through 309, 404, 505, 507, 515, 701, 707, and 710 through 713 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Long, the Senate concurred in the House amendment to Substitute Senate Bill No. 6306.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6306, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6306, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 46. Voting nay: Senator Wojahn - 1. Absent: Senator Haugen - 1. Excused: Senator Benton - 1. SUBSTITUTE SENATE BILL NO. 6306, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

**EDITOR'S NOTE:** A conference was granted on Substitute Senate Bill No. 6253 earlier today, but conferees were not appointed at that time.

#### APPOINTMENT OF CONFERENCE COMMITTEE ON SUBSTITUTE SENATE BILL NO. 6253

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 6253 and the House amendments thereto: Senators Schow, Heavey and Horn.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

February 27, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6302 with the following amendment(s):

On page 1, line 14, after "RCW" insert "domiciled in this state"

On page 13, after line 13, insert the following:

"NEW SECTION. Sec. 14. The first RBC report required under section 2 of this act shall be filed on or prior to March 1, 1999, for the 1998 calendar year."

Renumber remaining sections consecutively and correct prior internal references accordingly.

On page 13, line 29, after "through" strike "14" and insert "15", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Winsley, the Senate concurred in the House amendments to Substitute Senate Bill No. 6302.

MOTION

On motion of Senator Goings, Senator Patterson was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6302, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6302, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Benton and Patterson - 2. SUBSTITUTE SENATE BILL NO. 6302, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6301 with the following amendment(s):

On page 2, after line 12, insert the following:

**"Sec. 2.** RCW 19.118.021 and 1995 c 254 s 1 are each amended to read as follows:

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

(1) "Board" means new motor vehicle arbitration board.

(2) "Collateral charges" means any sales or lease related charges including but not limited to sales tax, use tax, arbitration service fees, unused license fees, unused registration fees, unused title fees, finance charges, prepayment penalties, credit disability and credit life insurance costs not otherwise refundable, any other insurance costs prorated for time out of service, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rustproofing, or factory or dealer installed options.

(3) "Condition" means a general problem that results from a defect or malfunction of one or more parts, or their improper installation by the manufacturer, its agents, or the new motor vehicle dealer.

(4) "Consumer" means any person who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle, other than for purposes of resale or sublease, during the duration of the warranty period defined under this section.

(5) "Court" means the superior court in the county where the consumer resides, except if the consumer does not reside in this state, then the superior court in the county where an arbitration hearing or determination was conducted or made pursuant to this chapter.

(6) "Incidental costs" means any reasonable expenses incurred by the consumer in connection with the repair of the new motor vehicle, including any towing charges and the costs of obtaining alternative transportation.

(7) "Manufacturer" means any person engaged in the business of constructing or assembling new motor vehicles or engaged in the business of importing new motor vehicles into the United States for the purpose of selling or distributing new motor vehicles to new motor vehicle dealers. "Manufacturer" does not include any person engaged in the business of set-up of motorcycles as an agent of a new motor vehicle dealer if the person does not otherwise construct or assemble motorcycles.

(8) "Motorcycle" means any motorcycle as defined in RCW 46.04.330 which has an engine displacement of at least seven hundred fifty cubic centimeters.

(9) "Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use, built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.

(10) "Motor home manufacturer" means the first stage manufacturer, the component manufacturer, and the final stage manufacturer.

(a) "First stage manufacturer" means a person who manufactures incomplete new motor vehicles such as chassis, chassis cabs, or vans, that are directly warranted by the first stage manufacturer to the consumer, and are completed by a final stage manufacturer into a motor home.

(b) "Component manufacturer" means a person who manufactures components used in the manufacture or assembly of a chassis, chassis cab, or van that is completed into a motor home and whose components are directly warranted by the component manufacturer to the consumer.

(c) "Final stage manufacturer" means a person who assembles, installs, or permanently affixes a body, cab, or equipment to an incomplete new motor vehicle such as a chassis, chassis cab, or van provided by a first stage manufacturer, to complete the vehicle into a motor home.

(11) "New motor vehicle" means any new self-propelled vehicle, including a new motorcycle, primarily designed for the transportation of persons or property over the public highways that was originally purchased or leased at retail from a new motor vehicle dealer or leasing company in this state, and that was initially registered in this state or for which a temporary motor vehicle license was issued pursuant to RCW 46.16.460, but does not include vehicles purchased or leased by a business as part of a fleet of ten or more vehicles at one time or under a single purchase or lease agreement. If the motor vehicle is a motor home, this chapter shall apply to the self-propelled vehicle and chassis, but does not include those portions of the vehicle designated, used, or maintained primarily as a mobile dwelling, office, or commercial space. The term "new motor vehicle" does not include trucks with nineteen thousand pounds or more gross vehicle weight rating. The term "new motor vehicle" includes a demonstrator or lease-purchase vehicle as long as a manufacturer's warranty was issued as a condition of sale.

~~((10))~~ (12) "New motor vehicle dealer" means a person who holds a dealer agreement with a manufacturer for the sale of new motor vehicles, who is engaged in the business of purchasing, selling, servicing, exchanging, or dealing in new motor vehicles, and who is licensed or required to be licensed as a vehicle dealer by the state of Washington.

~~((14))~~ (13) "Nonconformity" means a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of a new motor vehicle, but does not include a defect or condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle.

~~((12))~~ (14) "Purchase price" means the cash price of the new motor vehicle appearing in the sales agreement or contract.

(a) "Purchase price" in the instance of a lease means the actual written capitalized cost disclosed to the consumer contained in the lease agreement. If there is no disclosed capitalized cost in the lease agreement the "purchase price" is the manufacturer's suggested retail price including manufacturer installed accessories or items of optional equipment displayed on the manufacturer label, required by 15 U.S.C. Sec. 1232.

(b) "Purchase price" in the instance of both a vehicle purchase or lease agreement includes any allowance for a trade-in vehicle but does not include any manufacturer-to-consumer rebate appearing in the agreement or contract that the consumer received or that was applied to reduce the purchase or lease cost.

Where the consumer is a subsequent transferee and the consumer selects repurchase of the motor vehicle, "purchase price" means the consumer's subsequent purchase price. Where the consumer is a subsequent transferee and the consumer selects replacement of the motor vehicle, "purchase price" means the original purchase price.

~~((13))~~ (15) "Reasonable offset for use" means the definition provided in RCW 19.118.041(1)(c) for a new motor vehicle other than a new motorcycle. The reasonable offset for use for a new motorcycle shall be computed by the number of miles that the vehicle traveled before the manufacturer's acceptance of the vehicle upon repurchase or replacement multiplied by the purchase price, and divided by twenty-five thousand.

~~((14))~~ (16) "Reasonable number of attempts" means the definition provided in RCW 19.118.041.

~~((15))~~ (17) "Replacement motor vehicle" means a new motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options.

~~((16))~~ (18) "Serious safety defect" means a life-threatening malfunction or nonconformity that impedes the consumer's ability to control or operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

~~((17))~~ (19) "Subsequent transferee" means a consumer who acquires a motor vehicle, within the warranty period, as defined in this section, with an applicable manufacturer's written warranty and where the vehicle otherwise met the definition of a new motor vehicle at the time of original retail sale or lease.

~~((18))~~ (20) "Substantially impair" means to render the new motor vehicle unreliable, or unsafe for ordinary use, or to diminish the resale value of the new motor vehicle below the average resale value for comparable motor vehicles.

~~((19))~~ (21) "Warranty" means any implied warranty, any written warranty of the manufacturer, or any affirmation of fact or promise made by the manufacturer in connection with the sale of a new motor vehicle that becomes part of the basis of the bargain. The term "warranty" pertains to the obligations of the manufacturer in relation to materials, workmanship, and fitness of a new motor vehicle for ordinary use or reasonable intended purposes throughout the duration of the warranty period as defined under this section.

~~((20))~~ (22) "Warranty period" means the period ending two years after the date of the original delivery to the consumer of a new motor vehicle, or the first twenty-four thousand miles of operation, whichever occurs first.

**Sec. 3.** RCW 19.118.031 and 1995 c 254 s 2 are each amended to read as follows:

(1) The manufacturer shall publish an owner's manual and provide it to the new motor vehicle dealer or leasing company. The owner's manual shall include a list of the addresses and phone numbers for the manufacturer's customer assistance division, or zone or regional offices. A manufacturer shall provide to the new motor vehicle dealer or leasing company all applicable manufacturer's written warranties. The dealer or leasing company shall transfer to the consumer, at the time of original retail sale or lease, the owner's manual and applicable written warranties as provided by a manufacturer.

(2) At the time of purchase, the new motor vehicle dealer shall provide the consumer with a written statement that explains the consumer's rights under this chapter. The written statement shall be prepared and supplied by the attorney general and shall contain a toll-free number that the consumer can contact for information regarding the procedures and remedies under this chapter.

(3) For the purposes of this chapter, if a new motor vehicle does not conform to the warranty and the consumer reports the nonconformity during the term of the warranty period or the period of coverage of the applicable manufacturer's written warranty, whichever is less, to the manufacturer, its agent, or the new motor vehicle dealer who sold the new motor vehicle, the manufacturer, its agent, or the new motor vehicle dealer shall make repairs as are necessary to conform the vehicle to the warranty, regardless of whether such repairs are made after the expiration of the warranty period. Any corrections or attempted repairs undertaken by a new motor vehicle dealer under this chapter shall be treated as warranty work and billed by the dealer to the manufacturer in the same manner as other work under the manufacturer's written warranty is billed. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(4) Upon request from the consumer, the manufacturer or new motor vehicle dealer shall provide a copy of any report or computer reading compiled by the manufacturer's field or zone representative regarding inspection, diagnosis, or test-drive of the consumer's new motor vehicle, or shall provide a copy of any technical service bulletin issued by the manufacturer regarding the year and model of the consumer's new motor vehicle as it pertains to any material, feature, component, or the performance thereof.

(5) The new motor vehicle dealer shall provide to the consumer each time the consumer's vehicle is returned from being diagnosed or repaired under the warranty, a fully itemized, legible statement or repair order indicating any diagnosis made, and all work performed on the vehicle including but not limited to, a general description of the problem reported by the consumer or an identification of the defect or condition, parts and labor, the date and the odometer reading when the vehicle was submitted for repair, and the date when the vehicle was made available to the consumer.

(6) No manufacturer, its agent, or the new motor vehicle dealer may refuse to diagnose or repair any nonconformity covered by the warranty for the purpose of avoiding liability under this chapter.

(7) For purposes of this chapter, consumers shall have the rights and remedies, including a cause of action, against manufacturers as provided in this chapter.

(8) The warranty period and thirty-day out-of-service period, and sixty-day out-of-service period in the case of a motor home, shall be extended by any time that repair services are not available to the consumer as a direct result of a strike, war, invasion, fire, flood, or other natural disaster.

**Sec. 4.** RCW 19.118.041 and 1995 c 254 s 3 are each amended to read as follows:

(1) If the manufacturer, its agent, or the new motor vehicle dealer is unable to conform the new motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within forty calendar days of a consumer's written request to the manufacturer's corporate, dispute resolution, zone, or regional office address shall, at the option of the consumer, replace or repurchase the new motor vehicle.

(a) The replacement motor vehicle shall be identical or reasonably equivalent to the motor vehicle to be replaced as the motor vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options. Where the manufacturer supplies a replacement motor vehicle, the manufacturer shall be responsible for sales tax, license, registration fees, and refund of any incidental costs. Compensation for a reasonable offset for use shall be paid by the consumer to the manufacturer in the event that the consumer accepts a replacement motor vehicle.

(b) When repurchasing the new motor vehicle, the manufacturer shall refund to the consumer the purchase price, all collateral charges, and incidental costs, less a reasonable offset for use. When repurchasing the new motor vehicle, in the instance of a lease, the manufacturer shall refund to the consumer all payments made by the consumer under the lease including but not limited to all lease payments, trade-in value or inception payment, security deposit, all collateral charges and incidental costs less a reasonable offset for use. The manufacturer shall make such payment to the lessor and/or lienholder of record as necessary to obtain clear title to the motor vehicle and upon the lessor's and/or lienholder's receipt of that payment and payment by the consumer of any late payment charges, the consumer shall be relieved of any future obligation to the lessor and/or lienholder.

(c) The reasonable offset for use shall be computed by multiplying the number of miles that the vehicle traveled directly attributable to use by the consumer times the purchase price, and dividing the product by one hundred twenty thousand, except in the case of a motor home, in which event it shall be divided by ninety thousand. However, the reasonable offset for use calculation total for a motor home is subject to modification by the board by decreasing or increasing the offset total up to a maximum of one-third of the offset total. The board may modify the offset total in those circumstances where the board determines that the wear and tear on those portions of the motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space are significantly greater or significantly less than that which could be reasonably expected based on the mileage attributable to the consumer's use of the motor home. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects repurchase of the motor vehicle, "the number of miles that the vehicle traveled" shall be calculated from the date of purchase or lease by the consumer. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects replacement of the motor vehicle, "the number of miles that the vehicle traveled" shall be calculated from the original purchase, lease, or in-service date.

(2) Reasonable number of attempts, except in the case of a new motor vehicle that is a motor home acquired after June 30, 1998, shall be deemed to have been undertaken by the manufacturer, its agent, or the new motor vehicle dealer to conform the new motor vehicle to the warranty within the warranty period, if: (a) The same serious safety defect has been subject to diagnosis or repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the serious safety defect continues to exist; (b) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (c) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(3)(a) In the case of a new motor vehicle that is a motor home acquired after June 30, 1998, a reasonable number of attempts shall be deemed to have been undertaken by the motor home manufacturers, their respective agents, or their respective new motor vehicle dealers to conform the new motor vehicle to the warranty within the warranty period, if: (i) The same serious safety defect has been subject to diagnosis or repair one or more times during the period of coverage of the applicable motor home manufacturer's written warranty, plus a final attempt to repair the vehicle as provided for in (b) of this subsection, and the serious safety defect continues to exist; (ii) the same nonconformity has been subject to repair three or more times, at least one of which is during the period of coverage of the applicable motor home manufacturer's written warranty, plus a final attempt to repair the vehicle as provided for in (b) of this subsection, and the nonconformity continues to exist; or (iii) the vehicle is out of service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of sixty calendar days aggregating all motor home manufacturer days out-of-service, and the motor home manufacturers have had at least one opportunity to coordinate and complete an inspection and any repairs of the vehicle's nonconformities after receipt of notification from the consumer as provided for in (c) of this subsection. For purposes of this subsection, each motor home manufacturer's written warranty must be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(b) In the case of a new motor vehicle that is a motor home, after one attempt has been made to repair a serious safety defect, or after three attempts have been made to repair the same nonconformity, the consumer shall give written notification of the need to repair the nonconformity to each of the motor home manufacturers at their respective corporate, zone, or regional office addresses to allow the motor home manufacturers to coordinate and complete a final attempt to cure the nonconformity. The motor home manufacturers each have fifteen days, commencing upon receipt of the notification, to respond and inform the consumer of the location of the facility where the vehicle will be repaired. If the vehicle is unsafe to drive due to a serious safety defect, or to the extent the repair facility is more than one hundred miles from the motor home location, the motor home manufacturers are responsible for the cost of transporting the vehicle to and from the repair facility. The motor home manufacturers have a cumulative total of thirty days, commencing upon delivery of the vehicle to the designated repair facility by the consumer, to conform the vehicle to the applicable motor home manufacturer's written warranty. This time period may be extended if the



consumer agrees in writing. If a motor home manufacturer fails to respond to the consumer or perform the repairs within the time period prescribed, that motor home manufacturer is not entitled to a final attempt to cure the nonconformity.

(c) In the case of a new motor vehicle that is a motor home, if the vehicle is out of service by reason of diagnosis or repair of one or more nonconformities by the motor home manufacturers, their respective agents, or their respective new motor vehicle dealers for a cumulative total of thirty or more days aggregating all motor home manufacturer days out of service, the consumer shall so notify each motor home manufacturer in writing at their respective corporate, zone, or regional office addresses to allow the motor home manufacturers, their respective agents, or their respective new motor vehicle dealers an opportunity to coordinate and complete an inspection and any repairs of the vehicle's nonconformities. The motor home manufacturers have fifteen days, commencing upon receipt of the notification, to respond and inform the consumer of the location of the facility where the vehicle will be repaired. If the vehicle is unsafe to drive due to a serious safety defect, or to the extent the repair facility is more than one hundred miles from the motor home location, the motor home manufacturers are responsible for the cost of transporting the vehicle to and from the repair facility. Once the buyer delivers the vehicle to the designated repair facility, the inspection and repairs must be completed by the motor home manufacturers either (i) within ten days or (ii) before the vehicle is out of service by reason of diagnosis or repair of one or more nonconformities for sixty days, whichever time period is longer. This time period may be extended if the consumer agrees in writing. If a motor home manufacturer fails to respond to the consumer or perform the repairs within the time period prescribed, that motor home manufacturer is not entitled to at least one opportunity to inspect and repair the vehicle's nonconformities after receipt of notification from the buyer as provided for in this subsection (3)(c).

(4) No new motor vehicle dealer may be held liable by the manufacturer for any collateral charges, incidental costs, purchase price refunds, or vehicle replacements. Manufacturers shall not have a cause of action against dealers under this chapter. Consumers shall not have a cause of action against dealers under this chapter, but a violation of any responsibilities imposed upon dealers under this chapter is a per se violation of chapter 19.86 RCW. Consumers may pursue rights and remedies against dealers under any other law, including chapters 46.70 and 46.71 RCW. Manufacturers and consumers may not make dealers parties to arbitration board proceedings under this chapter.

**Sec. 5.** RCW 19.118.061 and 1995 c 254 s 4 are each amended to read as follows:

(1) A manufacturer shall be prohibited from reselling any motor vehicle determined or adjudicated as having a serious safety defect unless the serious safety defect has been corrected and the manufacturer warrants upon the first subsequent resale that the defect has been corrected.

(2) Before any sale or transfer of a vehicle that has been replaced or repurchased by the manufacturer that was determined or adjudicated as having a nonconformity or to have been out of service for thirty or more calendar days, or sixty or more calendar days in the case of a motor home, under this chapter, the manufacturer shall:

(a) Notify the attorney general and the department of licensing, by certified mail or by personal service, upon receipt of the motor vehicle;

(b) Attach a resale disclosure notice to the vehicle in a manner and form to be specified by the attorney general. Only the retail purchaser may remove the resale disclosure notice after execution of the disclosure form required under subsection (3) of this section; and

(c) Notify the attorney general and the department of licensing if the nonconformity in the motor vehicle is corrected.

(3) Upon the first subsequent resale, either at wholesale or retail, or transfer of title of a motor vehicle and which was previously returned after a final determination, adjudication, or settlement under this chapter or under a similar statute of any other state, the manufacturer, its agent, or the new motor vehicle dealer who has actual knowledge of said final determination, adjudication or settlement, shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity in a manner to be specified by the attorney general, and the department of licensing shall place on the certificate of title information indicating the vehicle was returned under this chapter.

(4) Upon receipt of the manufacturer's notification under subsection (2) of this section that the nonconformity has been corrected and upon the manufacturer's request and payment of any fees, the department of licensing shall issue a new title with information indicating the vehicle was returned under this chapter and that the nonconformity has been corrected. Upon the first subsequent resale, either at wholesale or retail, or transfer of title of a motor vehicle, as provided under subsection (2)(c) of this section, the manufacturer shall warrant upon the resale that the nonconformity has been corrected, and the manufacturer, its agent, or the new motor vehicle dealer who has actual knowledge of the corrected nonconformity, shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity and indicating that it has been corrected in a manner to be specified by the attorney general.

(5) After repurchase or replacement and following a manufacturer's receipt of a vehicle under this section and prior to a vehicle's first subsequent retail transfer by resale or lease, any intervening transferor of a vehicle subject to the requirements of this section who has received the disclosure, correction and warranty documents, as specified by the attorney general and required under this chapter, shall deliver the documents with the vehicle to the next transferor, purchaser or lessee to ensure proper and timely notice and disclosure. Any intervening transferor who fails to comply with this subsection shall, at the option of the subsequent transferor or first subsequent retail purchaser or lessee:

(a) Indemnify ~~((and any))~~ any subsequent transferor or first subsequent retail purchaser for all damages caused by such violation; or (b) repurchase the vehicle at the full purchase price including all fees, taxes and costs incurred for goods and services which were included in the subsequent transaction.

**Sec. 6.** RCW 19.118.090 and 1995 c 254 s 6 are each amended to read as follows:

(1) A consumer may request arbitration under this chapter by submitting the request to the attorney general. Within ten days after receipt of an arbitration request, the attorney general shall make a reasonable determination of the cause of the request for arbitration and provide necessary information to the consumer regarding the consumer's rights and remedies under this chapter. The attorney general shall assign the dispute to a board, except that if it clearly appears from the materials submitted by the consumer that the dispute is not eligible for arbitration, the attorney general may refuse to assign the dispute and shall explain any required procedures to the consumer.

(2) Manufacturers shall submit to arbitration if such arbitration is requested by the consumer within thirty months from the date of the original delivery of the new motor vehicle to a consumer at retail and if the consumer's dispute is deemed eligible for arbitration by the board. In the case of a motor home, the thirty-month period will be extended by the amount of time it takes the motor home manufacturers to complete the final repair attempt at the designated repair facility as provided for in RCW 19.118.041(3)(b).

(3) The new motor vehicle arbitration board may reject for arbitration any dispute that it determines to be frivolous, fraudulent, filed in bad faith, res judicata or beyond its authority. Any dispute deemed by the board to be ineligible for arbitration due to insufficient evidence may be reconsidered by the board upon the submission of other information or documents regarding the dispute that would allegedly qualify for relief under this chapter. Following a second review, the board may reject the dispute for arbitration if evidence is still clearly insufficient to qualify the dispute for relief under this chapter. A rejection by the board is subject to review by the attorney general or may be appealed under RCW 19.118.100.

A decision to reject any dispute for arbitration shall be sent by certified mail to the consumer and the manufacturer, and shall contain a brief explanation as to the reason therefor.

(4) The manufacturer shall complete a written manufacturer response to the consumer's request for arbitration. The manufacturer shall provide a response to the consumer and the board within ten calendar days from the date of the manufacturer's receipt of the board's notice of acceptance of a dispute for arbitration. The manufacturer response shall include all issues and affirmative defenses related to the nonconformities identified in the consumer's request for arbitration that the manufacturer intends to raise at the arbitration hearing.

(5) The arbitration board shall award the remedies under RCW 19.118.041 if it finds a nonconformity and that a reasonable number of attempts have been undertaken to correct the nonconformity. The board shall award reasonable costs and attorneys' fees incurred by the consumer where the manufacturer has been directly represented by counsel: (a) In dealings with the consumer in response to a request to repurchase or replace under RCW 19.118.041; (b) in settlement negotiations; (c) in preparation of the manufacturer's statement; or (d) at an arbitration board hearing or other board proceeding.

In the case of an arbitration involving a motor home, the board may allocate liability among the motor home manufacturers.

(6) It is an affirmative defense to any claim under this chapter that: (a) The alleged nonconformity does not substantially impair the use, value, or safety of the new motor vehicle; or (b) the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the new motor vehicle.

(7) The board shall have forty-five calendar days from the date the board receives the consumer's request for arbitration to hear the dispute. If the board determines that additional information is necessary, the board may continue the arbitration proceeding on a subsequent date within ten calendar days of the initial hearing. The board shall decide the dispute within sixty calendar days from the date the board receives the consumer's request for arbitration.

The decision of the board shall be delivered by certified mail or personal service to the consumer and the manufacturer, and shall contain a written finding of whether the new motor vehicle meets the standards set forth under this chapter.

(8) The consumer may accept the arbitration board decision or appeal to superior court, pursuant to RCW 19.118.100. Upon acceptance by the consumer, the arbitration board decision shall become final. The consumer shall send written notification of acceptance or rejection to the arbitration board within sixty days of receiving the decision and the arbitration board shall immediately deliver a copy of the consumer's acceptance to the manufacturer by certified mail, return receipt requested, or by personal service. Failure of the consumer to respond to the arbitration board within sixty calendar days of receiving the decision shall be considered a rejection of the decision by the consumer. The consumer shall have one hundred twenty calendar days from the date of rejection to file a petition of appeal in superior court. At the time the petition of appeal is filed, the consumer shall deliver, by certified mail or personal service, a conformed copy of such petition to the attorney general.

(9) Upon receipt of the consumer's acceptance, the manufacturer shall have forty calendar days to comply with the arbitration board decision or thirty calendar days to file a petition of appeal in superior court. At the time the petition of appeal is filed, the manufacturer shall deliver, by certified mail or personal service, a conformed copy of such petition to the attorney general. If the attorney general receives no notice of petition of appeal after forty calendar days, the attorney general shall contact the consumer to verify compliance.

**NEW SECTION. Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

## MOTION

On motion of Senator Schow, the Senate concurred in the House amendment to Senate Bill No. 6301.

## MOTIONS

On motion of Senator Goings, Senator Jacobsen was excused.

On motion of Senator Franklin, Senator Loveland was excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6301, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6301, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Excused: Senators Jacobsen, Loveland and Patterson - 3. SENATE BILL NO. 6301, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 6257 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.20.308 and 1995 c 332 s 1 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility in which a breath testing instrument is not present or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(4). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that:

(a) His or her license, permit, or privilege to drive will be revoked or denied if he or she refuses to submit to the test;

(b) His or her license, permit, or privilege to drive will be suspended, revoked, denied, or placed in probationary status if the test is administered and the test indicates the alcohol concentration of the person's breath or blood is ~~((0.10))~~ 0.08 or more, in the case of a person age twenty-one or over, or ~~((0.02 or more))~~ in violation of RCW 46.61.502, 46.61.503, or 46.61.504 in the case of a person under age twenty-one; and

(c) His or her refusal to take the test may be used in a criminal trial.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest

results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is ~~((0-10))~~ 0.08 or more if the person is age twenty-one or over, or is ~~((0.02 or more))~~ in violation of RCW 46.61.502, 46.61.503, or 46.61.504 if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, deny, or place in probationary status the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was ~~((0-10))~~ 0.08 or more if the person is age twenty-one or over, or was ~~((0.02 or more))~~ in violation of RCW 46.61.502, 46.61.503, or 46.61.504 if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, deny, or place in probationary status the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, denial, or placement in probationary status to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within thirty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of one hundred dollars as part of the request. If the request is mailed, it must be postmarked within thirty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required one hundred dollar fee, the department shall afford the person an opportunity for a hearing. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503 and was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied

before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was ~~((0.10))~~ 0.08 or more if the person was age twenty-one or over at the time of the arrest, or was ~~((0.02 or more))~~ in violation of RCW 46.61.502, 46.61.503, or 46.61.504 if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration ~~((of 0.02 or more))~~ in violation of RCW 46.61.503 and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, denial, or placement in probationary status either be rescinded or sustained.

(9) If the suspension, revocation, denial, or placement in probationary status is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, denied, or placed in probationary status has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, denial, or placement in probationary status. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, denial, or placement in probationary status as expeditiously as possible. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, denial, or placement in probationary status it may impose conditions on such stay.

(10) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, denied, or placed in probationary status under subsection (7) of this section, other than as a result of a breath test refusal, and who has not committed an offense within the last five years for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, the court may direct the department to stay any actual or proposed suspension, revocation, denial, or placement in probationary status for at least forty-five days but not more than ninety days. If the court stays the suspension, revocation, denial, or placement in probationary status, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

A suspension, revocation, or denial imposed under this section, other than as a result of a breath test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

**Sec. 2.** RCW 46.20.3101 and 1995 c 332 s 3 are each amended to read as follows:

Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal within five years, where there has not been a previous incident within five years that resulted in administrative action under this section, revocation or denial for one year;

(b) For a second or subsequent refusal within five years, or for a first refusal where there has been one or more previous incidents within five years that have resulted in administrative action under this section, revocation or denial for two years or until the person reaches age twenty-one, whichever is longer. A revocation imposed under this subsection (1)(b) shall run consecutively to the period of any suspension, revocation, or denial imposed pursuant to a criminal conviction arising out of the same incident.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was ~~((0.10))~~ 0.08 or more:

(a) For a first incident within five years, where there has not been a previous incident within five years that resulted in administrative action under this section, placement in probationary status as provided in RCW 46.20.355;

(b) For a second or subsequent incident within five years, revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was ~~((0.02 or more))~~ in violation of RCW 46.61.502, 46.61.503, or 46.61.504:

(a) For a first incident within five years, suspension or denial for ninety days;

(b) For a second or subsequent incident within five years, revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

**Sec. 3.** RCW 46.61.502 and 1994 c 275 s 2 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of ~~((0.10))~~ 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be ~~((0.10))~~ 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of ~~((0.10))~~ 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) A violation of this section is a gross misdemeanor.

**Sec. 4.** RCW 46.61.503 and 1995 c 332 s 2 are each amended to read as follows:

(1) Notwithstanding any other provision of this title, a person is guilty of driving a motor vehicle after consuming alcohol if the person operates a motor vehicle within this state and the person:

(a) Is under the age of twenty-one;

(b) Has, within two hours after operating the motor vehicle, an alcohol concentration of ~~((0.02 or more))~~ at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506.

(2) It is an affirmative defense to a violation of subsection (1) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be ~~((0.02 or more))~~ in violation of subsection (1) of this section within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(3) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration ~~((of 0.02 or more))~~ in violation of subsection (1) of this section.

(4) A violation of this section is a misdemeanor.

**Sec. 5.** RCW 46.61.504 and 1994 c 275 s 3 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of ~~((0.10))~~ 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be ~~((0.10))~~ 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of ~~((0.10))~~ 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) A violation of this section is a gross misdemeanor.

**Sec. 6.** RCW 46.61.506 and 1995 c 332 s 18 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the person's alcohol concentration is less than ~~((0.10))~~ 0.08, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(2) The breath analysis shall be based upon grams of alcohol per two hundred ten liters of breath. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic or drug content may be performed only by a physician, a registered nurse, or a qualified technician. This limitation shall not apply to the taking of breath specimens.

(5) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(6) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney.

**Sec. 7.** RCW 88.12.025 and 1993 c 244 s 8 are each amended to read as follows:

(1) It shall be unlawful for any person to operate a vessel in a reckless manner.

(2) It shall be a violation for a person to operate a vessel while under the influence of intoxicating liquor or any drug. A person is considered to be under the influence of intoxicating liquor or any drug if:

(a) The person has ~~((0.10))~~ 0.08 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person's breath made under RCW 46.61.506; or

(b) The person has ~~((0.10))~~ 0.08 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) The person is under the influence of or affected by intoxicating liquor or any drug; or

(d) The person is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section. A person cited under this subsection may upon request be given a breath test for breath alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting officer shall administer field sobriety tests when circumstances permit.

(3) A violation of this section is a misdemeanor, punishable as provided under RCW 9.92.030. In addition, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

**NEW SECTION. Sec. 8.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 9.** This act takes effect January 1, 1999."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Roach moved that the Senate concur in the House amendment to Engrossed Senate Bill No. 6257.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendment to Engrossed Senate Bill No. 6257.

The motion by Senator Roach carried and the Senate concurred in the House amendment to Engrossed Senate Bill No. 6257.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6257, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6257, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator Jacobsen - 1. ENGROSSED SENATE BILL NO. 6257, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6541 with the following amendment(s):

On page 2, line 33, after "previous" strike "year's"

On page 3, line 6, after "exceeds" strike "six" and insert "eight"

On page 3, beginning on line 10, after "exceed" strike "two million dollars per fiscal year for the biennium" and insert "ten percent of the base amount as provided in this section", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Schow, the Senate refuses to concur in the House amendments to Senate Bill No. 6541 and requests of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Senate Bill No. 6541 and the House amendment(s) thereto: Senators Sellar, Kohl and Deccio.

MOTION

On motion of Senator Snyder, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

March 3, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6240 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 2.32.180 and 1992 c 189 s 6 are each amended to read as follows:



~~((It shall be and is the duty of)) (1) Each ((and every)) superior court judge in counties or judicial districts in the state of Washington having a population of over thirty-five thousand inhabitants ((to appoint, or said judge may, in any county or judicial district having a population of over twenty-five thousand and less than thirty-five thousand;)) shall appoint a stenographic reporter to be attached to the judge's court who shall have had at least three years' experience as a skilled, practical reporter, or ((who upon examination shall be able to report and transcribe accurately one hundred and seventy-five words per minute of the judge's charge or two hundred words per minute of testimony each for five consecutive minutes; said test of proficiency, in event of inability to meet qualifications as to length of time of experience, to be given by an examining committee composed of one judge of the superior court and two official reporters of the superior court of the state of Washington, appointed by the president judge of the superior court judges association of the state of Washington: PROVIDED, That a stenographic reporter shall not be required to be appointed for the seven additional judges of the superior court authorized for appointment by section 1, chapter 323, Laws of 1987, the additional superior court judge authorized by section 1, chapter 66, Laws of 1988, the additional superior court judges authorized by sections 2 and 3, chapter 328, Laws of 1989, the additional superior court judges authorized by sections 1 and 2, chapter 186, Laws of 1990, or the additional superior court judges authorized by sections 1 through 5, chapter 189, Laws of 1992. Appointment of a stenographic reporter is not required for any additional superior court judge authorized after July 1, 1992. The initial judicial appointee shall serve for a period of six years; the two initial reporter appointees shall serve for a period of four years and two years, respectively, from September 1, 1957; thereafter on expiration of the first terms of service, each newly appointed member of said examining committee to serve for a period of six years. In the event of death or inability of a member to serve, the president judge shall appoint a reporter or judge, as the case may be, to serve for the balance of the unexpired term of the member whose inability to serve caused such vacancy. The examining committee shall grant certificates to qualified applicants. Administrative and procedural rules and regulations shall be promulgated by said examining committee, subject to approval by the said president judge)) is a Washington state certified court reporter. However, a superior court judge may select an alternative method for making the record if the court was previously exempted from this requirement, or the court is authorized under court rule to use video, electronic, or mechanical recording devices.~~

(2) The stenographic reporter upon appointment shall thereupon become an officer of the court and shall be designated and known as the official reporter for the court or judicial district for which he or she is appointed(~~(: PROVIDED, That)~~). In no event shall there be appointed more official reporters in any one county or judicial district than there are superior court judges in such county or judicial district; the appointments in each county with a population of one million or more shall be made by the majority vote of the judges in said county acting en banc; the appointments in each county with a population of from one hundred twenty-five thousand to less than one million may be made by each individual judge therein or by the judges in said county acting en banc. Each official reporter so appointed shall hold office during the term of office of the judge or judges appointing him or her, but may be removed for incompetency, misconduct, or neglect of duty, and before entering upon the discharge of his or her duties shall take an oath to perform faithfully the duties of his or her office, and file a bond in the sum of two thousand dollars for the faithful discharge of his or her duties. ~~((Such reporter in each court is hereby declared to be a necessary part of the judicial system of the state of Washington;))", and the same are herewith transmitted.~~

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Kline moved that the Senate concur in the House amendment to Substitute Senate Bill No. 6240.

Debate ensued.

Senator Fairley demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the motion by Senator Kline that the Senate concur in the House amendment to Substitute Senate Bill No. 6240.

#### ROLL CALL

The Secretary called the roll and the motion by Senator Kline to concur in the House amendment to Substitute Senate Bill No. 6240 failed by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 22. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Excused: Senator Jacobsen - 1. MOTION

On motion of Senator Roach, the Senate refuses to concur in the House amendment to Substitute Senate Bill No. 6240 and requests of the House a conference thereon.

## APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 6240 and the House amendment(s) thereto: Senators Stevens, Thibaudeau and Zarelli.

### MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

### MOTION

On motion of Senator Goings, Senator Patterson was excused.

## MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6204 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 16.57.010 and 1996 c 105 s 1 are each amended to read as follows:

For the purpose of this chapter:

- (1) "Department" means the department of agriculture of the state of Washington.
- (2) "Director" means the director of the department or a duly appointed representative.
- (3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.
- (4) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, poultry and rabbits.
- (5) "Brand" means a permanent fire brand or any artificial mark, other than an individual identification symbol, approved by the ~~((director))~~ board to be used in conjunction with a brand or by itself.
- (6) "Production record brand" means a number brand which shall be used for production identification purposes only.
- (7) "~~((Brand))~~ Livestock inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides and/or the application of any artificial identification such as back tags or ear clips necessary to preserve the identity of the livestock or livestock hides examined.
- (8) "Individual identification symbol" means a permanent mark placed on a horse for the purpose of individually identifying and registering the horse and which has been approved for use as such by the ~~((director))~~ board.
- (9) "Registering agency" means any person issuing an individual identification symbol for the purpose of individually identifying and registering a horse.
- (10) "Poultry" means chickens, turkeys, ratites, and other domesticated fowl.
- (11) "Ratite" means, but is not limited to, ostrich, emu, rhea, or other flightless bird used for human consumption, whether live or slaughtered.
- (12) "Ratite farming" means breeding, raising, and rearing of an ostrich, emu, or rhea in captivity or an enclosure.
- (13) "Microchipping" means the implantation of an identification microchip or similar electronic identification device to establish the identity of an individual animal:
  - (a) In the pipping muscle of a chick ratite or the implantation of a microchip in the tail muscle of an otherwise unidentified adult ratite;
  - (b) In the nuchal ligament of a horse unless otherwise specified by rule of the ~~((director))~~ board; and
  - (c) In locations of other livestock species as specified by rule of the ~~((director))~~ board when requested by an association of producers of that species of livestock.
- (14) "Livestock identification board" or "board" means the board established under RCW 16.57.015.
- (15) "Certificate of permit" means a form prescribed by and obtained from the board that is completed by the owner or a person authorized to act on behalf of the owner to show the ownership of livestock. It does not evidence inspection of livestock.
- (16) "Inspection certificate" means a certificate issued by the board documenting the ownership of livestock based on an inspection of livestock by the board. It includes an individual identification certificate issued by the board.
- (17) "Self-inspection certificate" means a form prescribed by and obtained from the board that is used for self-inspection of cattle or horses and is signed by the buyer and seller of the cattle or horses.

**Sec. 2.** RCW 16.57.015 and 1993 c 354 s 10 are each amended to read as follows:

~~(1) (The director shall establish a livestock identification advisory board. The board shall be composed of six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors. In making appointments, the director shall solicit nominations from organizations representing these groups state-wide.~~

~~(2) The purpose of the board is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding brand inspection fees and related licensing fees. The director shall consult the board before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter or a proposed rule setting a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090 and the rule has not received the approval of the advisory board, the director shall file with the board a written statement setting forth the director's reasons for proposing the rule without the board's approval.~~

~~(3) The members of the advisory board serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the board to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.) There is established a Washington state livestock identification board. The board is composed of the director, who shall be a nonvoting member, and six voting members appointed by the governor as follows: One beef producer, one cattle feeder, one dairy producer, one livestock market owner, one meat packer, and one horse producer. Organizations representing the groups represented on the board may submit nominations for these appointments to the governor for the governor's consideration. Three members of the initial board shall be appointed for two years and three members shall be appointed for three years, thereafter gubernatorially appointed members shall be appointed for a three-year term. Members may succeed themselves. As used in this subsection, "meat packer" means a person licensed to operate a slaughtering establishment under chapter 16.49A RCW.~~

~~(2) The board shall be responsible for the administration of the livestock identification program which includes the review of recording and registration of brands, approval of all expenditures from the livestock identification account, administration of this chapter and chapters 16.58 and 16.65 RCW, administration of the inspection, enforcement, and licensing activities, fee setting, and holding hearings and adopting rules for the administration of the livestock identification program. Authorities and responsibilities other than rule making that are granted to the board by this chapter and chapters 16.58 and 16.65 RCW may be delegated by the board to duly authorized representatives of the board. The board shall adopt rules regarding such authorities and responsibilities in accordance with chapter 34.05 RCW.~~

~~(3) Until June 30, 2004, the board shall contract with the department for registration and recording and for livestock inspection or investigation work and fix the compensation and terms of the contract. Beginning July 1, 2004, the board may contract with the department or other entities to provide such registration, recording, inspection, or investigation. The board may also enter into agreements with Washington state licensed and accredited veterinarians, or other persons, who have been certified by the board, to perform livestock inspection. Fees for livestock inspection performed by a certified veterinarian shall be collected by the veterinarian and remitted to the board. Veterinarians providing livestock inspection may charge a fee for livestock inspection that is separate from the fees provided in RCW 16.57.220. The board may adopt rules necessary to implement livestock inspection performed by veterinarians and may adopt fees to cover the cost associated with certification of veterinarians.~~

~~(4) Members of the board shall receive compensation as provided by RCW 43.03.240 and travel expenses to meetings or in otherwise carrying out the duties of the board as provided under RCW 43.03.050 and 43.03.060. The board shall meet at least quarterly in each calendar year. The board shall hire staff as necessary to carry out its duties.~~

~~(5) The board may select the area of the state in which to locate its principal office, which may include an area that is, by and large, near the geographic center of the state. The department shall examine the rental and other costs of locating the principal office from which it administers any contract it has with the board in an area that is, by and large, near the geographic center of the state. The department shall compare these costs with those of maintaining the principal office in its current location. The department shall report its findings to the board and shall consider moving its principal office for such administration to such an area if it would be more cost-effective to do so.~~

**NEW SECTION. Sec. 3.** A new section is added to chapter 16.57 RCW to read as follows:

There is established a Washington state livestock identification account in the agricultural local fund created under RCW 43.23.230 into which all moneys collected or received from registration, recording, inspection, or enforcement under this chapter and moneys collected or received by the board under chapters 16.58 and 16.65 RCW shall be deposited. These moneys shall be used solely for the Washington state livestock identification program. Only the board may authorize expenditures from this account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 4.** RCW 16.57.020 and 1994 c 46 s 7 are each amended to read as follows:

(1) The ~~((director))~~ board shall be the recorder of livestock brands and such brands shall not be recorded elsewhere in this state. Any person desiring to register a livestock brand shall apply on a form prescribed by the ~~((director))~~ board. Such application shall be accompanied

by a facsimile of the brand applied for and a ~~((thirty-five))~~ seventy-dollar recording fee. The ~~((director))~~ board shall, upon ~~((his or her))~~ their satisfaction that the application and brand facsimile meet the requirements of this chapter and/or rules adopted hereunder, record such brand.

(2) As provided in RCW 16.57.015, the director of agriculture may be designated by the board as the recorder of livestock brands. If the director is so designated, the recording fee shall be deposited by the director in the Washington state livestock identification account and shall be used solely for livestock identification program purposes as provided in this chapter and only as authorized by the board.

(3) This section is null and void unless subsections (1) through (5) of section 2 of this act and section 96 of this act become law.

**Sec. 5.** RCW 16.57.030 and 1959 c 54 s 3 are each amended to read as follows:

The ~~((director))~~ board shall not record tattoo brands or marks for any purpose subsequent to the enactment of this chapter. However, all tattoo brands and marks of record on the date of the enactment of this chapter shall be recognized as legal ownership brands or marks.

**Sec. 6.** RCW 16.57.040 and 1974 ex.s. c 64 s 1 are each amended to read as follows:

The ~~((director))~~ board may provide for the use of production record brands. Numbers for such brands shall be issued at the discretion of the ~~((director))~~ board and shall be placed on livestock immediately below the registered ownership brand or any other location prescribed by the ~~((director))~~ board.

**Sec. 7.** RCW 16.57.070 and 1959 c 54 s 7 are each amended to read as follows:

The ~~((director))~~ board shall determine conflicting claims between applicants to a brand, and in so doing shall consider the priority of applicants.

**Sec. 8.** RCW 16.57.080 and 1994 c 46 s 16 are each amended to read as follows:

~~((The director shall establish by rule a schedule for the renewal of registered brands.))~~ (1) Except as provided in subsection (2) of this section, the fee for the renewal of ((the)) a brand(s) registration shall be ((no less than twenty-five)) seventy dollars for each two-year period of brand ownership((, except that)). However, the ((director)) board may((, in adopting a renewal schedule,)) provide for the collection of renewal fees on a prorated basis ((and may by rule increase the registration and renewal fee for brands by no more than fifty percent subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015)). At least sixty days before the expiration of a registered brand, the ~~((director))~~ board shall notify by letter the owner of record of the brand that on the payment of the requisite application fee and application of renewal the ~~((director))~~ board shall issue the proof of payment allowing the brand owner exclusive ownership and use of the brand for the subsequent registration period. The failure of the registered owner to pay the renewal fee by the date required by rule shall cause such owner's brand to revert to the ~~((department))~~ board. The ~~((director))~~ board may for a period of one year following such reversion, reissue such brand only to the prior registered owner upon payment of the registration fee and a late filing fee ~~((to be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015,))~~ of twenty dollars for renewal subsequent to the regular renewal period. The ~~((director))~~ board may at the ~~((director's))~~ board's discretion, if such brand is not reissued within one year to the prior registered owner, issue such brand to any other applicant.

(2) The board may adopt rules establishing criteria and fees for the permanent renewal of brands registered with the department or the board but renewed as livestock heritage brands. Such heritage brands are not intended for use on livestock.

(3) This section is null and void unless subsections (1) through (5) of section 2 of this act and section 96 of this act become law.

**Sec. 9.** RCW 16.57.090 and 1994 c 46 s 17 are each amended to read as follows:

A brand is the personal property of the owner of record. Any instrument affecting the title of such brand shall be acknowledged in the presence of the recorded owner and a notary public. The ~~((director))~~ board shall record such instrument upon presentation and payment of a recording fee not to exceed fifteen dollars to be prescribed by the ~~((director))~~ board by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Such recording shall be constructive notice to all the world of the existence and conditions affecting the title to such brand. A copy of all records concerning the brand, certified by the ~~((director))~~ board, shall be received in evidence to all intent and purposes as the original instrument. The ~~((director))~~ board shall not be personally liable for failure of the ~~((director's))~~ board's agents to properly record such instrument.

**Sec. 10.** RCW 16.57.100 and 1971 ex.s. c 135 s 3 are each amended to read as follows:

The right to use a brand shall be evidenced by the original certificate issued by the ~~((director))~~ board showing that the brand is of present record or a certified copy of the record of such brand showing that it is of present record. A healed brand of record on livestock shall be prima facie evidence that the recorded owner of such brand has legal title to such livestock and is entitled to its possession: PROVIDED, That the ~~((director))~~ board may require additional proof of ownership of any animal showing more than one healed brand.

**Sec. 11.** RCW 16.57.105 and 1967 c 240 s 38 are each amended to read as follows:

Any person having a brand recorded with the ~~((department))~~ board shall have a preemptory right to use such brand and its design under any newly approved method of branding adopted by the ~~((director))~~ board.

**Sec. 12.** RCW 16.57.110 and 1959 c 54 s 11 are each amended to read as follows:

No brand shall be placed on livestock that is not permanent in nature and of a size that is not readily visible. The ~~((director))~~ board, in order to assure that brands are readily visible, may prescribe the size of branding irons to be used for ownership brands.

**Sec. 13.** RCW 16.57.120 and 1991 c 110 s 2 are each amended to read as follows:

No person shall remove or alter a brand of record on livestock without first having secured the written permission of the ~~((director))~~ board. Violation of this section shall be a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 14.** RCW 16.57.130 and 1959 c 54 s 13 are each amended to read as follows:

The ~~((director))~~ board shall not record a brand that is identical to a brand of present record; nor a brand so similar to a brand of present record that it will be difficult to distinguish between such brands when applied to livestock.

**Sec. 15.** RCW 16.57.140 and 1994 c 46 s 18 are each amended to read as follows:

The owner of a brand of record may procure from the ~~((director))~~ board a certified copy of the record of the owner's brand upon payment of a fee not to exceed seven dollars and fifty cents to be prescribed by the ~~((director))~~ board by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

**Sec. 16.** RCW 16.57.150 and 1974 ex.s. c 64 s 5 are each amended to read as follows:

The ~~((director))~~ board shall publish a book to be known as the "Washington State Brand Book", showing all the brands of record. Such book shall contain the name and address of the owners of brands of record and a copy of the brand laws and regulations. Supplements to such brand book showing newly recorded brands, amendments or newly adopted regulations, shall be published biennially, or prior thereto at the discretion of the ~~((director))~~ board: PROVIDED, That whenever ~~((he deems it))~~ necessary, the ~~((director))~~ board may issue a new brand book.

**Sec. 17.** RCW 16.57.160 and 1991 c 110 s 3 are each amended to read as follows:

~~(1) Except as provided in subsection (3) of this section, the ((director)) board may ((by)) adopt rules ((adopted subsequent to a public hearing designate)); Designating any point for mandatory ((brand)) livestock inspection of cattle or horses or the furnishing of proof that cattle passing or being transported through such points have been ((brand)) livestock inspected and are lawfully being moved; providing for self-inspection of cattle and horses; and providing for issuance of individual horse and cattle identification certificates or other means of horse and cattle identification.~~

~~((Further,)) (2) The ((director)) board or any peace officer may stop vehicles carrying cattle or horses to determine if ((such)) the cattle or horses are identified, branded, or accompanied by ((the form prescribed by the director under RCW 16.57.240 or a brand certificate issued by the department)) a certificate of permit, inspection certificate, self-inspection certificate, or other satisfactory proof of ownership, as determined by the board.~~

~~(3) Inspection shall not be required for:~~

~~(a) Any individual private sale of any unbranded dairy breed milk production cattle involving fifteen head or less; or~~

~~(b) A sale by the owner of a dairy farm licensed under chapter 15.36 RCW of a male calf or male calves from the farm that are not more than thirty days old, as long as the license number for the dairy is listed on the bill of sale or its equivalent.~~

**Sec. 18.** RCW 16.57.165 and 1971 ex.s. c 135 s 6 are each amended to read as follows:

The ~~((director))~~ board may, in order to reduce the cost of ~~((brand))~~ livestock inspection to livestock owners, enter into agreements with any qualified county, municipal, or other local law enforcement agency, or qualified individuals for the purpose of performing ~~((brand))~~ livestock inspection in areas where ~~((department brand))~~ livestock inspection by the department may not readily be available.

**Sec. 19.** RCW 16.57.170 and 1959 c 54 s 17 are each amended to read as follows:

The ~~((director))~~ board may enter at any reasonable time any slaughterhouse or public livestock market to make an examination of the brands on livestock or hides, and may enter at any reasonable time an establishment where hides are held to examine them for brands. The ~~((director))~~ board may enter any of these premises at any reasonable time to examine all books and records required by law in matters relating to ~~((brand))~~ livestock inspection or other methods of livestock identification.

**Sec. 20.** RCW 16.57.180 and 1959 c 54 s 18 are each amended to read as follows:

Should the ~~((director))~~ board be denied access to any premises or establishment where such access was sought for the purposes set forth in RCW 16.57.170, ~~((he))~~ the board may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises or establishment for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

**Sec. 21.** RCW 16.57.200 and 1959 c 54 s 20 are each amended to read as follows:

Any owner or ~~((his))~~ an agent shall make the brand or brands on livestock being ~~((brand))~~ livestock inspected readily visible and shall cooperate with the ~~((director))~~ board to carry out such ~~((brand))~~ livestock inspection in a safe and expeditious manner.

**Sec. 22.** RCW 16.57.210 and 1959 c 54 s 21 are each amended to read as follows:

The ~~((director))~~ board shall have authority to arrest any person without warrant anywhere in the state found in the act of, or whom ~~((he))~~ the board has reason to believe is guilty of, driving, holding, selling or slaughtering stolen livestock. Any such person arrested by the ~~((director))~~ board shall be turned over to the sheriff of the county where the arrest was made, as quickly as possible.

**Sec. 23.** RCW 16.57.220 and 1997 c 356 s 2 are each amended to read as follows:

~~(1) The ((director)) livestock identification board shall cause a charge to be made for all ((brand)) livestock inspection of cattle and horses required under this chapter and rules adopted hereunder. Such charges shall be paid to the ((department)) board by the owner or person in possession unless requested by the purchaser and then such ((brand)) livestock inspection shall be paid by the purchaser requesting such~~

~~((brand))~~ livestock inspection. Except as provided by rule, such inspection charges shall be due and payable at the time ~~((brand))~~ livestock inspection is performed and shall be paid upon billing by the ~~((department))~~ board and if not shall constitute a prior lien on the cattle or cattle hides or horses or horse hides ~~((brand))~~ livestock inspected until such charge is paid. The ~~((director))~~ board in order to best utilize the services of the ~~((department))~~ livestock inspector in performing ~~((brand))~~ livestock inspection may establish schedules by days and hours when a ~~((brand))~~ livestock inspector will be on duty to perform ~~((brand))~~ livestock inspection at established inspection points. Except as provided in rules adopted under subsection (2) of this section, the fees for ~~((brand))~~ livestock inspection performed at inspection points according to schedules established by the ~~((director))~~ board shall be seventy-five cents per head for cattle and ~~((not more than))~~ three dollars per head for horses ~~((as prescribed by the director subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015)).~~ Fees for ~~((brand))~~ livestock inspection of cattle and horses at points other than those designated by the ~~((director))~~ board or not in accord with the schedules established by the ~~((director))~~ board shall be based on a fee schedule not to exceed actual net cost to the ~~((department))~~ board of performing the ~~((brand))~~ livestock inspection service. For the purpose of this section, actual costs shall mean fifteen dollars per hour and the current mileage rate set by the office of financial management.

(2) The board may by rule prescribe a fee for the inspection of cattle performed at inspection points that is not less than seventy-five cents per head and not more than one dollar per head and may by rule prescribe a fee for the inspection of horses performed at inspection points that is not less than three dollars per head and not more than five dollars per head. However, a rule prescribing such a fee may be proposed and adopted by the board only by a unanimous vote of the members of the board entitled to vote under RCW 16.57.015. This subsection constitutes prior legislative approval for the initial fee prescribed by rule of the board for the inspection of cattle and the initial fee prescribed by rule of the board for the inspection of horses to result in an increase of the fee established under subsection (1) of this section for the inspection that is in excess of the fiscal growth factor under chapter 43.135 RCW.

**Sec. 24.** RCW 16.57.230 and 1995 c 374 s 50 are each amended to read as follows:

No person shall collect or make a charge for ~~((brand))~~ livestock inspection of livestock unless there has been an actual ~~((brand))~~ livestock inspection of such livestock.

**Sec. 25.** RCW 16.57.240 and 1995 c 374 s 51 are each amended to read as follows:

~~((Any person purchasing, selling, holding for sale, trading, bartering, transferring title, slaughtering, handling, or transporting cattle shall keep a record on forms prescribed by the director. Such forms)) (1) Certificates of permit, inspection certificates, and self-inspection certificates shall show the owner, number, ~~((specie))~~ breed, sex, brand or other method of identification of ~~((such))~~ the cattle or horses and any other necessary information required by the ~~((director))~~ board. ~~((The original shall be kept for a period of three years or shall be furnished to the director upon demand or as prescribed by rule, one copy shall accompany the cattle to their destination and shall be subject to inspection at any time by the director or any peace officer or member of the state patrol: PROVIDED, That in the following instances only, cattle may be moved or transported within this state without being accompanied by an official certificate of permit, brand inspection certificate, bill of sale, or self-inspection slip:~~~~

~~(1) When such cattle are moved or transported upon lands under the exclusive control of the person moving or transporting such cattle;~~

~~(2) When such cattle are being moved or transported for temporary grazing or feeding purposes and have the registered brand of the person having or transporting such cattle.))~~

(2) The board may cause certificate of permit forms to be issued to any person on payment of a fee established by rule.

(3) Inspection certificates, self-inspection certificates, or other proof of ownership deemed satisfactory by the board shall be kept by the owner and/or person in possession of any cattle or horses and shall be furnished to the board or any peace officer upon demand.

(4) Cattle may not be moved or transported within this state without being accompanied by a certificate of permit, inspection certificate, or self-inspection certificate except:

(a) When the cattle are moved or transported upon lands under the exclusive control of the person moving or transporting the cattle;  
or

(b) When the cattle are being moved or transported for temporary grazing or feeding purposes and have the recorded brand of the person having or transporting the cattle.

(5) Certificates of permit, inspection certificates, or self-inspection certificates accompanying cattle being moved or transported within this state shall be subject to inspection at any time by the board or any peace officer.

**Sec. 26.** RCW 16.57.260 and 1981 c 296 s 19 are each amended to read as follows:

It shall be unlawful for any person to remove or cause to be removed or accept for removal from this state, any cattle or horses which are not accompanied at all times by an official ~~((brand))~~ livestock inspection certificate issued by the ~~((director))~~ board on such cattle or horses, except as provided in RCW 16.57.160.

**Sec. 27.** RCW 16.57.270 and 1959 c 54 s 27 are each amended to read as follows:

It shall be unlawful for any person moving or transporting livestock in this state to refuse to assist the ~~((director))~~ board or any peace officer in establishing the identity of such livestock being moved or transported.

**Sec. 28.** RCW 16.57.275 and 1967 c 240 s 37 are each amended to read as follows:

Any cattle carcass, or primal part thereof, of any breed or age being transported in this state from other than a state or federal licensed and inspected slaughterhouse or common carrier hauling for such slaughterhouse, shall be accompanied by a certificate of permit signed by the owner of such carcass or primal part thereof and, if such carcass or primal part is delivered to a facility custom handling such carcasses or primal part thereof, such certificate of permit shall be deposited with the owner or manager of such custom handling facility and such certificate of permit shall be retained for a period of one year and be made available to the ~~((department))~~ livestock identification board for inspection during reasonable business hours. ~~((The owner of such carcass or primal part thereof shall mail a copy of the said certificate of permit to the department within ten days of said transportation.))~~

**Sec. 29.** RCW 16.57.280 and 1995 c 374 s 52 are each amended to read as follows:

No person shall knowingly have unlawful possession of any livestock marked with a recorded brand or tattoo of another person unless:

- (1) Such livestock lawfully bears the person's own healed recorded brand; or
- (2) Such livestock is accompanied by a certificate of permit from the owner of the recorded brand or tattoo; or
- (3) Such livestock is accompanied by a ~~((brand))~~ livestock inspection certificate; or
- (4) Such cattle is accompanied by a self-inspection slip; or
- (5) Such livestock is accompanied by a bill of sale from the previous owner or other satisfactory proof of ownership.

A violation of this section constitutes a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 30.** RCW 16.57.290 and 1995 c 374 s 53 are each amended to read as follows:

All unbranded cattle and horses and those bearing brands not recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit, and those bearing brands recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit signed by the owner of the brand when presented for inspection by the ~~((director))~~ board, shall be sold by the ~~((director))~~ board or the ~~((director's))~~ board's representative, unless other satisfactory proof of ownership is presented showing the person presenting them to be lawfully in possession. Upon the sale of such cattle or horses, the ~~((director))~~ board or the ~~((director's))~~ board's representative shall give the purchasers a bill of sale therefor, or, if theft is suspected, the cattle or horses may be impounded by the ~~((director))~~ board or the ~~((director's))~~ board's representative.

**Sec. 31.** RCW 16.57.300 and 1989 c 286 s 24 are each amended to read as follows:

The proceeds from the sale of cattle and horses as provided for under RCW 16.57.290, after paying the cost thereof, shall be paid to the ~~((director))~~ board, who shall make a record showing the brand or marks or other method of identification of the animals and the amount realized from the sale thereof. However, the proceeds from a sale of such cattle or horses at a licensed public livestock market shall be held by the licensee for a reasonable period not to exceed thirty days to permit the consignor to establish ownership or the right to sell such cattle or horses. If such consignor fails to establish legal ownership or the right to sell such cattle or horses, such proceeds shall be paid to the ~~((director))~~ board to be disposed of as any other stray proceeds.

**Sec. 32.** RCW 16.57.310 and 1959 c 54 s 31 are each amended to read as follows:

When a person has been notified by registered mail that animals bearing his or her recorded brand have been sold by the ~~((director))~~ board, he or she shall present to the ~~((director))~~ board a claim on the proceeds within ten days from the receipt of the notice or the ~~((director))~~ board may decide that no claim exists.

**Sec. 33.** RCW 16.57.320 and 1991 c 110 s 6 are each amended to read as follows:

If, after the expiration of one year from the date of sale, the person presenting the animals for inspection has not provided the ~~((director))~~ board with satisfactory proof of ownership, the proceeds from the sale shall be paid on the claim of the owner of the recorded brand. However, it shall be a gross misdemeanor for the owner of the recorded brand to knowingly accept such funds after he or she has sold, bartered or traded such animals to the claimant or any other person. A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 34.** RCW 16.57.330 and 1959 c 54 s 33 are each amended to read as follows:

If, after the expiration of one year from the date of sale, no claim is made, the money shall be credited to the ~~((department of agriculture))~~ board to be expended in carrying out the provisions of this chapter.

**Sec. 35.** RCW 16.57.340 and 1959 c 54 s 34 are each amended to read as follows:

The ~~((director))~~ board shall have the authority to enter into reciprocal agreements with any or all states to prevent the theft, misappropriation or loss of identification of livestock. The ~~((director))~~ board may declare any livestock which is shipped or moved into this state from such states estrays if such livestock is not accompanied by the proper official brand certificate or other such certificates required by the law of the state of origin of such livestock. The ~~((director))~~ board may hold such livestock subject to all costs of holding or sell such livestock and send the funds, after the deduction of the cost of such sale, to the proper authority in the state of origin of such livestock.

**Sec. 36.** RCW 16.57.350 and 1994 c 46 s 8 are each amended to read as follows:

The ~~((director))~~ board may adopt such rules as are necessary to carry out the purposes of this chapter. It shall be the duty of the ~~((director))~~ board to enforce and carry out the provisions of this chapter and/or rules adopted hereunder. No person shall interfere with the

~~((director)) board~~ when ~~((he or she))~~ the board is performing or carrying out duties imposed on ~~((him or her))~~ it by this chapter and/or rules adopted hereunder.

**Sec. 37.** RCW 16.57.360 and 1991 c 110 s 7 are each amended to read as follows:

The ~~((department))~~ board is authorized to issue notices of and enforce civil infractions in the manner prescribed under chapter 7.80 RCW.

The violation of any provision of this chapter and/or rules and regulations adopted hereunder shall constitute a class I civil infraction as provided under chapter 7.80 RCW unless otherwise specified herein.

**Sec. 38.** RCW 16.57.370 and 1959 c 54 s 37 are each amended to read as follows:

All fees collected under the provisions of this chapter shall be retained and deposited by the ~~((director))~~ board to be used only for the enforcement of this chapter.

**Sec. 39.** RCW 16.57.400 and 1994 c 46 s 20 are each amended to read as follows:

The ~~((director))~~ board may provide by rules ~~((and regulations))~~ adopted pursuant to chapter 34.05 RCW for the issuance of individual horse and cattle identification certificates or other means of horse and cattle identification deemed appropriate. Such certificates or other means of identification shall be valid only for the use of the horse and cattle owner in whose name it is issued.

Horses and cattle identified pursuant to the provisions of this section and the rules ~~((and regulations))~~ adopted hereunder shall not be subject to ~~((brand))~~ livestock inspection except when sold at points provided for in RCW ~~((16.57.380))~~ 16.57.160. The ~~((director))~~ board shall charge a fee for the certificates or other means of identification authorized pursuant to this section and no identification shall be issued until the ~~((director))~~ board has received the fee. The schedule of fees shall be established in accordance with the provisions of chapter 34.05 RCW.

**Sec. 40.** RCW 16.57.407 and 1996 c 105 s 3 are each amended to read as follows:

The ~~((department))~~ livestock identification board has the authority to conduct an investigation of an incident where scars or other marks indicate that a microchip has been removed from a horse.

**Sec. 41.** RCW 16.57.410 and 1993 c 354 s 11 are each amended to read as follows:

(1) No person may act as a registering agency without a permit issued by the ~~((department))~~ board. The ~~((director))~~ board may issue a permit to any person or organization to act as a registering agency for the purpose of issuing permanent identification symbols for horses in a manner prescribed by the ~~((director))~~ board. Application for such permit, or the renewal thereof by January 1 of each year, shall be on a form prescribed by the ~~((director))~~ board, and accompanied by the proof of registration to be issued, any other documents required by the ~~((director))~~ board, and a fee of one hundred dollars.

(2) Each registering agency shall maintain a permanent record for each individual identification symbol. The record shall include, but need not be limited to, the name, address, and phone number of the horse owner and a general description of the horse. A copy of each permanent record shall be forwarded to the ~~((director))~~ board, if requested by the ~~((director))~~ board.

(3) Individual identification symbols shall be inspected as required for brands under RCW 16.57.220 ~~((and 16.57.380))~~. Any horse presented for inspection and bearing such a symbol, but not accompanied by proof of registration and certificate of permit, shall be sold as provided under RCW 16.57.290 through 16.57.330.

(4) The ~~((director))~~ board shall adopt such rules as are necessary for the effective administration of this section pursuant to chapter 34.05 RCW.

**Sec. 42.** RCW 16.57.420 and 1993 c 105 s 3 are each amended to read as follows:

The ~~((department))~~ livestock identification board may, in consultation with representatives of the ratite industry, develop by rule a system that provides for the identification of individual ratites through the use of microchipping. The ~~((department))~~ board may establish fees for the issuance or reissuance of microchipping numbers sufficient to cover the expenses of the ~~((department))~~ board.

**Sec. 43.** RCW 16.58.020 and 1971 ex.s. c 181 s 2 are each amended to read as follows:

For the purpose of this chapter:

(1) "Livestock identification board" or "board" means the livestock identification board defined under RCW 16.57.010.

(2) "Certified feed lot" means any place, establishment, or facility commonly known as a commercial feed lot, cattle feed lot, or the like, which complies with all of the requirements of this chapter, and any ~~((regulations))~~ rules adopted pursuant to the provisions of this chapter and which holds a valid license from the ~~((director))~~ board as hereinafter provided.

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

~~((3))~~ "Director" means the director of the department or his duly authorized representative.

~~((4))~~ (3) "Licensee" means any persons licensed under the provisions of this chapter.

~~((5))~~ (4) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

**Sec. 44.** RCW 16.58.030 and 1971 ex.s. c 181 s 3 are each amended to read as follows:

The ~~((director))~~ board may adopt such rules ~~((and regulations))~~ as are necessary to carry out the purpose of this chapter. The adoption of such rules shall be subject to the provisions of this chapter and rules ~~((and regulations))~~ adopted hereunder. No person shall



interfere with the ~~((director when he))~~ board when it is performing or carrying out any duties imposed ~~((upon him))~~ by this chapter or rules ~~((and regulations))~~ adopted hereunder.

**Sec. 45.** RCW 16.58.040 and 1971 ex.s. c 181 s 4 are each amended to read as follows:

On or after August 9, 1971, any person desiring to engage in the business of operating one or more certified feed lots shall obtain an annual license from the ~~((director))~~ board for such purpose. The application for a license shall be on a form prescribed by the ~~((director))~~ board and shall include the following:

- (1) The number of certified feed lots the applicant intends to operate and their exact location and mailing address;
- (2) The legal description of the land on which the certified feed lot will be situated;
- (3) A complete description of the facilities used for feeding and handling of cattle at each certified feed lot;
- (4) The estimated number of cattle which can be handled for feeding purposes at each such certified feed lot; and
- (5) Any other information necessary to carry out the purpose and provisions of this chapter and rules ~~((or regulations))~~ adopted hereunder.

**Sec. 46.** RCW 16.58.050 and 1997 c 356 s 4 are each amended to read as follows:

The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of seven hundred fifty dollars. Upon approval of the application by the ~~((director))~~ livestock identification board and compliance with the provisions of this chapter and rules adopted hereunder, the applicant shall be issued a license or a renewal thereof. The board shall conduct an inspection of all cattle and their corresponding ownership documents prior to issuing an original license. The inspection fee shall be the higher of the current inspection fee per head of cattle or time and mileage as set forth in RCW 16.57.220.

**Sec. 47.** RCW 16.58.060 and 1991 c 109 s 10 are each amended to read as follows:

The ~~((director))~~ board shall establish by rule an expiration date or dates for all certified feed lot licenses. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. If an application for renewal of a certified feed lot license is not received by the ~~((department))~~ board per the date required by rule or should a person fail, refuse, or neglect to apply for renewal of a preexisting license on or before the date of expiration, that person shall be assessed an additional twenty-five dollars which shall be added to the regular license fee and shall be paid before the ~~((director))~~ board may issue a license to the applicant.

**Sec. 48.** RCW 16.58.070 and 1989 c 175 s 54 are each amended to read as follows:

The ~~((director))~~ livestock identification board is authorized to deny, suspend, or revoke a license in accord with the provisions of chapter 34.05 RCW if ~~((he))~~ it finds that there has been a failure to comply with any requirement of this chapter or rules ~~((and regulations))~~ adopted hereunder. Hearings for the revocation, suspension, or denial of a license shall be subject to the provisions of chapter 34.05 RCW concerning adjudicative proceedings.

**Sec. 49.** RCW 16.58.080 and 1971 ex.s. c 181 s 8 are each amended to read as follows:

Every certified feed lot shall be equipped with a facility or a livestock pen, approved by the ~~((director))~~ livestock identification board as to location and construction within the ~~((said))~~ feed lot so that necessary ~~((brand))~~ livestock inspection can be carried on in a proper, expeditious and safe manner. Each licensee shall furnish the ~~((director))~~ board with sufficient help necessary to carry out ~~((brand))~~ livestock inspection in the manner set forth above.

**Sec. 50.** RCW 16.58.095 and 1991 c 109 s 11 are each amended to read as follows:

All cattle entering or reentering a certified feed lot must be inspected for brands upon entry, unless they are accompanied by a ~~((brand))~~ livestock inspection certificate issued by the ~~((director))~~ livestock identification board, or any other agency authorized in any state or Canadian province by law to issue such a certificate. Licensees shall report a discrepancy between cattle entering or reentering a certified feed lot and the ~~((brand))~~ livestock inspection certificate accompanying the cattle to the nearest ~~((brand))~~ livestock inspector immediately. A discrepancy may require an inspection of all the cattle entering or reentering the lot, except as may otherwise be provided by rule.

**Sec. 51.** RCW 16.58.100 and 1979 c 81 s 3 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall each year conduct audits of the cattle received, fed, handled, and shipped by the licensee at each certified feed lot. Such audits shall be for the purpose of determining if such cattle correlate with the ~~((brand))~~ livestock inspection certificates issued in their behalf and that the certificate of assurance furnished the ~~((director))~~ board by the licensee correlates with his or her assurance that ~~((brand))~~ livestock inspected cattle were not commingled with uninspected cattle.

**Sec. 52.** RCW 16.58.110 and 1991 c 109 s 12 are each amended to read as follows:

All certified feed lots shall furnish the ~~((director))~~ livestock identification board with records as requested by ~~((him))~~ it from time to time on all cattle entering or on feed in ~~((said))~~ certified feed lots and dispersed therefrom. All such records shall be subject to examination by the ~~((director))~~ board for the purpose of maintaining the integrity of the identity of all such cattle. The ~~((director))~~ board may make the examinations only during regular business hours except in an emergency to protect the interest of the owners of such cattle.

**Sec. 53.** RCW 16.58.120 and 1991 c 109 s 13 are each amended to read as follows:

The licensee shall maintain sufficient records as required by the ~~((director))~~ livestock identification board at each certified feed lot, if ~~((said))~~ the licensee operates more than one certified feed lot.

**Sec. 54.** RCW 16.58.130 and 1997 c 356 s 7 are each amended to read as follows:

(1) Each licensee shall pay to the ~~((director))~~ livestock identification board a fee of ~~((twelve))~~ fifteen cents for each head of cattle handled through the licensee's feed lot unless a fee has been adopted under subsection (2) of this section, in which case the licensee shall pay the fee adopted under subsection (2) of this section. Payment of such fee shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. Further, the ~~((director))~~ board shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments.

(2) The board may by rule alter the fee prescribed in subsection (1) of this section for each head of cattle handled through a licensee's feed lot. This authority of the board includes, but is not limited to, prescribing a fee for each head of cattle owned by the licensee handled through the licensee's feed lot and prescribing a different fee for each head of cattle owned by a person other than the licensee handled through the licensee's feed lot.

**Sec. 55.** RCW 16.58.140 and 1979 c 81 s 5 are each amended to read as follows:

All fees provided for in this chapter shall be retained by the ~~((director))~~ board for the purpose of enforcing and carrying out the purpose and provisions of this chapter or chapter 16.57 RCW.

**Sec. 56.** RCW 16.58.150 and 1971 ex.s. c 181 s 15 are each amended to read as follows:

No ~~((brand))~~ livestock inspection shall be required when cattle are moved or transferred from one certified feed lot to another or the transfer of cattle from a certified feed lot to a point within this state, or out of state where this state maintains ~~((brand))~~ livestock inspection, for the purpose of immediate slaughter.

**Sec. 57.** RCW 16.58.160 and 1991 c 109 s 15 are each amended to read as follows:

The ~~((director))~~ board may, when a certified feed lot's conditions become such that the integrity of reports or records of the cattle therein becomes doubtful, suspend such certified feed lot's license until such time as the ~~((director))~~ board can conduct an investigation to carry out the purpose of this chapter.

**Sec. 58.** RCW 16.65.010 and 1983 c 298 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) The term "public livestock market" means any place, establishment or facility commonly known as a "public livestock market", "livestock auction market", "livestock sales ring", yards selling on commission, or the like, conducted or operated for compensation or profit as a public livestock market, consisting of pens or other enclosures, and their appurtenances in which livestock is received, held, sold, kept for sale or shipment. The term does not include the operation of a person licensed under this chapter to operate a special open consignment horse sale.

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

~~((3))~~ ~~"Director" means the director of the department or his duly authorized representative.~~

~~((4))~~ "Licensee" means any person licensed under the provisions of this chapter.

~~((5))~~ ~~(3)~~ "Livestock" includes horses, mules, burros, cattle, sheep, swine, and goats.

~~((6))~~ ~~(4)~~ "Livestock identification board" or "board" means the board created in RCW 16.57.015.

~~((5))~~ "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

~~((7))~~ ~~(6)~~ "Stockyard" means any place, establishment, or facility commonly known as a stockyard consisting of pens or other enclosures and their appurtenances in which livestock services such as feeding, watering, weighing, sorting, receiving and shipping are offered to the public: PROVIDED, That stockyard shall not include any facilities where livestock is offered for sale at public auction, feed lots, or quarantined registered feed lots.

~~((8))~~ ~~(7)~~ "Packer" means any person engaged in the business of slaughtering, manufacturing, preparing meat or meat products for sale, marketing meat, meat food products or livestock products.

~~((9))~~ ~~(8)~~ "Deputy state veterinarian" means a graduate veterinarian authorized to practice in the state of Washington and appointed or deputized by the director of agriculture as his or her duly authorized representative.

~~((10))~~ ~~(9)~~ "Special open consignment horse sale" means a sale conducted by a person other than the operator of a public livestock market which is limited to the consignment of horses and donkeys only for sale on an occasional and seasonal basis.

**Sec. 59.** RCW 16.65.015 and 1983 c 298 s 2 are each amended to read as follows:

This chapter does not apply to:

(1) A farmer selling his or her own livestock on the farmer's own premises by auction or any other method.

(2) A farmers' cooperative association or an association of livestock breeders when any class of their own livestock is assembled and offered for sale at a special sale on an occasional and seasonal basis under the association's management and responsibility, and the special sale has been approved by the ~~((director))~~ board in writing. However, the special sale shall be subject to brand and health inspection requirements as provided in this chapter for sales at public livestock markets.

**Sec. 60.** RCW 16.65.020 and 1983 c 298 s 5 are each amended to read as follows:

Public livestock markets and special open consignment horse sales shall be under the direction and supervision of the ~~((director))~~ livestock identification board, and the ~~((director))~~ board, but not ~~((his))~~ its duly authorized representative, may adopt such rules ~~((and regulations))~~ as are necessary to carry out the purpose of this chapter. It shall be the duty of the ~~((director))~~ board to enforce and carry out the

provisions of this chapter and rules ~~((and regulations))~~ adopted hereunder. No person shall interfere with the ~~((director))~~ board when ~~((he))~~ it is performing or carrying out any duties imposed upon ~~((him))~~ it by this chapter or rules ~~((and regulations))~~ adopted hereunder.

**Sec. 61.** RCW 16.65.030 and 1995 c 374 s 54 are each amended to read as follows:

(1) ~~((On and after June 10, 1959,))~~ No person shall operate a public livestock market without first having obtained a license from the ~~((director))~~ livestock identification board. Application for ~~((such))~~ a license shall be in writing on forms prescribed by the ~~((director))~~ board, and shall include the following:

(a) A nonrefundable original license application fee of fifteen hundred dollars.  
(b) A legal description of the property upon which the public livestock market shall be located.  
(c) A complete description and blueprints or plans of the public livestock market physical plant, yards, pens, and all facilities the applicant proposes to use in the operation of such public livestock market.

~~((A detailed statement showing all the assets and liabilities of the applicant which must reflect a sufficient net worth to construct or operate a public livestock market.))~~ A financial statement, compiled or audited by a certified or licensed public accountant, to determine whether or not the applicant meets the minimum net worth requirements, established by the director by rule, to construct and/or operate a public livestock market. If the applicant is a subsidiary of a larger company, corporation, society, or cooperative association, both the parent company and the subsidiary company must submit a financial statement to determine whether or not the applicant meets the minimum net worth requirements. All financial statement information required by this subsection is confidential information and not subject to public disclosure.

(e) The schedule of rates and charges the applicant proposes to impose on the owners of livestock for services rendered in the operation of such livestock market.

(f) The weekly or monthly sales day or days on which the applicant proposes to operate his or her public livestock market sales and the class of livestock that may be sold on these days.

(g) Projected source and quantity of livestock~~((, by county,))~~ anticipated to be handled.

(h) Projected ~~((income and expense statements for))~~ gross dollar volume of business to be carried on, at, or through the public livestock market during the first year's operation.

(i) Facts upon which ~~((are))~~ is based the conclusion that the trade area and the livestock industry will benefit because of the proposed market.

(j) ~~((Such))~~ Other information as the ~~((director))~~ board may ~~((reasonably))~~ require by rule.

(2) ~~((The director shall, after public hearing as provided by chapter 34.05 RCW, grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to all of the requirements of this section and giving reasonable consideration at the same hearing to:~~

~~((a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application; and~~

~~((b) The present market services elsewhere available to the trade area proposed to be served.~~

~~((3) Applications for renewal under RCW 16.65.040 shall include all information under subsection (1) of this section, except subsection (1)(a) of this section.))~~ If the board determines that the applicant meets all the requirements of subsection (1) of this section, the board shall conduct a public hearing as provided by chapter 34.05 RCW, and shall grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to the requirements of this section and giving reasonable consideration to:

~~((a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application;~~

~~((b) The geographical area that will be affected;~~

~~((c) The conflict, if any, with sales days already allocated in the area;~~

~~((d) The amount and class of livestock available for marketing in the area;~~

~~((e) Buyers available to the proposed market; and~~

~~((f) Any other conditions affecting the orderly marketing of livestock.~~

~~((3) Before a license is issued to operate a public livestock market, the applicant must:~~

~~((a) Execute and deliver to the board a surety bond as required under RCW 16.65.200;~~

~~((b) Provide evidence of a custodial account, as required under RCW 16.65.140, for the consignor's proceeds;~~

~~((c) Pay the appropriate license fee; and~~

~~((d) Provide other information required under this chapter and rules adopted under this chapter.~~

**Sec. 62.** RCW 16.65.037 and 1997 c 356 s 8 are each amended to read as follows:

(1) Upon the approval of the application by the ~~((director))~~ livestock identification board and compliance with the provisions of this chapter, the applicant shall be issued a license or renewal thereof. Any license issued under the provisions of this chapter shall only be valid at location and for the sales day or days for which the license was issued.

(2) The license fee shall be based on the average gross sales volume per official sales day of that market:

(a) Markets with an average gross sales volume up to and including ten thousand dollars, a one hundred fifty dollar fee;

(b) Markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars, a three hundred fifty dollar fee; and

(c) Markets with an average gross sales volume over fifty thousand dollars, a four hundred fifty dollar fee.

The fees for public market licenses shall be set by the ~~((director))~~ board by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each such public livestock market, and each such application shall be accompanied by the appropriate application fee.

**Sec. 63.** RCW 16.65.040 and 1983 c 298 s 6 are each amended to read as follows:

All public livestock market licenses provided for in this chapter shall expire on March 1st subsequent to the date of issue. Any person who fails, refuses, or neglects to apply for a renewal of a preexisting license on or before the date of expiration, shall pay a penalty of twenty-five dollars, which shall be added to the regular license fee, before such license may be renewed by the ~~((director))~~ livestock identification board.

**Sec. 64.** RCW 16.65.042 and 1983 c 298 s 3 are each amended to read as follows:

(1) A person shall not operate a special open consignment horse sale without first obtaining a license from the ~~((director))~~ livestock identification board. The application for the license shall include:

- (a) A detailed statement showing all of the assets and liabilities of the applicant;
- (b) The schedule of rates and charges the applicant proposes to impose on the owners of horses for services rendered in the operation of the horse sale;
- (c) The specific date and exact location of the proposed sale;
- (d) Projected quantity and approximate value of horses to be handled; and
- (e) Such other information as the ~~((director))~~ board may reasonably require.

(2) The application shall be accompanied by a license fee of one hundred dollars. Upon the approval of the application by the ~~((director))~~ board and compliance with this chapter, the applicant shall be issued a license. A special open consignment horse sale license is valid only for the specific date or dates and exact location for which the license was issued.

**Sec. 65.** RCW 16.65.050 and 1959 c 107 s 5 are each amended to read as follows:

All fees ~~((provided for))~~ collected or received by the board under this chapter shall be ~~((retained by the director))~~ deposited by the board in the livestock identification account created in section 3 of this act. Moneys collected under this chapter may be expended by the board without appropriation for the purpose of enforcing this chapter.

**Sec. 66.** RCW 16.65.080 and 1985 c 415 s 9 are each amended to read as follows:

(1) The ~~((director))~~ livestock identification board is authorized to deny, suspend, or revoke a license in the manner prescribed herein, when there are findings by the ~~((director))~~ board that any licensee (a) has been guilty of fraud or misrepresentation as to titles, charges, numbers, brands, weights, proceeds of sale, or ownership of livestock; (b) has attempted payment to a consignor by a check the licensee knows not to be backed by sufficient funds to cover such check; (c) has violated any of the provisions of this chapter or rules ~~((and regulations))~~ adopted hereunder; (d) has violated any laws of the state that require health or ~~((brand))~~ livestock inspection of livestock; (e) has violated any condition of the bond, as provided in this chapter. However, the ~~((director))~~ board may deny a license if the applicant refuses to accept the sales day or days allocated to ~~((him))~~ it under the provisions of this chapter.

(2) In all proceedings for revocation, suspension, or denial of a license the licensee or applicant shall be given an opportunity to be heard in regard to such revocation, suspension or denial of a license. The ~~((director))~~ board shall give the licensee or applicant twenty days' notice in writing and such notice shall specify the charges or reasons for such revocation, suspension or denial. The notice shall also state the date, time and place where such hearing is to be held. Such hearings shall be held in the city where the licensee has his or her principal place of business, or where the applicant resides, unless some other place be agreed upon by the parties, and the defendant may be represented by counsel.

(3) The ~~((director))~~ board may issue subpoenas to compel the attendance of witnesses, and/or the production of books or documents anywhere in the state. The applicant or licensee shall have opportunity to be heard, and may have such subpoenas issued as he or she desires. Subpoenas shall be served in the same manner as in civil cases in the superior court. Witnesses shall testify under oath which may be administered by the ~~((director))~~ board. Testimony shall be recorded, and may be taken by deposition under such rules as the ~~((director))~~ board may prescribe.

(4) The ~~((director))~~ board shall hear and determine the charges, make findings and conclusions upon the evidence produced, and file them in ~~((his))~~ its office, together with a record of all of the evidence, and serve upon the accused a copy of such findings and conclusions.

**Sec. 67.** RCW 16.65.090 and 1997 c 356 s 10 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall provide for ~~((brand))~~ livestock inspection. When such ~~((brand))~~ livestock inspection is required the licensee shall collect from the consignor and pay to the ~~((department))~~ board, as provided by law, a fee for ~~((brand))~~ livestock inspection for each animal consigned to the public livestock market or special open consignment horse sale. However, if in any one

sale day the total fees collected for ~~((brand))~~ livestock inspection do not exceed ninety dollars, then such licensee shall pay ninety dollars for such ~~((brand))~~ livestock inspection or as much thereof as the ~~((director))~~ board may prescribe.

**Sec. 68.** RCW 16.65.100 and 1983 c 298 s 9 are each amended to read as follows:

The licensee of each public livestock market or special open consignment horse sale shall collect from any purchaser of livestock requesting ~~((brand))~~ livestock inspection a fee as provided by law for each animal inspected. Such fee shall be in addition to the fee charged to the consignor for ~~((brand))~~ livestock inspection and shall not apply to the minimum fee chargeable to the licensee.

**Sec. 69.** RCW 16.65.140 and 1971 ex.s. c 192 s 4 are each amended to read as follows:

Each licensee shall establish a custodial account for consignor's proceeds. All funds derived from the sale of livestock handled on a commission or agency basis shall be deposited in that account. Such account shall be drawn on only for the payment of net proceeds to the consignor, or such other person or persons of whom such licensee has knowledge is entitled to such proceeds, and to obtain from such proceeds only the sums due the licensee as compensation for his or her services as are set out in his or her tariffs, and for such sums as are necessary to pay all legal charges against the consignment of livestock which the licensee in his or her capacity as agent is required to pay for on behalf of the consignor or shipper. The licensee in each case shall keep such accounts and records that will at all times disclose the names of the consignors and the amount due and payable to each from the funds in the custodial account for consignor's proceeds. The licensee shall maintain the custodial account for consignor's proceeds in a manner that will expedite examination by the ~~((director))~~ livestock identification board and reflect compliance with the requirements of this section.

**Sec. 70.** RCW 16.65.190 and 1983 c 298 s 12 are each amended to read as follows:

No person shall hereafter operate a public livestock market or special open consignment horse sale unless such person has filed a schedule with the application for license to operate such public livestock market or special open consignment horse sale. Such schedule shall show all rates and charges for stockyard services to be furnished by such person at such public livestock market or special open consignment horse sale.

(1) Schedules shall be posted conspicuously at the public livestock market or special open consignment horse sale, and shall plainly state all such rates and charges in such detail as the ~~((director))~~ livestock identification board may require, and shall state any rules ~~((and regulations))~~ which in any manner change, affect, or determine any part of the aggregate of such rates or charges, or the value of the stockyard services furnished. The ~~((director))~~ board may determine and prescribe the form and manner in which such schedule shall be prepared, arranged and posted.

(2) No changes shall be made in rates or charges so filed and published except after thirty days' notice to the ~~((director))~~ board and to the public filed and posted as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect.

(3) No licensee shall charge, demand or collect a greater or a lesser or a different compensation for such service than the rates and charges specified in the schedule filed with the ~~((director))~~ board and in effect at the time; nor shall a licensee refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from properly returning to its members, on a patronage basis, its excess earnings on their livestock); nor shall a licensee extend to any person at such public livestock market or special open consignment horse sale any stockyard services except such as are specified in such schedule.

**Sec. 71.** RCW 16.65.200 and 1983 c 298 s 13 are each amended to read as follows:

Before the license is issued to operate a public livestock market or special open consignment horse sale, the applicant shall execute and deliver to the ~~((director))~~ livestock identification board a surety bond in a sum as herein provided for, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. ~~((Said))~~ The bond shall be a standard form and approved by the ~~((director))~~ board as to terms and conditions. ~~((Said))~~ The bond shall be conditioned that the principal will not commit any fraudulent act and will comply with the provisions of this chapter and the rules ~~((and/or regulations))~~ adopted hereunder. ~~((Said))~~ The bond shall be to the state in favor of every consignor and/or vendor creditor whose livestock was handled or sold through or at the licensee's public livestock market or special open consignment horse sale: PROVIDED, That if such applicant is bonded as a market agency under the provisions of the packers and stockyards act, (7 U.S.C. 181) as amended, on March 20, 1961, in a sum equal to or greater than the sum required under the provisions of this chapter, and such applicant furnishes the ~~((director))~~ board with a bond approved by the United States secretary of agriculture ~~((naming the department as trustee))~~, the ~~((director))~~ board may accept such bond and its method of termination in lieu of the bond provided for herein and issue a license if such applicant meets all the other requirements of this chapter.

The total and aggregate liability of the surety for all claims upon the bond shall be limited to the face of such bond. Every bond filed with and approved by the ~~((director))~~ board shall, without the necessity of periodic renewal, remain in force and effect until such time as the license of the licensee is revoked for cause or otherwise canceled. The surety on a bond, as provided herein, shall be released and discharged from all liability to the state accruing on such bond upon compliance with the provisions of RCW 19.72.110 concerning notice and proof of service, as enacted or hereafter amended, but this shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue (due and to become due hereunder) before the expiration period provided for in RCW 19.72.110 concerning notice and proof of service as enacted or hereafter amended, and unless the principal shall before the expiration of such period, file a new bond, the ~~((director))~~ board shall forthwith cancel the principal's license.

**Sec. 72.** RCW 16.65.220 and 1971 ex.s. c 192 s 7 are each amended to read as follows:

If the application for a license to operate a public livestock market is from a new public livestock market which has not operated in the past twelve-month period, the ~~((director))~~ livestock identification board shall determine a bond, in a reasonable sum, that the applicant shall execute in favor of the state, which shall not be less than ten thousand dollars nor greater than twenty-five thousand dollars: PROVIDED, That the ~~((director))~~ board may at any time, upon written notice, review the licensee's operations and determine whether, because of increased or decreased sales, the amount of the bond should be altered.

**Sec. 73.** RCW 16.65.235 and 1973 c 142 s 3 are each amended to read as follows:

In lieu of the surety bond required under the provisions of this chapter, an applicant or licensee may file with the ~~((director))~~ livestock identification board a deposit consisting of cash or other security acceptable to the ~~((director))~~ board. The ~~((director))~~ board may adopt rules ~~((and regulations))~~ necessary for the administration of such security.

**Sec. 74.** RCW 16.65.250 and 1959 c 107 s 25 are each amended to read as follows:

The ~~((director))~~ livestock identification board or any vendor or consignor creditor may also bring action upon ~~((said))~~ the bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by any failure to comply with the provisions of this chapter and the rules ~~((and/or regulations))~~ adopted hereunder.

**Sec. 75.** RCW 16.65.260 and 1983 c 298 s 14 are each amended to read as follows:

In case of failure by a licensee to pay amounts due a vendor or consignor creditor whose livestock was handled or sold through or at the licensee's public livestock market or special open consignment horse sale, as evidenced by a verified complaint filed with the ~~((director))~~ livestock identification board, the ~~((director))~~ board may proceed forthwith to ascertain the names and addresses of all vendor or consignor creditors of such licensee, together with the amounts due and owing to them and each of them by such licensee, and shall request all such vendor and consignor creditors to file a verified statement of their respective claims with the ~~((director))~~ board. Such request shall be addressed to each known vendor or consignor creditor at his or her last known address.

**Sec. 76.** RCW 16.65.270 and 1959 c 107 s 27 are each amended to read as follows:

If a vendor or consignor creditor so addressed fails, refuses or neglects to file in the office of the ~~((director his))~~ livestock identification board a verified claim as requested by the ~~((director))~~ board within sixty days from the date of such request, the ~~((director))~~ board shall thereupon be relieved of further duty or action hereunder on behalf of ~~((said))~~ the producer or consignor creditor.

**Sec. 77.** RCW 16.65.280 and 1959 c 107 s 28 are each amended to read as follows:

Where by reason of the absence of records, or other circumstances making it impossible or unreasonable for the ~~((director))~~ livestock identification board to ascertain the names and addresses of all ~~((said))~~ the vendor and consignor creditors, the ~~((director))~~ board, after exerting due diligence and making reasonable inquiry to secure ~~((said))~~ the information from all reasonable and available sources, may make demand on ~~((said))~~ the bond on the basis of information then in ~~((his))~~ its possession, and thereafter shall not be liable or responsible for claims or the handling of claims which may subsequently appear or be discovered.

**Sec. 78.** RCW 16.65.290 and 1959 c 107 s 29 are each amended to read as follows:

Upon ascertaining all claims and statements in the manner herein set forth, the ~~((director))~~ livestock identification board may then make demand upon the bond on behalf of those claimants whose statements have been filed, and shall have the power to settle or compromise ~~((said))~~ the claims with the surety company on the bond, and is empowered in such cases to execute and deliver a release and discharge of the bond involved.

**Sec. 79.** RCW 16.65.300 and 1959 c 107 s 30 are each amended to read as follows:

Upon the refusal of the surety company to pay the demand, the ~~((director))~~ livestock identification board may thereupon bring an action on the bond in behalf of ~~((said))~~ the vendor and consignor creditors. Upon any action being commenced on ~~((said))~~ the bond, the ~~((director))~~ board may require the filing of a new bond. Immediately upon the recovery in any action on such bond such licensee shall file a new bond. Upon failure to file the same within ten days, in either case, such failure shall constitute grounds for the suspension or revocation of his or her license.

**Sec. 80.** RCW 16.65.310 and 1959 c 107 s 31 are each amended to read as follows:

In any settlement or compromise by the ~~((director))~~ livestock identification board with a surety company as provided in RCW 16.65.290, where there are two or more consignor and/or vendor creditors that have filed claims, either fixed or contingent, against a licensee's bond, such creditors shall share pro rata in the proceeds of the bond to the extent of their actual damage: PROVIDED, That the claims of the state and the ~~((department))~~ board which may accrue from the conduct of the licensee's public livestock market shall have priority over all other claims.

**Sec. 81.** RCW 16.65.320 and 1985 c 415 s 10 are each amended to read as follows:

For the purpose of enforcing the provisions of this chapter, the ~~((director))~~ livestock identification board on the ~~((director's))~~ board's own motion or upon the verified complaint of any vendor or consignor against any licensee, or agent, or any person assuming or attempting to act as such, shall have full authority to make any and all necessary investigations. The ~~((director))~~ board is empowered to administer oaths of verification of such complaints.

**Sec. 82.** RCW 16.65.330 and 1959 c 107 s 33 are each amended to read as follows:

For the purpose of making investigations as provided for in RCW 16.65.320, the ~~((director))~~ livestock identification board may enter a public livestock market and examine any records required under the provisions of this chapter. The ~~((director))~~ board shall have full authority to issue subpoenas requiring the attendance of witnesses before ~~((him))~~ it, together with all books, memorandums, papers, and other documents relative to the matters under investigation, and to administer oaths and take testimony thereunder.

**Sec. 83.** RCW 16.65.340 and 1967 c 192 s 2 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall, when livestock is sold, traded, exchanged or handled at or through a public livestock market, require such testing, treating, identifying, examining and record keeping of such livestock by a ~~((deputy))~~ state licensed and accredited veterinarian employed by the market as in the ~~((director's))~~ board's judgment may be necessary to prevent the spread of brucellosis, tuberculosis, paratuberculosis, ~~((hog cholera))~~ pseudorabies, or any other infectious, contagious or communicable disease among the livestock of this state. The state veterinarian or his or her authorized representative may conduct additional testing and examinations for the same purpose.

**Sec. 84.** RCW 16.65.350 and 1959 c 107 s 35 are each amended to read as follows:

~~((1))~~ The director of the department of agriculture shall ~~((perform all tests and make all examinations required under the provisions of this chapter and rules and regulations adopted hereunder: PROVIDED, That veterinary inspectors of the United States department of agriculture may be appointed by the director to make such examinations and tests as are provided for in this chapter without bond or compensation, and shall have the same authority and power in this state as a deputy state veterinarian.~~

~~((2))~~ The director shall have the responsibility for the direction and control of ~~((~~ adopt rules regarding sanitary practices and health practices and standards and for the examination of animals at public livestock markets. ~~((The deputy state veterinarian at any such public livestock market shall notify the licensee or his managing agent, in writing, of insanitary practices or conditions. Such deputy state veterinarian shall notify the director if the improper sanitary practices or conditions are not corrected within the time specified. The director shall investigate and upon finding such report correct shall take appropriate action to hold a hearing on the suspension or revocation of the licensee's license.))~~

**Sec. 85.** RCW 16.65.360 and 1959 c 107 s 36 are each amended to read as follows:

Licensees shall provide facilities and sanitation for the prevention of livestock diseases at their public livestock markets, as follows:

(1) The floors of all pens and alleys that are part of a public livestock market shall be constructed of concrete or similar impervious material and kept in good repair, with a slope of not less than one-fourth inch per foot to adequate drains leading to an approved sewage system: PROVIDED, That the ~~((director))~~ livestock identification board may designate certain pens within such public livestock markets as feeding and holding pens and the floors and alleys of such pens shall not be subject to the aforementioned surfacing requirements.

(2) Feeding and holding pens maintained in an area adjacent to a public livestock market shall be constructed and separated from such public livestock market, in a manner prescribed by the director of agriculture, in order to prevent the spread of communicable diseases to the livestock sold or held for sale in such public livestock market.

(3) All yards, chutes and pens used in handling livestock shall be constructed of such materials which will render them easily cleaned and disinfected, and such yards, pens and chutes shall be kept clean, sanitary and in good repair at all times, as required by the director of agriculture.

(4) Sufficient calf pens of adequate size to prevent overcrowding shall be provided, and such pens, when used, shall be cleaned and disinfected no later than the day subsequent to each sale.

(5) All swine pens, when used, shall be cleaned and disinfected no later than the day subsequent to each sale.

(6) A water system carrying a pressure of forty pounds and supplying sufficient water to thoroughly wash all pens, floors, alleys and equipment shall be provided.

(7) Sufficient quarantine pens of adequate capacity shall be provided. Such pens shall be used to hold only cattle reacting to brucellosis and tuberculosis or to quarantine livestock with other contagious or communicable diseases and shall be:

(a) hard surfaced with concrete or similar impervious material and shall be kept in good repair;

(b) provided with separate watering facilities;

(c) painted white with the word "quarantine" painted in red letters not less than four inches high on such quarantine pen's gate;

(d) provided with a tight board fence not less than five and one-half feet high;

(e) cleaned and disinfected not later than one day subsequent to the date of sale.

To prevent the spread of communicable diseases among livestock, the director of agriculture shall have the authority to cause the cleaning and disinfecting of any area or all areas of a public livestock market and equipment or vehicles with a complete coverage of disinfectants approved by the director.

**Sec. 86.** RCW 16.65.420 and 1991 c 17 s 3 are each amended to read as follows:

(1) Any application for sales days or days for a new salesyard, and any application for a change of sales day or days or additional sales day or days for an existing yard shall be subject to approval by the ~~((director))~~ livestock identification board, subsequent to a hearing as provided for in this chapter and the ~~((director))~~ board is hereby authorized to allocate these dates and type and class of livestock which may be sold on these dates. In considering the allocation of such sales days, the ~~((director))~~ board shall give appropriate consideration, among other relevant factors, to the following:

(a) The geographical area which will be affected;

- (b) The conflict, if any, with sales days already allocated in the area;
- (c) The amount and class of livestock available for marketing in the area;
- (d) Buyers available to such market;
- (e) Any other conditions affecting the orderly marketing of livestock.

(2) No special sales shall be conducted by the licensee unless the licensee has applied to the ~~((director))~~ board in writing fifteen days prior to such proposed sale and such sale date shall be approved at the discretion of the ~~((director))~~ board.

(3) In any case that a licensee fails to conduct sales on the sales days allocated to the licensee, the ~~((director))~~ board shall, subsequent to a hearing, be authorized to revoke an allocation for nonuse. The rate of usage required to maintain an allocation shall be established by rule.

**Sec. 87.** RCW 16.65.422 and 1963 c 232 s 17 are each amended to read as follows:

A producer of purebred livestock may, upon obtaining a permit from the ~~((director))~~ livestock identification board, conduct a public sale of the purebred livestock on an occasional or seasonal basis on premises other than his or her own farm. Application for such special sale shall be in writing to the ~~((director))~~ board for ~~((his))~~ its approval at least fifteen days before the proposed public sale is scheduled to be held by such producer.

**Sec. 88.** RCW 16.65.423 and 1983 c 298 s 16 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall have the authority to issue a public livestock market license pursuant to the provisions of this chapter limited to the sale of horses and/or mules and to allocate a sales day or days to such licensee. The ~~((director))~~ board is hereby authorized and directed to adopt ~~((regulations))~~ rules for facilities and sanitation applicable to such a license. The facility requirements of RCW 16.65.360 shall not be applicable to such licensee's operation as provided for in this section.

**Sec. 89.** RCW 16.65.424 and 1963 c 232 s 19 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall have the authority to grant a licensee an additional sales day or days limited to the sale of horses and/or mules and may if requested grant the licensee, by permit, the authority to have the sale at premises other than at his or her public livestock market if the facilities are approved by the ~~((director))~~ board as being adequate for the protection of the health and safety of such horses and/or mules. For the purpose of such limited sale the facility requirements of RCW 16.65.360 shall not be applicable.

**Sec. 90.** RCW 16.65.445 and 1989 c 175 s 55 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall hold public hearings upon a proposal to promulgate any new or amended ~~((regulations))~~ rules and all hearings for the denial, revocation, or suspension of a license issued under this chapter or in any other adjudicative proceeding, and shall comply in all respects with chapter 34.05 RCW, the Administrative Procedure Act.

**Sec. 91.** RCW 16.65.450 and 1991 c 17 s 4 are each amended to read as follows:

Any licensee or applicant who feels aggrieved by an order of the ~~((director))~~ livestock identification board may appeal to the superior court of the county in the state of Washington of the residence of the licensee or applicant where the trial on such appeal shall be held de novo.

**Sec. 92.** RCW 16.04.025 and 1989 c 286 s 21 are each amended to read as follows:

If the owner or the person having in charge or possession such animals is unknown to the person sustaining the damage, the person retaining such animals shall, within twenty-four hours, notify the county sheriff or the nearest state brand inspector as to the number, description, and location of the animals. The county sheriff or brand inspector shall examine the animals by brand, tattoo, or other identifying characteristics and attempt to ascertain ownership. If the animal is marked with a brand or tattoo which is registered with the ~~((director of agriculture))~~ livestock identification board, the brand inspector or county sheriff shall furnish this information and other pertinent information to the person holding the animals who in turn shall send the notice required in RCW 16.04.020 to the animals' owner of record by certified mail.

If the county sheriff or the brand inspector determines that there is no apparent damage to the property of the person retaining the animals, or if the person sustaining the damage contacts the county sheriff or brand inspector to have the animals removed from his or her property, such animals shall be removed in accordance with chapter 16.24 RCW. Such removal shall not prejudice the property owner's ability to recover damages through civil suit.

**Sec. 93.** RCW 41.06.070 and 1996 c 319 s 3, 1996 c 288 s 33, and 1996 c 186 s 109 are each reenacted and amended to read as follows:

- (1) The provisions of this chapter do not apply to:
  - (a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;
  - (b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;
  - (c) Officers, academic personnel, and employees of technical colleges;
  - (d) The officers of the Washington state patrol;
  - (e) Elective officers of the state;
  - (f) The chief executive officer of each agency;



(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997;

(aa) Staff employed by the department of community, trade, and economic development to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045(2)(m);

(bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

(cc) Officers and employees of the livestock identification board created under RCW 16.57.015.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;

(c) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(d) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the Washington personnel resources board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the Washington personnel resources board stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The Washington personnel resources board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (1)(w) and (x) and (2) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v), (y), (z), and (2) of this section, shall be determined by the Washington personnel resources board. However, beginning with changes proposed for the 1997-99 fiscal biennium, changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**NEW SECTION. Sec. 94.** A new section is added to chapter 42.17 RCW to read as follows:

Financial statements provided under RCW 16.65.030(1)(d) are exempt from disclosure under this chapter.

**Sec. 95.** RCW 43.23.230 and 1988 c 254 s 1 are each amended to read as follows:

The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. Except as provided in section 3 of this act, the department may make disbursements from the fund. The fund is not subject to legislative appropriation.

**NEW SECTION. Sec. 96.** (1) On the effective date of this section, all powers, duties, and functions of the department of agriculture under chapters 16.57, 16.58, and 16.65 RCW except those identified as remaining with the department in RCW 16.65.350 and 16.65.360 are transferred to the livestock identification board. The authority to adopt rules regarding those powers, duties, and functions is transferred to the livestock identification board and the administration of those powers, duties, and functions is transferred to the board.

(2)(a) All funds, credits, or other assets, including but not limited to those in the agricultural local fund, held by the department of agriculture in connection with the powers, functions, and duties transferred shall be assigned to the board.

(b) At any time after June 30, 2004, and at the conclusion of a contract under which the department of agriculture conducts by contract activities for the livestock identification board, the board may request the transfer and the department shall, upon such a request, transfer to the custody of the board all reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of agriculture pertaining to the functions performed by contract by the department for the board and all cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department to perform such duties on behalf of the board.

(c) Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules of the department of agriculture adopted under chapter 16.57 RCW in effect on the effective date of this section, all rules adopted by the department under chapter 16.58 RCW in effect on the effective date of this section, and all rules adopted by the department under chapter 16.65 RCW, except for those adopted under the authorities retained by the department under RCW 16.65.350 and 16.65.360, in effect on the effective date of this section are, on the effective date of this section, rules of the livestock identification board. All proposed rules and all pending business before the department of agriculture pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the board. All existing contracts and obligations shall remain in full force and shall be performed by the board. All registrations made with the department under chapter 16.57 RCW, all licenses issued by the department under chapter 16.58 RCW, and all licenses issued by the department under chapter 16.65 RCW before the effective date of this section shall be considered to be registrations with and licenses issued by the board.

(4) The transfer of the powers, duties, and functions of the department of agriculture shall not affect the validity of any act performed before the effective date of this section. The board shall take action to enforce against violations of chapters 16.57, 16.58, and 16.65 RCW and rules adopted thereunder regarding authorities transferred to the board by this act which occurred before the effective date of this section and for which enforcement is not taken by the department before the effective date of this section with the same force and effect as it may take actions to enforce chapters 16.57 and 16.58 RCW and rules adopted thereunder after the effective date of this section. Any enforcement action taken by the department of agriculture under chapter 16.57, 16.58, or 16.65 RCW regarding authorities transferred to the board by this act, or the rules adopted thereunder and not concluded before the effective date of this section, shall be continued in the name of the board.

(5) As used in this section "livestock identification board" and "board" means the board created under RCW 16.57.015.

**NEW SECTION. Sec. 97.** (1) The following acts or parts of acts are each repealed:

- (a) 1997 c 356 s 3;
- (b) 1997 c 356 s 5;
- (c) 1997 c 356 s 9;
- (d) 1997 c 356 s 11;
- (e) RCW 16.57.380 and 1991 c 110 s 8, 1981 c 296 s 22, & 1974 ex.s. c 38 s 1; and
- (f) RCW 16.65.110 and 1959 c 107 s 11.

(2) This section is null and void unless subsections (1) through (5) of section 2 of this act and section 96 of this act become law.

**NEW SECTION. Sec. 98.** This act takes effect July 1, 1998, except that appointments may be made by the governor and proposed contracts may be developed under RCW 16.57.015 prior to July 1, 1998, to provide for an orderly transition of authority under this act.

**NEW SECTION. Sec. 99.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

Correct the title.,and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Morton moved that the Senate refuse to concur in the House amendment to Engrossed Substitute Senate Bill No. 6204 and requests of the House a conference thereon.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Morton that the Senate refuse to concur in the House amendment to Engrossed Substitute Senate Bill No. 6204 and requests of the House a conference thereon.

The motion by Senator Morton carried and the Senate refuses to concur in the House amendment to Engrossed Substitute Senate Bill No. 6204 and requests of the House a conference thereon.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 6204 and the House amendment(s) thereto: Senators Morton, Rasmussen and Swecker.

#### MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6190 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.16.381 and 1995 c 384 s 1 are each amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk and meets one of the following criteria, as determined by a licensed physician:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Is so severely disabled, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association; or

(g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician of the applicant shall document that the disability is comparable in severity to the others listed in this subsection.

(2) The applications for disabled parking permits and temporary disabled parking permits are official state documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's signature and immediately below the applicant's signature: "A disabled parking permit may be issued only for a medical necessity that severely affects mobility (RCW 46.16.381). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Those individuals who have one or both legs amputated and do not use a prosthetic device are exempt from the physician certification requirement necessary to receive special parking privileges. In order to qualify for special parking privileges, leg amputees must apply at a licensing office and the licensing office supervisor must visually confirm the amputation. Based on this confirmation, the certification of the person's disability is satisfied.

(4) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the photograph and name of the person to whom the placard is issued, and the placard's serial number. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the disabled person. Instead of regular motor vehicle license plates, disabled persons are entitled to receive special license plates bearing the international symbol of access for one vehicle registered in the disabled person's name. Disabled persons who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the special license plates or placard may park in places reserved for mobility disabled persons. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport disabled persons who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding homes, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

~~((3))~~ (5) Whenever the disabled person transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the disabled person and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the disabled person, the removed plate shall be immediately surrendered to the director.

~~((4))~~ (6) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. ~~((The director may issue a second temporary placard during that period if requested by the person who is temporarily disabled.))~~ If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the disabled person's physician. The permanent parking placard and photo identification card of a disabled person shall be renewed~~((, when))~~ at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. In the event of the permit holder's death, the parking placard and

photo identification card must be immediately surrendered to the department. The department shall match and purge its disabled permit data base with available death record information at least every twelve months.

~~((5))~~ (7) Each person who has been issued a permanent disabled parking permit on or before July 1, 1998, must renew the permit no later than July 1, 2003, subject to a schedule to be set by the department, or the permit will expire.

(8) Additional fees shall not be charged for the issuance of the special placards or the photo identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

~~((6))~~ (9) Any unauthorized use of the special placard ~~(or the)~~, special license plate, or photo identification card is a ~~(misdemeanor)~~ traffic infraction with a monetary penalty of two hundred fifty dollars.

~~((7))~~ (10) It is a parking infraction, with a monetary penalty of one hundred seventy-five dollars for a person to make inaccessible the access aisle located next to a space reserved for physically disabled persons. The clerk of the court shall report all violations related to this subsection to the department.

(11) It is a parking infraction, with a monetary penalty of one hundred seventy-five dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for physically disabled persons without a special license plate or placard. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the special license plate or placard required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for physically disabled persons may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards. All time restrictions must be clearly posted.

~~((8))~~ (12) The ~~(penalty)~~ penalties imposed under subsections ~~((7))~~ (10) and (11) of this section shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

~~((9))~~ (13) Except as provided by subsection (2) of this section, it is a ~~(misdemeanor)~~ traffic infraction with a monetary penalty of two hundred fifty dollars for any person ~~((t))~~ willfully to obtain a special license plate ~~(or)~~, placard, or photo identification card in a manner other than that established under this section.

(14)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's photo identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(e) A police officer or a volunteer may confiscate the special parking placard and photo identification card from a person who fraudulently obtains or uses the placard or photo identification card.

(15) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community service for a nonprofit organization that serves the disabled community or persons having disabling diseases; or

(b) Any other community service that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

**Sec. 2.** RCW 46.61.581 and 1988 c 74 s 1 are each amended to read as follows:

A parking space or stall for a disabled person shall be indicated by a vertical sign, between thirty-six and eighty-four inches off the ground, with the international symbol of access, whose colors are white on a blue background, described under RCW 70.92.120 and the notice "State disabled parking permit required."

Failure of the person owning or controlling the property where required parking spaces are located to erect and maintain the sign is a class ~~((4))~~ 2 civil infraction under chapter 7.80 RCW for each parking space that should be so designated. The person owning or controlling the property where the required parking spaces are located shall ensure that the parking spaces are not blocked or made inaccessible, and failure to do so is a class 2 civil infraction.

**Sec. 3.** RCW 46.63.020 and 1997 c 229 s 13 and 1997 c 66 s 8 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

- (1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;
- (2) RCW 46.09.130 relating to operation of nonhighway vehicles;
- (3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;
- (4) RCW 46.10.130 relating to the operation of snowmobiles;
- (5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;
- (6) RCW 46.16.010 relating to initial registration of motor vehicles;
- (7) RCW 46.16.011 relating to permitting unauthorized persons to drive;
- (8) RCW 46.16.160 relating to vehicle trip permits;
- (9) RCW 46.16.381 (~~((6) or (9))~~) (2) relating to (~~(unauthorized use or acquisition of)~~) knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;
- (10) RCW 46.20.005 relating to driving without a valid driver's license;
- (11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;
- (12) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;
- (14) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;
- (15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;
- (17) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;
- (18) RCW 46.25.170 relating to commercial driver's licenses;
- (19) Chapter 46.29 RCW relating to financial responsibility;
- (20) RCW 46.30.040 relating to providing false evidence of financial responsibility;
- (21) RCW 46.37.435 relating to wrongful installation of sunscreening material;
- (22) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (23) RCW 46.48.175 relating to the transportation of dangerous articles;
- (24) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (25) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (26) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (27) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (28) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (29) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (30) RCW 46.55.035 relating to prohibited practices by tow truck operators;
- (31) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- (32) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (33) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- (34) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- (35) RCW 46.61.500 relating to reckless driving;
- (36) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- (37) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;
- (38) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- (39) RCW 46.61.522 relating to vehicular assault;
- (40) RCW 46.61.5249 relating to first degree negligent driving;
- (41) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;
- (42) RCW 46.61.530 relating to racing of vehicles on highways;
- (43) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (44) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (45) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (46) Chapter 46.65 RCW relating to habitual traffic offenders;
- (47) RCW 46.68.010 relating to false statements made to obtain a refund;

(48) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

(49) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(50) RCW 46.72A.060 relating to limousine carrier insurance;

(51) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

(52) RCW 46.72A.080 relating to false advertising by a limousine carrier;

(53) Chapter 46.80 RCW relating to motor vehicle wreckers;

(54) Chapter 46.82 RCW relating to driver's training schools;

(55) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

(56) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW."

Correct the title, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Oke moved that the Senate refuse to concur in the House amendment to Second Substitute Senate Bill No. 6190 and requests of the House a conference thereon.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Oke that the Senate refuse to concur in the House amendment to Second Substitute Senate Bill No. 6190 and requests of the House a conference thereon.

The motion by Senator Oke carried and the Senate refuses to concur in the House amendment to Second Substitute Senate Bill No. 6190 and requests of the House a conference thereon.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Second Substitute Senate Bill No. 6190 and the House amendment(s) thereto: Senators Oke, Fairley and Wood.

#### MOTION

On motion of Senator Goings, the Conference Committee appointments were confirmed.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6341 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 75.28.030 and 1993 sp.s. c 17 s 44 are each amended to read as follows:

(1) Except as otherwise provided in this title, the director shall issue commercial licenses and permits to a qualified person upon receiving a completed application accompanied by the required fee.

(2) An application submitted to the department under this chapter shall contain the name and address of the applicant and any other information required by the department or this title. An applicant for a commercial fishery license((,)) or delivery license((, or charter license)) may designate a vessel to be used with the license ((and)). An applicant for a commercial fishery license or delivery license may also designate up to two alternate operators.

(3) An application submitted to the department under this chapter shall contain the applicant's declaration under penalty of perjury that the information on the application is true and correct.

(4) Upon issuing a commercial license under this chapter, the director shall assign the license a unique number that the license shall retain upon renewal. The department shall use the number to record any commercial catch under the license. This does not preclude the department from using other, additional, catch record methods.

(5) The fee to replace a license that has been lost or destroyed is twenty dollars.

**Sec. 2.** RCW 75.28.046 and 1994 c 260 s 12 are each amended to read as follows:

This section applies to all commercial fishery licenses(~~(:)~~) and delivery licenses(~~(, and charter licenses)~~), except for whiting—Puget Sound fishery licenses and emergency salmon delivery licenses.

(1) The license holder may engage in the activity authorized by a license subject to this section. With the exception of Dungeness crab—coastal fishery class B licensees licensed under RCW 75.30.350(~~((3))~~) (4), the holder of a license subject to this section may also designate up to two alternate operators for the license. Dungeness crab—coastal fishery class B licensees may not designate alternate operators. A person designated as an alternate operator must possess an alternate operator license issued under (~~(section 23 of this act and)~~) RCW 75.28.048.

(2) The fee to change the alternate operator designation is twenty-two dollars.

**Sec. 3.** RCW 75.28.047 and 1993 c 340 s 10 are each amended to read as follows:

(1) Only the license holder and any alternate operators designated on the license may sell or deliver food fish or shellfish under a commercial fishery license or delivery license. A commercial fishery license or delivery license authorizes no taking or delivery of food fish or shellfish unless the license holder or an alternate operator designated on the license is present or aboard the vessel.

(2) (~~(Only the license holder and any alternate operators designated on the license may)~~) Notwithstanding RCW 75.28.010(1)(c), an alternate operator license is not required for an individual to operate a vessel as a charter boat.

**Sec. 4.** RCW 75.28.048 and 1997 c 233 s 2 are each amended to read as follows:

(1) A person who holds a commercial fishery license(~~(:)~~) or a delivery license(~~(, or charter license)~~) may operate the vessel designated on the license. A person who is not the license holder may operate the vessel designated on the license only if:

(a) The person holds an alternate operator license issued by the director; and

(b) The person is designated as an alternate operator on the underlying commercial fishery license(~~(:)~~) or delivery license(~~(, or charter license)~~) under RCW 75.28.046.

(2) Only an individual at least sixteen years of age may hold an alternate operator license.

(3) No individual may hold more than one alternate operator license. An individual who holds an alternate operator license may be designated as an alternate operator on an unlimited number of commercial fishery licenses(~~(:)~~) or delivery licenses(~~(, and charter licenses)~~) under RCW 75.28.046.

(4) An individual who holds two Dungeness crab—Puget Sound fishery licenses may operate the licenses on one vessel if the vessel owner or alternate operator is on the vessel. The department shall allow a license holder to operate up to one hundred crab pots for each license.

(5) As used in this section, to "operate" means to control the deployment or removal of fishing gear from state waters while aboard a vessel(~~(, to operate a vessel as a charter boat,))~~ or to operate a vessel delivering food fish or shellfish taken in offshore waters to a port within the state.

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

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Oke, the Senate concurred in the House amendment to Substitute Senate Bill No. 6341.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6341, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6341, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Hargrove - 1. Excused: Senators Jacobsen and Patterson - 2. SUBSTITUTE SENATE BILL NO. 6341, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE



February 27, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6355 with the following amendment(s):  
On page 11, line 36, after "expires" strike "July" and insert "September", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Winsley moved that the Senate concur in the House amendment to Senate Bill No. 6355.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Winsley that the Senate concur in the House amendment to Senate Bill No. 6355.

The motion by Senator Winsley carried and the Senate concurred in the House amendment to Senate Bill No. 6355.

#### MOTION

On motion of Senator Franklin, Senator Fairley was excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6355, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6355, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 45. Absent: Senator Zarelli - 1. Excused: Senators Fairley, Jacobsen and Patterson - 3. SENATE BILL NO. 6355, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6358 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 81.88 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Pipeline company" means a person or entity constructing, owning, or operating an intrastate pipeline for transporting hazardous liquid, whether or not such a person or entity is a public service company otherwise regulated by the commission. For the purposes of this section, a pipeline company does not include: (i) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or (ii) excavation contractors or other contractors that contract with a pipeline company.

(b) "Hazardous liquid" means: (i) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 in effect March 1, 1998; and (ii) carbon dioxide. The commission by rule may incorporate by reference other substances designated as hazardous by the secretary of transportation under 49 U.S.C. Sec. 60101(a)(4).

(2) The commission shall adopt by rule intrastate pipeline safety standards for pipeline transportation and pipeline facilities that: (a) Apply to pipeline companies transporting hazardous liquids; (b) cover the design, construction, and operation of pipelines transporting hazardous liquids; and (c) require pipeline companies to design, construct, and maintain their pipeline facilities so they are safe and efficient.

(3) A person, officer, agent, or employee of a pipeline company who, as an individual or acting as an officer, agent, or employee of such a company, violates or fails to comply with this section or a rule adopted under this section, or who procures, aids, or abets another person or entity in the violation of or noncompliance with this section or a rule adopted under this section, is guilty of a gross misdemeanor.

(4)(a) A pipeline company, or any person, officer, agent, or employee of a pipeline company that violates a provision of this section, or a rule adopted under this section, is subject to a civil penalty to be assessed by the commission.

(b) The commission shall adopt rules: (i) Setting penalty amounts, but may not exceed the penalties specified in the federal pipeline safety laws, 49 U.S.C. Sec. 60101 et seq.; (ii) establishing procedures for mitigating penalties assessed; and (iii) incorporating by reference other substances designated as hazardous by the secretary of transportation under 49 U.S.C. Sec. 60101(a)(4).

(c) In determining the amount of the penalty, the commission shall consider: (i) The appropriateness of the penalty in relation to the position of the person charged with the violation; (ii) the gravity of the violation; and (iii) the good faith of the person or company charged in attempting to achieve compliance after notification of the violation.

(d) The amount of the penalty may be recovered in a civil action in the superior court of Thurston county or of some other county in which the violator may do business. In all actions for recovery, the rules of evidence shall be the same as in ordinary civil actions. All penalties recovered under this section must be paid into the state treasury and credited to the public service revolving fund.

(5) Nothing in this section duplicates the authority of the energy facility site evaluation council under chapter 80.50 RCW., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Finkbeiner moved that the Senate concur in the House amendment to Substitute Senate Bill No. 6358.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Finkbeiner that the Senate concur in the House amendment to Substitute Senate Bill No. 6358.

The motion by Senator Finkbeiner carried and the Senate concurred in the House amendment to Substitute Senate Bill No. 6358.

#### MOTIONS

On motion of Senator Sellar, Senator Benton was excused.

On motion of Senator Goings, Senator Franklin was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6358, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6358, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Benton, Franklin, Jacobsen and Patterson - 4. SUBSTITUTE SENATE BILL NO. 6358, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6380 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 59.21.010 and 1995 c 122 s 3 are each amended to read as follows:

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

- (1) "Director" means the director of the department of community, trade, and economic development.
- (2) "Department" means the department of community, trade, and economic development.
- (3) "Fund" means the mobile home park relocation fund established under RCW 59.21.050.

(4) "Mobile home park" or "park" means real property that is rented or held out for rent to others for the placement of two or more mobile homes for the primary purpose of production of income, except where the real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy.

(5) "Landlord" or "park-owner" means the owner of the mobile home park that is being closed at the time relocation assistance is provided.

(6) "Relocate" means to remove the mobile home from the mobile home park being closed.

(7) "Relocation assistance" means the monetary assistance provided under ~~((RCW 59.21.020))~~ this chapter.

**Sec. 2.** RCW 59.21.021 and 1995 c 122 s 5 are each amended to read as follows:

(1) If a mobile home park is closed or converted to another use after December 31, 1995, eligible tenants shall be entitled to assistance on a first-come, first-serve basis. Payments shall be made upon the department's verification of eligibility, subject to the availability of remaining funds ~~((remaining after the distribution under RCW 59.21.015)).~~

(2) Assistance for closures occurring after December 31, 1995, is limited to persons who maintain ownership of and relocate their mobile home.

(3) ~~((Except under subsection (4) of this section, assistance shall be subject to the levels set forth in RCW 59.21.015(2).))~~ Persons who maintained ownership of and relocated their mobile homes are entitled to up to seven thousand dollars for a double-wide home and up to three thousand five hundred dollars for a single-wide home.

(4) Any organization may apply to receive funds from the mobile home park relocation fund, for use in combination with funds from public or private sources, toward relocation of tenants eligible under this section. Funds received from the mobile home park relocation fund shall only be used for relocation assistance.

**Sec. 3.** RCW 59.21.025 and 1995 c 122 s 6 are each amended to read as follows:

(1) If financial assistance for relocation is obtained from sources other than the mobile home park relocation fund established under this chapter, then the relocation assistance provided to any person under this chapter shall be reduced as necessary to ensure that no person receives from all sources combined more than: ~~((4))~~ (a) That person's actual cost of relocation; or ~~((2) the amounts provided under RCW 59.21.015(3), whichever applies))~~ (b) seven thousand dollars for a double-wide mobile home and three thousand five hundred dollars for a single-wide mobile home.

(2) When a person receives financial assistance for relocation from a source other than the mobile home park relocation assistance fund, then the assistance received from the fund will be the difference between the maximum amount to which a person is entitled under RCW 59.21.021(3) and the amount of assistance received from the outside source.

(3) If the amount of assistance received from an outside source exceeds the maximum amounts of assistance to which a person is entitled under RCW 59.21.021(3), then that person will not receive any assistance from the mobile home park relocation assistance fund.

**Sec. 4.** RCW 59.21.040 and 1995 c 122 s 8 are each amended to read as follows:

A tenant is not entitled to relocation assistance under this chapter if: (1) The tenant has given notice to the landlord of his or her intent to vacate the park and terminate the tenancy before any written notice of closure pursuant to RCW 59.20.080(1)(e) has been given~~((-or))~~; (2) the tenant purchased a mobile home already situated in the park or moved a mobile home into the park after a written notice of closure pursuant to RCW 59.20.090 has been given and the person received actual prior notice of the change or closure; or (3) the tenant receives assistance from an outside source that exceeds the maximum amounts of assistance to which a person is entitled under RCW 59.21.021(3). However, no tenant may be denied relocation assistance under subsection (1) of this section if the tenant has remained on the premises and continued paying rent for a period of ~~((as [at])~~ at least six months after giving notice of intent to vacate and before receiving formal notice of a closure or change of use.

**Sec. 5.** RCW 59.21.050 and 1995 c 122 s 9 are each amended to read as follows:

(1) The existence of the mobile home park relocation fund in the custody of the state treasurer is affirmed. Expenditures from the fund may be used only for relocation assistance awarded under ~~((RCW 59.21.015 through 59.21.025))~~ this chapter. Only the director or the director's designee may authorize expenditures from the fund. All relocation payments to tenants shall be made from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(2) A park tenant is eligible for assistance under ~~((RCW 59.21.015))~~ this chapter only after an application is submitted by that tenant or an organization acting on the tenant's account under RCW 59.21.021(4) on a form approved by the director which shall include:

(a) For those persons who maintained ownership of and relocated their homes: (i) A copy of the notice from the park-owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use; (ii) a copy of the rental agreement then in force, or other proof that the applicant was a tenant at the time of notice of closure; (iii) a copy of the contract for relocating the home which includes the date of relocation, or other proof of actual relocation expenses incurred on a date certain; and (iv) a statement of any other available assistance;

(b) For those persons who sold their homes and incurred no relocation expenses: (i) A copy of the notice from the park-owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use; (ii) a copy of the rental agreement

then in force, or other proof that the applicant was a tenant at the time of notice of closure; and (iii) a copy of the record of title transfer issued by the department of licensing when the tenant sold the home rather than relocate it due to park closure or conversion.

**Sec. 6.** RCW 43.63B.010 and 1994 c 284 s 15 are each amended to read as follows:

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

- (1) "Authorized representative" means an employee of a state agency, city, or county acting on behalf of the department.
- (2) "Certified manufactured home installer" means a person who is in the business of installing mobile or manufactured homes and who has been issued a certificate by the department as provided in this chapter.
- (3) "Department" means the department of community, trade, and economic development.
- (4) "Director" means the director of community, trade, and economic development.
- (5) "Manufactured home" means a single-family dwelling built in accordance with the department of housing and urban development manufactured home construction and safety standards act, which is a national, preemptive building code.
- (6) "Mobile or manufactured home installation" means all on-site work necessary for the installation of a manufactured home, including:

- (a) Construction of the foundation system;
- (b) Installation of the support piers and earthquake resistant bracing system;
- (c) Required connection to foundation system and support piers;
- (d) Skirting;
- (e) Connections to the on-site water and sewer systems that are necessary for the normal operation of the home; and
- (f) Extension of the pressure relief valve for the water heater.
- (7) "Manufactured home standards" means the manufactured home construction and safety standards as promulgated by the United States department of housing and urban development (HUD).

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since introduction of the HUD manufactured home construction and safety standards act.

(9) "Training course" means the education program administered by the department, or the education course administered by an approved educational provider, as a prerequisite to taking the examination for certification.

(10) "Approved educational provider" means an organization approved by the department to provide education and training of manufactured home installers and local inspectors.

**NEW SECTION. Sec. 7.** A new section is added to chapter 43.63B RCW to read as follows:

The department shall adopt rules to establish and administer a process of approving educational providers as an alternative to the department training course for installers and local inspectors.

**Sec. 8.** RCW 43.63B.060 and 1994 c 284 s 20 are each amended to read as follows:

Any local government mobile or manufactured home installation application and permit shall state either the name and registration number of the contractor or licensed manufactured home dealer or the certification identification number of the certified manufactured home installer supervising such installation. A local government may not issue ~~((a permit to install))~~ final approval for the installation of a manufactured home unless ~~((1) The installer submits a copy of the certificate of manufactured home installation to the local government; or (2) work is being performed that does not require a certified installer. When work must be performed by a certified manufactured home installer, no work may commence until))~~ the certified installer or the installer's agent has posted ~~((or otherwise made available, with the inspection record card))~~ at the set-up site ~~((, a copy of the certified))~~ the manufactured home installer's ~~((certificate of))~~ certification number and has identified the work being performed on the manufactured home installation on a form prescribed by the department.

**NEW SECTION. Sec. 9.** RCW 59.21.015 and 1995 c 122 s 4 are each repealed."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Winsley moved that the Senate concur in the House amendment to Senate Bill No. 6380.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Winsley that the Senate concur in the House amendment to Senate Bill No. 6380.

The motion by Senator Winsley carried and the Senate concurred in the House amendment to Senate Bill No. 6380.

MOTION

On motion of Senator Sellar, Senator Deccio was excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6380, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6380, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yeas: Senators Anderson, Benton, Brown, Fairley, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 43. Absent: Senators Bauer and Finkbeiner - 2. Excused: Senators Deccio, Franklin, Jacobsen and Patterson - 4. SENATE BILL NO. 6380, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 3, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6421 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 50.04.320 and 1995 c 296 s 1 are each amended to read as follows:

(1) For the purpose of payment of contributions, "wages" means the remuneration paid by one employer during any calendar year to an individual in its employment under this title or the unemployment compensation law of any other state in the amount specified in RCW 50.24.010. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the operating assets of another employer (hereinafter referred to as a predecessor employer) or assets used in a separate unit of a trade or business of a predecessor employer, and immediately after the acquisition employs in the individual's trade or business an individual who immediately before the acquisition was employed in the trade or business of the predecessor employer, then, for the purposes of determining the amount of remuneration paid by the successor employer to the individual during the calendar year which is subject to contributions, any remuneration paid to the individual by the predecessor employer during that calendar year and before the acquisition shall be considered as having been paid by the successor employer.

(2) For the purpose of payment of benefits, "wages" means the remuneration paid by one or more employers to an individual for employment under this title during his base year: PROVIDED, That at the request of a claimant, wages may be calculated on the basis of remuneration payable. The department shall notify each claimant that wages are calculated on the basis of remuneration paid, but at the claimant's request a redetermination may be performed and based on remuneration payable.

(3) For the purpose of payment of benefits and payment of contributions, the term "wages" includes tips which are received after January 1, 1987, while performing services which constitute employment, and which are reported to the employer for federal income tax purposes.

(4)(a) "Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash and the reasonable value of gratuities shall be estimated and determined in accordance with rules prescribed by the commissioner. Remuneration does not include payments to members of a reserve component of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

(b) Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, shall be considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

(c) Settlements or other proceeds received by an individual as a result of a negotiated settlement for termination of an individual written employment contract (~~(with a public agency)~~) prior to its expiration date shall be considered remuneration. The proceeds shall be deemed assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract.

(d) Except as provided in (c) of this subsection, the provisions of this subsection (4) pertaining to the assignment of previously accrued compensation shall not apply to individuals subject to RCW 50.44.050.

NEW SECTION. Sec. 2. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of

this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect on the Sunday following the day that the governor signs this act and is effective for initial claims filed on or after that Sunday."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Schow, the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6421.

#### MOTION

On motion of Senator Johnson, further consideration of Engrossed Substitute Senate Bill No. 6421 was deferred.

#### MOTIONS

On motion of Senator Goings, Senators Bauer and Betti Sheldon were excused.

On motion of Senator Hale, Senator McCaslin was excused.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6518 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.44.040 and 1983 c 118 s 1 and 1983 c 73 s 1 are each reenacted and amended to read as follows:

(1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:

(a) Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or

(b) Kidnaps the victim; or

(c) Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or

(d) Feloniously enters into the building or vehicle where the victim is situated.

(2) Rape in the first degree is a class A felony.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Johnson, the Senate refuses to concur in the House amendment to Substitute Senate Bill No. 6518 and requests of the House a conference thereon.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 6518 and the House amendment(s) thereto: Senators Roach, Fairley and Zarelli.

#### MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6539 with the following amendment(s):

On page 15, after line 10, insert the following:

"Sec. 11. RCW 66.24.580 and 1996 c 224 s 2 are each amended to read as follows:

- (1) A public house license allows the licensee:
  - (a) To annually manufacture no less than two hundred fifty gallons and no more than two thousand four hundred barrels of beer on the licensed premises;
  - (b) To sell product, that is produced on the licensed premises, at retail on the licensed premises for consumption on the licensed premises;
  - (c) To sell beer or wine not of its own manufacture for consumption on the licensed premises if the beer or wine has been purchased from a licensed beer or wine (~~wholesaler~~) distributor;
  - (d) To hold other classes of retail licenses at other locations without being considered in violation of RCW 66.28.010;
  - (e) To apply for and, if qualified and upon the payment of the appropriate fee, be licensed as a (~~class-H~~) spirits, beer, and wine restaurant to do business at the same location. This fee is in addition to the fee charged for the basic public house license.
- (2) While the holder of a public house license is not to be considered in violation of the prohibitions of ownership or interest in a retail license in RCW 66.28.010, the remainder of RCW 66.28.010 applies to such licensees.
- (3) A public house licensee must pay all applicable taxes on production as are required by law, and all appropriate taxes must be paid for any product sold at retail on the licensed premises.
- (4) The employees of the licensee must comply with the provisions of mandatory server training in RCW 66.20.300 through 66.20.350.
- (5) The holder of a public house license may not hold a (~~wholesaler's~~) distributor's or importer's license, act as the agent of another manufacturer, (~~wholesaler~~) distributor, or importer, or hold a brewery or winery license.
- (6) The annual license fee for a public house is one thousand dollars.
- (7) The holder of a public house license may hold other licenses at other locations if the locations are approved by the board.
- (8) Existing holders of annual retail liquor licenses may apply for and, if qualified, be granted a public house license at one or more of their existing liquor licensed locations without discontinuing business during the application or construction stages."

Renumber the remaining sections consecutively and correct any internal references accordingly and correct the title.,and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Schow, the Senate refuses to concur in the House amendment to Senate Bill No. 6539 and requests of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Senate Bill No. 6539 and the House amendment(s) thereto: Senators Schow, Heavey and Horn.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MOTIONS

On motion of Senator Goings, Senators Hargrove Kline, Loveland and Prentice were excused.  
On motion of Senator Hale, Senators Schow, Sellar and Swecker were excused.

MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6166 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are each reenacted and amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and



(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of nine hundred days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock or other biological or technical device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8)(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, ~~46.61.500~~, or ~~9A.36.050~~ or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(b) "Within five years" means that the arrest for a prior offense occurred within five years of the arrest for the current offense.

**Sec. 2.** RCW 46.61.520 and 1996 c 199 s 7 are each amended to read as follows:

(1) When the death of any person ensues within three years as a proximate result of injury proximately caused by the driving of any vehicle by any person, the driver is guilty of vehicular homicide if the driver was operating a motor vehicle:

(a) While under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502; or

(b) In a reckless manner; or

(c) With disregard for the safety of others.

(2) Vehicular homicide is a class A felony punishable under chapter 9A.20 RCW, except that, for a conviction under subsection (1)(a) of this section, an additional two years shall be added to the sentence for each prior offense as defined in RCW 46.61.5055.

**Sec. 3.** RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are each reenacted and amended to read as follows:

(1) TABLE 1  
Sentencing Grid

SERIOUSNESS

SCORE OFFENDER SCORE

9 or

0 1 2 3 4 5 6 7 8 more

XV Life Sentence without Parole/Death Penalty

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

XIII 14y4m 15y4m 16y2m 17y 17y11m 18y9m 20y5m 22y2m 25y7m 29y  
123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
220 234 244 254 265 275 295 316 357 397

XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m  
93- 102- 111- 120- 129- 138- 162- 178- 209- 240-  
123 136 147 160 171 184 216 236 277 318

XI 7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m  
78- 86- 95- 102- 111- 120- 146- 159- 185- 210-  
102 114 125 136 147 158 194 211 245 280

X 5y 5y6m 6y 6y6m 7y 7y6m 9y6m 10y6m 12y6m 14y6m  
51- 57- 62- 67- 72- 77- 98- 108- 129- 149-  
68 75 82 89 96 102 130 144 171 198

IX 3y 3y6m 4y 4y6m 5y 5y6m 7y6m 8y6m 10y6m 12y6m  
31- 36- 41- 46- 51- 57- 77- 87- 108- 129-  
41 48 54 61 68 75 102 116 144 171

VIII 2y 2y6m 3y 3y6m 4y 4y6m 6y6m 7y6m 8y6m 10y6m  
21- 26- 31- 36- 41- 46- 67- 77- 87- 108-  
27 34 41 48 54 61 89 102 116 144

VII 18m 2y 2y6m 3y 3y6m 4y 5y6m 6y6m 7y6m 8y6m  
15- 21- 26- 31- 36- 41- 57- 67- 77- 87-  
20 27 34 41 48 54 75 89 102 116

VI 13m 18m 2y 2y6m 3y 3y6m 4y6m 5y6m 6y6m 7y6m  
12+- 15- 21- 26- 31- 36- 46- 57- 67- 77-  
14 20 27 34 41 48 61 75 89 102

V 9m 13m 15m 18m 2y2m 3y2m 4y 5y 6y 7y  
6- 12+- 13- 15- 22- 33- 41- 51- 62- 72-  
12 14 17 20 29 43 54 68 82 96

IV 6m 9m 13m 15m 18m 2y2m 3y2m 4y2m 5y2m 6y2m  
3- 6- 12+- 13- 15- 22- 33- 43- 53- 63-  
9 12 14 17 20 29 43 57 70 84

III 2m 5m 8m 11m 14m 20m 2y2m 3y2m 4y2m 5y  
1- 3- 4- 9- 12+- 17- 22- 33- 43- 51-  
3 8 12 12 16 22 29 43 57 68

II 4m 6m 8m 13m 16m 20m 2y2m 3y2m 4y2m  
0-90 2- 3- 4- 12+- 14- 17- 22- 33- 43-  
Days 6 9 12 14 18 22 29 43 57

I 3m 4m 5m 8m 13m 16m 20m 2y2m  
0-60 0-90 2- 2- 3- 4- 12+- 14- 17- 22-  
Days Days 5 6 8 12 14 18 22 29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) Three years for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Eighteen months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, any and all firearm enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(4) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon as defined in this chapter other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) One year for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Six months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, any and all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(5) The following additional times shall be added to the presumptive sentence if the offender or an accomplice committed the offense while in a county jail or state correctional facility as that term is defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state

correctional facility as that term is defined in this chapter, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section:

- (a) Eighteen months for offenses committed under RCW 69.50.401(a)(1) (i) or (ii) or 69.50.410;
- (b) Fifteen months for offenses committed under RCW 69.50.401(a)(1) (iii), (iv), and (v);
- (c) Twelve months for offenses committed under RCW 69.50.401(d).

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

(7) An additional two years shall be added to the presumptive sentence for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

**Sec. 4.** RCW 9.94A.360 and 1997 c 338 s 5 are each amended to read as follows:

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

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

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

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

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

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

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

(i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

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

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

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

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11) or (12) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and ½ point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), or (12) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for Murder 1 or 2, Assault 1, Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

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

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult and ½ point for each juvenile prior conviction. This subsection shall not apply when additional time is added to a sentence pursuant to RCW 46.61.520(2).

(12) If the present conviction is for a drug offense count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(13) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, Willful Failure to Return from Work Release, RCW 72.65.070, or Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as ½ point.

(14) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as ½ point.

(15) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(16) If the present conviction is for a sex offense, count priors as in subsections (7) through (15) of this section; however count three points for each adult and juvenile prior sex offense conviction.

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

NEW SECTION. Sec. 5. A new section is added to chapter 46.61 RCW to read as follows:

(1) Immediately before the court defers prosecution under RCW 10.05.020, dismisses a charge, or orders a sentence for any offense listed in subsection (2) of this section, the court and prosecutor shall verify the defendant's criminal history and driving record. The order shall include specific findings as to the criminal history and driving record. For purposes of this section, the criminal history shall include all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in subsection (3) of this section before the date of the order. For purposes of this section, the driving record shall include all information reported to the court by the department of licensing.

(2) The offenses to which this section applies are violations of: (a) RCW 46.61.502 or an equivalent local ordinance; (b) RCW 46.61.504 or an equivalent local ordinance; (c) RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug; (d) RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; and (e) RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(3) The periods applicable to previous convictions and orders of deferred prosecution are: (a) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and (b) seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

NEW SECTION. Sec. 6. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 7. This act takes effect January 1, 1999."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Johnson moved that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6166. Debate ensued.

The President declared the question before the Senate to be the motion by Senator Johnson that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6166.

The motion by Senator Johnson carried and the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6166.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6166, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6166, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 0; Absent, 2; Excused, 14.

Voting yea: Senators Anderson, Benton, Brown, Fairley, Finkbeiner, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Kohl, Long, McAuliffe, McDonald, Morton, Oke, Prince, Rasmussen, Roach, Rossi, Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 33. Absent: Senators Newhouse and West - 2. Excused: Senators Bauer, Deccio, Franklin, Hargrove, Jacobsen, Kline, Loveland, McCaslin, Patterson, Prentice, Schow, Sellar, Sheldon, B. and Swecker - 14. ENGROSSED SUBSTITUTE SENATE BILL NO. 6166, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

February 27, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6175 with the following amendment(s):

On page 3, line 28, before "under" strike "Payments" and insert "Except as provided in subsection (4)(b) of this section, payments"

On page 3, line 29, after "made" insert "solely"

On page 3, line 30, after "contract" insert ", which may not obligate general state revenues as defined in Article VIII, section 1, of the state constitution", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Hale moved that the Senate concur in the House amendments to Substitute Senate Bill No. 6175.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Hale that the Senate concur in the House amendments to Substitute Senate Bill No. 6175.

The motion by Senator Hale carried and the Senate concurred in the House amendments to Substitute Senate Bill No. 6175.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6175, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6175, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 0; Absent, 1; Excused, 12.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Kohl, Long, McAuliffe, McDonald, Morton, Oke, Prince, Rasmussen, Roach, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 36. Absent: Senator Newhouse - 1. Excused: Senators Bauer, Franklin, Hargrove, Jacobsen, Kline, Loveland, McCaslin, Patterson, Prentice, Schow, Sellar and Swecker - 12. SUBSTITUTE SENATE BILL NO. 6175, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

February 27, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5217 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 41.24.160 and 1996 c 57 s 2 are each amended to read as follows:

(1) Whenever a fire fighter, or a reserve officer provided a benefit under this section, dies as the result of injuries received, or sickness contracted in consequence or as the result of the performance of his or her duties, the board of trustees shall order and direct the payment of the sum of ~~((two))~~ one hundred fifty-two thousand dollars to his widow or her widower, or if there is no widow or widower, then to his or her dependent child or children, or if there is no dependent child or children, then to his or her parents or either of them, and the sum of one thousand two hundred seventy-five dollars per month to his widow or her widower during his or her life together with the additional monthly sum of one hundred ten dollars for each child of the member, unemancipated or under eighteen years of age, dependent upon the member for support at the time of his or her death, to a maximum total of two thousand five hundred fifty dollars per month.

(2) If the widow or widower does not have legal custody of one or more dependent children of the deceased fire fighter or if, after the death of the fire fighter, legal custody of such child or children passes from the widow or widower to another person, any payment on account of such child or children not in the legal custody of the widow or widower shall be made to the person or persons having legal custody of such child or children. Such payments on account of such child or children shall be subtracted from the amount to which such widow or widower would have been entitled had such widow or widower had legal custody of all the children and the widow or widower shall receive the remainder after such payments on account of such child or children have been subtracted. If there is no widow or widower, or the widow or widower dies while there are children, unemancipated or under eighteen years of age, then the amount of eight hundred twenty-five dollars per month shall be paid for the youngest or only child together with an additional seventy dollars per month for each additional of such children to a maximum of one thousand six hundred fifty dollars per month until they become emancipated or reach the age of eighteen years; and if there are no widow or widower, child, or children entitled thereto, then to his or her parents or either of them the sum of eight hundred twenty-five dollars per month for life, if it is proved to the satisfaction of the board that the parents, or either of them, were dependent on the deceased for their support at the time of his or her death. In any instance in subsections (1) and (2) of this section, if the widow or widower, child or children, or the parents, or either of them, marries while receiving such pension the person so marrying shall thereafter receive no further pension from the fund.

(3) In the case provided for in this section, the monthly payment provided may be converted in whole or in part into a lump sum payment, not in any case to exceed twelve thousand dollars, equal or proportionate, as the case may be, to the actuarial equivalent of the monthly payment in which event the monthly payments shall cease in whole or in part accordingly or proportionately. Such conversion may be made either upon written application to the state board and shall rest in the discretion of the state board; or the state board is authorized to make, and authority is hereby given it to make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due to dependents. Within the rule aforesaid the amount and value of the lump sum payment may be agreed upon between the applicant and the state board. Any person receiving a monthly payment under this section on June 29, 1961, may elect, within two years, to convert such payments into a lump sum payment as provided in this section.

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

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Hale moved that the Senate concur in the House amendment to Senate Bill No. 5217.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Hale that the Senate concur in the House amendment to Senate Bill No. 5217.

The motion by Senator Hale carried and the Senate concurred in the House amendment to Senate Bill No. 5217.

MOTION

On motion of Senator Betti Sheldon, Senator McAuliffe was excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5217, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5217, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 0; Absent, 1; Excused, 11.



Voting yea: Senators Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Kohl, Long, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 37. Absent: Senator Anderson - 1. Excused: Senators Bauer, Hargrove, Jacobsen, Kline, Loveland, McAuliffe, McCaslin, Patterson, Prentice, Schow and Swecker - 11. SENATE BILL NO. 5217, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5760 with the following amendment(s):

On page 18, line 26, after "supervision." insert "During any period of inpatient mental health treatment that falls within the period of community placement or community supervision, the inpatient treatment provider and the supervising community corrections officer shall notify each other about the offender's discharge, release, and legal status, and shall share other relevant information."

On page 19, after line 2, insert the following:

"**NEW SECTION. Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Long moved that the Senate concur in the House amendments to Engrossed Substitute Senate Bill No. 5760.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Long that the Senate concur in the House amendments to Engrossed Substitute Senate Bill No. 5760.

The motion by Senator Long carried and the Senate concurred in the House amendments to Engrossed Substitute Senate Bill No. 5760.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5760, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5760, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 1; Absent, 0; Excused, 10.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Kohl, Long, Loveland, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 38. Voting nay: Senator Fairley - 1. Excused: Senators Bauer, Hargrove, Jacobsen, Kline, McAuliffe, McCaslin, Patterson, Prentice, Schow and Swecker - 10. ENGROSSED SUBSTITUTE SENATE BILL NO. 5760, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

February 27, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6219 with the following amendment(s):

On page 3, line 33, strike all of section 3.

Renumber subsequent sections consecutively and correct the title and any internal references accordingly.

On page 56, beginning on line 37, strike "~~(In consultation with the business assistance center and the appropriate standing committees of the senate and house of representatives, the governor's small business improvement council shall submit its proposals and recommendations to the governor and the legislature~~" and insert "In consultation with the business assistance center and the appropriate standing committees of the

senate and house of representatives, the governor's small business improvement council (~~shall~~) may submit its proposals and recommendations to the governor and the legislature ("", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Hale, the Senate concurred in the House amendments to Senate Bill No. 6219.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6219, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6219, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 1; Absent, 1; Excused, 10.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McDonald, Morton, Oke, Prentice, Prince, Rasmussen, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn and Zarelli - 37. Voting nay: Senator Roach - 1. Absent: Senator Newhouse - 1. Excused: Senators Bauer, Hargrove, Jacobsen, McAuliffe, McCaslin, Patterson, Schow, Sellar, Swecker and Wood - 10. SENATE BILL NO. 6219, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6235 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature recognizes that coordinated funding efforts are needed to maintain, develop, and improve the state's community outdoor athletic fields. Rapid population growth and increased urbanization have caused a decline in suitable outdoor fields for community athletic activities and has resulted in overcrowding and deterioration of existing surfaces. Lack of adequate community outdoor athletic fields directly affects the health and well-being of all citizens of the state, reduces the state's economic viability, and prevents Washington from maintaining and achieving the quality of life that it deserves. Therefore, it is the policy of the state and its agencies to maintain, develop, fund, and improve youth or community athletic facilities, including but not limited to community outdoor athletic fields.

(2) In carrying out this policy, the legislature intends to promote the building of new community outdoor athletic fields, the upgrading of existing community outdoor athletic fields, and the maintenance of existing community outdoor athletic fields across the state of Washington. The purpose of sections 1 through 4 of this act is to create an advisory council to provide information and advice to the interagency committee for outdoor recreation in the distribution of the funds in the youth athletic facility grant account established in RCW 43.99N.060(4).

NEW SECTION. Sec. 2. (1) A community outdoor athletic fields advisory council is established within the interagency committee for outdoor recreation. The advisory council shall consist of nine members, from the public at large, appointed as follows: (a) Four members appointed by the chairperson of the interagency committee for outdoor recreation; (b) two members appointed by the house of representatives, one each appointed by the speaker of the house of representatives and the minority leader of the house of representatives; (c) two members appointed by the senate, one each appointed by the majority leader of the senate and the minority leader of the senate; and (d) one member appointed by the governor, who shall serve as chairperson of the advisory council. The appointments must reflect an effort to achieve a balance among the appointed members based upon factors of geographic, racial, ethnic, and gender diversity, and with a sense and awareness of community outdoor athletic fields needs.

(2) The advisory council shall provide information to and make recommendations to the interagency committee for outdoor recreation on the award of funds from the youth athletic facility grant account created in RCW 43.99N.060(4), to cities, counties, and qualified nonprofit organizations for acquiring, developing, equipping, maintaining, and improving youth or community athletic facilities, including but not limited to community outdoor athletic fields.

(3) The members shall serve three-year terms. Of the initial members, two shall be appointed for a one-year term, three shall be appointed for a two-year term, and the remainder shall be appointed for three-year terms. Thereafter, members shall be appointed for three-year terms. The member appointed by the governor shall serve as chairperson of the advisory council for the duration of the member's term.

(4) Members of the advisory council shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 3.** Subject to available resources, the interagency committee for outdoor recreation, in consultation with the community outdoor athletic fields advisory council may:

(1) Prepare and update a strategic plan for the development, maintenance, and improvement of community outdoor athletic fields in the state. In the preparation of such plan, the interagency committee for outdoor recreation may use available data from federal, state, and local agencies having community outdoor athletic responsibilities, user groups, private sector interests, and the general public. The plan may include, but is not limited to:

- (a) An inventory of current community outdoor athletic fields;
- (b) A forecast of demand for these fields;
- (c) An identification and analysis of actual and potential funding sources; and
- (d) Other information the interagency committee for outdoor recreation deems appropriate to carry out the purposes of sections 1 through 4 of this act;

(2) Determine the eligibility requirements for cities, counties, and qualified nonprofit organizations to access funding from the youth athletic facility grant account created in RCW 43.99N.060(4);

(3) Encourage and provide opportunities for interagency and regional coordination and cooperative efforts between public agencies and between public entities and nonprofit organizations involved in the maintenance, development, and improvement of community outdoor athletic fields; and

(4) Create and maintain data, studies, research, and other information relating to community outdoor athletic fields in the state, and to encourage the exchange of this information.

**NEW SECTION. Sec. 4.** The interagency committee for outdoor recreation may receive gifts, grants, or endowments from public and private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of sections 1 through 4 of this act and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17.710.

**NEW SECTION. Sec. 5.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 6.** Sections 1 through 4 of this act expire one year after RCW 82.14.0494 expires.

**NEW SECTION. Sec. 7.** Sections 1 through 6 of this act are each added to chapter 43.99 RCW under the subchapter heading "youth or community athletic facilities."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Hale, the Senate concurred in the House amendment to Engrossed Second Substitute Senate Bill No. 6235.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6235, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6235, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 0; Absent, 1; Excused, 9.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn and Zarelli - 39. Absent: Senator McDonald - 1. Excused: Senators Bauer, Hargrove, Jacobsen, McAuliffe, McCaslin, Patterson, Sellar, Swecker and Wood - 9. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6235, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6278 with the following amendment(s):

On page 2, beginning on line 1, after "port district" strike all material through "29.13.020" and insert "~~((at the next general port election held in the port district in accordance with RCW 29.13.010 and 29.13.020))~~"

On page 2, line 3, after "changed." insert "The proposition shall be submitted at the next general port election.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Hale, the Senate concurred in the House amendments to Senate Bill No. 6278.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6278, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6278, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 1; Absent, 1; Excused, 7.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Hochstatter, Horn, Johnson, Kline, Kohl, Long, Loveland, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 40. Voting nay: Senator Heavey - 1. Absent: Senator Anderson - 1. Excused: Senators Hargrove, Jacobsen, McAuliffe, McCaslin, Patterson, Sellar and Swecker - 7. SENATE BILL NO. 6278, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6165 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 10.05.150 and 1985 c 352 s 17 are each amended to read as follows:

A deferred prosecution program for alcoholism shall be for a two-year period and shall include, but not be limited to, the following requirements:

(1) Total abstinence from alcohol and all other nonprescribed mind-altering drugs;

(2) Participation in an intensive inpatient or intensive outpatient program in a state-approved alcoholism treatment ~~((facility))~~ program;

(3) Participation in a minimum of two meetings per week of an alcoholism self-help recovery support group, as determined by the assessing agency, for the duration of the treatment program;

(4) Participation in an alcoholism self-help recovery support group, as determined by the assessing agency, from the date of court approval of the plan to entry into intensive treatment;

(5) Operation of a motor vehicle only if equipped with a functioning ignition interlock or other biological device as authorized by RCW 46.20.720 and only with a driver's license imprinted with a notation as required by RCW 46.20.740. The court may waive the requirement for the use of such a device if the court makes a specific finding in writing that such devices are not reasonably available in the local area;

(6) Not less than weekly approved outpatient counseling, group or individual, for a minimum of six months following the intensive phase of treatment;

~~((6))~~ (7) Not less than monthly outpatient contact, group or individual, for the remainder of the two-year deferred prosecution period;

~~((7))~~ (8) The decision to include the use of prescribed drugs, including disulfiram, as a condition of treatment shall be reserved to the treating facility and the petitioner's physician;

~~((8))~~ (9) All treatment within the purview of this section shall occur within or be approved by a state-approved alcoholism \*treatment facility as described in chapter 70.96A RCW;

~~((9))~~ (10) Signature of the petitioner agreeing to the terms and conditions of the treatment program.

NEW SECTION. Sec. 2. This act takes effect January 1, 1999."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Johnson, the Senate refuses to concur in the House amendment to Engrossed Substitute Senate Bill No. 6165 and requests of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 6165 and the House amendment(s) thereto: Senators Rossi, Kline and Roach.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MOTION

At 1:19 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Monday, March 9, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FIFTY-FIFTH DAY, MARCH 7, 1998

**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**FIFTY-SEVENTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Monday, March 9, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senator Benton. On motion of Senator Hale, Senator Benton was excused.

The Sergeant at Arms Color Guard, consisting of Pages Robert Boldt and Bridget Cote, presented the Colors. Reverend Howard Alar, pastor of the Lacey Community Church, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**MESSAGES FROM THE HOUSE**

March 4, 1998

MR. PRESIDENT:

The House has passed:  
SENATE BILL NO. 6149,  
SUBSTITUTE SENATE BILL NO. 6153,  
SENATE BILL NO. 6155,  
SENATE BILL NO. 6172,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6174,  
SUBSTITUTE SENATE BILL NO. 6229,  
SENATE BILL NO. 6329,  
SUBSTITUTE SENATE BILL NO. 6396,  
SUBSTITUTE SENATE BILL NO. 6425,  
SENATE BILL NO. 6429,  
SUBSTITUTE SENATE BILL NO. 6545,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6648,  
SUBSTITUTE SENATE BILL NO. 6669,  
SENATE JOINT MEMORIAL NO. 8019, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 4, 1998

MR. PRESIDENT:

The House has passed:  
SECOND ENGROSSED SENATE BILL NO. 5185,  
ENGROSSED SENATE BILL NO. 5695,  
SENATE BILL NO. 6228,  
SENATE BILL NO. 6536, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 5, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SENATE BILL NO. 6325,  
SUBSTITUTE SENATE BILL NO. 6574, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 5, 1998

MR. PRESIDENT:

The House has passed:  
ENGROSSED SENATE BILL NO. 5499,  
SUBSTITUTE SENATE BILL NO. 5532,  
SUBSTITUTE SENATE BILL NO. 6150,  
SUBSTITUTE SENATE BILL NO. 6346,  
SENATE BILL NO. 6352,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6492,  
SENATE BILL NO. 6581,  
SUBSTITUTE SENATE BILL NO. 6605, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 6, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE SENATE BILL NO. 5355,  
SENATE BILL NO. 6311,  
SENATE BILL NO. 6400,  
SENATE BILL NO. 6758, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 6, 1998

MR. PRESIDENT:

The House has passed:  
SENATE BILL NO. 6220,  
SENATE BILL NO. 6728,  
SUBSTITUTE SENATE BILL NO. 6731,  
SUBSTITUTE SENATE BILL NO. 6737, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 6, 1998

MR. PRESIDENT:

The Speaker has signed:  
SECOND SUBSTITUTE HOUSE BILL NO. 1501,  
HOUSE BILL NO. 2355,  
HOUSE BILL NO. 2628,  
HOUSE BILL NO. 2663,  
ENGROSSED HOUSE BILL NO. 2707,  
SUBSTITUTE HOUSE BILL NO. 2973, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 7, 1998

MR. PRESIDENT:

The Speaker has signed:  
HOUSE BILL NO. 2141,  
ENGROSSED HOUSE BILL NO. 2302,  
SUBSTITUTE HOUSE BILL NO. 2315,  
SUBSTITUTE HOUSE BILL NO. 2386,  
HOUSE BILL NO. 2387,  
SUBSTITUTE HOUSE BILL NO. 2431,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2491,  
HOUSE BILL NO. 2499,  
SUBSTITUTE HOUSE BILL NO. 2544,  
HOUSE BILL NO. 2553,  
SUBSTITUTE HOUSE BILL NO. 2560,  
HOUSE BILL NO. 2779,  
SUBSTITUTE HOUSE BILL NO. 2922,  
SUBSTITUTE HOUSE BILL NO. 3057, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 7, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following House Bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1121,  
SUBSTITUTE HOUSE BILL NO. 1193,  
SUBSTITUTE HOUSE BILL NO. 1750,  
HOUSE BILL NO. 1835,  
SUBSTITUTE HOUSE BILL NO. 2351,  
SUBSTITUTE HOUSE BILL NO. 2411,  
HOUSE BILL NO. 2503.

TIMOTHY A. MARTIN, Chief Clerk

March 7, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following House Bills and passed the bills as amended by the Senate:

HOUSE BILL NO. 1172,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1230,  
HOUSE BILL NO. 1487,  
SECOND SUBSTITUTE HOUSE BILL NO. 1618,  
SUBSTITUTE HOUSE BILL NO. 2368,  
ENGROSSED HOUSE BILL NO. 2414,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2477,  
SUBSTITUTE HOUSE BILL NO. 2529,  
HOUSE BILL NO. 2704,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752,



SUBSTITUTE HOUSE BILL NO. 2773,  
SECOND SUBSTITUTE HOUSE BILL NO. 2782,  
ENGROSSED HOUSE BILL NO. 2791,  
SUBSTITUTE HOUSE BILL NO. 2858.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
SENATE BILL NO. 6149,  
SUBSTITUTE SENATE BILL NO. 6153,  
SENATE BILL NO. 6155,  
SENATE BILL NO. 6172,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6174,  
SUBSTITUTE SENATE BILL NO. 6229,  
SENATE BILL NO. 6329,  
SUBSTITUTE SENATE BILL NO. 6396,  
SUBSTITUTE SENATE BILL NO. 6425,  
SENATE BILL NO. 6429,  
SUBSTITUTE SENATE BILL NO. 6545,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6648,  
SUBSTITUTE SENATE BILL NO. 6669,  
SENATE JOINT MEMORIAL NO. 8019.

SIGNED BY THE PRESIDENT

The President signed:  
SECOND ENGROSSED SENATE BILL NO. 5185,  
SUBSTITUTE SENATE BILL NO. 5355,  
ENGROSSED SENATE BILL NO. 5695,  
SENATE BILL NO. 6220,  
SENATE BILL NO. 6228,  
SENATE BILL NO. 6311,  
ENGROSSED SENATE BILL NO. 6325,  
SENATE BILL NO. 6400,  
SENATE BILL NO. 6536,  
SUBSTITUTE SENATE BILL NO. 6574,  
SENATE BILL NO. 6728,  
SUBSTITUTE SENATE BILL NO. 6731,  
SUBSTITUTE SENATE BILL NO. 6737,  
SENATE BILL NO. 6758.

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SENATE BILL NO. 5499,  
SUBSTITUTE SENATE BILL NO. 5532,  
SUBSTITUTE SENATE BILL NO. 6150,  
SUBSTITUTE SENATE BILL NO. 6346,  
SENATE BILL NO. 6352,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6492,  
SENATE BILL NO. 6581,  
SUBSTITUTE SENATE BILL NO. 6605.

SIGNED BY THE PRESIDENT

The President signed:  
HOUSE BILL NO. 2141,  
ENGROSSED HOUSE BILL NO. 2302,  
SUBSTITUTE HOUSE BILL NO. 2315,  
SUBSTITUTE HOUSE BILL NO. 2386,  
HOUSE BILL NO. 2387,  
SUBSTITUTE HOUSE BILL NO. 2431,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2491,  
HOUSE BILL NO. 2499,  
SUBSTITUTE HOUSE BILL NO. 2544,  
HOUSE BILL NO. 2553,  
SUBSTITUTE HOUSE BILL NO. 2560,  
HOUSE BILL NO. 2779,  
SUBSTITUTE HOUSE BILL NO. 2922,  
SUBSTITUTE HOUSE BILL NO. 3057.

SIGNED BY THE PRESIDENT

The President signed:  
SECOND SUBSTITUTE HOUSE BILL NO. 1501,  
HOUSE BILL NO. 2355,  
HOUSE BILL NO. 2628,  
HOUSE BILL NO. 2663,  
ENGROSSED HOUSE BILL NO. 2707,  
SUBSTITUTE HOUSE BILL NO. 2973.

MOTION

On motion of Senator Tim Sheldon, the following resolution was adopted:

SENATE RESOLUTION 1998-8723

By Senators T. Sheldon, Rasmussen, Hale, B. Sheldon, Spanel and Franklin

WHEREAS, The Washington State Legislature recognizes excellence, achievement, and value in all fields of endeavor;  
and

WHEREAS, The Special Olympics, founded in 1968, give Washington's developmentally disabled citizens the opportunity to develop fitness, demonstrate courage and experience joy as they use their athletic skills to compete in the twenty four different Olympic-type summer and winter sports; and

WHEREAS, Through successful experiences in sports, six thousand Special Olympic participants gain confidence and build a positive self-image which carries over into the classroom, the home, the job, and the community; and

WHEREAS, These citizens and their families develop lifelong friendships which unite the community throughout the state and nation; and

WHEREAS, The Special Olympics as a non-profit organization, raises funds to provide continued access for year-round sports training and competition for participants; and

WHEREAS, All law enforcement agencies in the state of Washington are represented, including city and county police officers, sheriffs and deputies, military police, Secret Service, U.S. Border Patrol, FBI, Washington State Patrol, Washington Gambling Commission and Department of Corrections. Representatives of these agencies make up the Torch Run Council, which supports the annual campaign; and

WHEREAS, Under the dedicated supervision of Regional Director, Alex Young, the Special Olympics has encouraged each and every participant;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the state of Washington recognize and honor the Special Olympic Summer Games organizers, sponsors, and most of all, the participants, for their hard work, involvement and dedication; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the individuals involved in the Special Olympic Summer Games and regional director, Alex Young.

Senators Tim Sheldon, Goings, Long, Franklin and Betti Sheldon spoke to Senate Resolution 1998-8723.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the Special Olympic athletics, as well as staff members, who were seated in the gallery.

#### MOTION

On motion of Senator Wojahn, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8720

By Senators Wojahn, Rasmussen, Thibaudeau, B. Sheldon, Fairley, Bauer, Spanel, Loveland, Franklin and Roach

WHEREAS, Domestic violence is a long-standing and pervasive problem in our society, and

WHEREAS, Women are more often victims of domestic violence than victims of burglary, mugging, or all other physical crimes combined; and

WHEREAS, Making the public aware of the results and consequences of domestic violence is an important tool in combating domestic violence; and

WHEREAS, The Silent Witness Initiative began in Minnesota in 1990 to promote peace, healing and responsibility in adult relationships in order to eliminate domestic murders in the United States by 2010, and

WHEREAS, A Silent Witness Exhibit consisting of life-size plywood figures was developed to commemorate the thirty Washington State women who lost their lives in 1995 as a result of domestic violence at the hands of their husband, lover, or ex-lover; and

WHEREAS, A thirty-first life-size silhouette was added to the state exhibit to honor women whose murders went unsolved or were erroneously ruled accidental; and

WHEREAS, The Washington State Silent Witness Exhibit traveled to Washington, D.C., in October, 1997, to join fifteen hundred other figures from all fifty states in the **March to End the Silence**; and

WHEREAS, The Silent Witness Exhibit will be on display in the State Capitol for a week beginning March 9, 1998;

NOW, THEREFORE BE IT RESOLVED, That the Senate of the state of Washington acknowledges the hard work and dedication of those responsible for producing and displaying the exhibit, especially Michelle Smith, Sheri Yeatts, Judy Frame, and Nancy Newman, plus Mary Pontarolo, Executive Director of the Washington State Coalition Against Domestic Violence.

Senators Wojahn, Betti Sheldon and Bauer spoke to Senate Resolution 1998-8720.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced participants who are responsible for the Silent Witness Exhibit, who were seated in the gallery.

#### MOTION

On motion of Senator Wood, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8714

By Senators Wood, McCaslin, West, McDonald, Winsley, T. Sheldon, Kline, Wojahn, Horn, Johnson, Swecker, Finkbeiner, Long, Franklin, Rasmussen, Fraser, Fairley, Haugen, Deccio, Bauer, Thibaudeau, McAuliffe, Goings, Kohl, Rossi, Jacobsen, Prentice, Hochstatter, Hale, Wojahn and B. Sheldon

WHEREAS, It is the policy of the Washington State Legislature to recognize and honor those individuals that have made significant contributions to the well-being of the citizens of the state of Washington; and

WHEREAS, The esteemed Mr. Luis Fernando Esteban has distinguished himself in his service to the state of Washington as the Honorary Vice-Consul of Spain; and

WHEREAS, Mr. Esteban's work to develop, fund, and implement over eighty significant bilateral educational, cultural, historical, and commercial projects has been of enormous and long-lasting benefit to the citizens of the state of Washington; and

WHEREAS, Prince Philippe of Spain became the first member of a royal family to visit our State Capitol as a result of the tireless personal efforts of Mr. Esteban; and

WHEREAS, The paintings and sculptures of such famous Spanish artists as Picasso, Miro, Artigas, and Dali were viewed by a record breaking sixty-eight thousand people in ten weeks at the Tacoma Art Museum, many of whom were school children, as a direct result of the intervention and coordination by Mr. Esteban and Ms. Maria Isabel Esteban; and

WHEREAS, His many contributions as a volunteer to improve Washington's transportation industry has brought a new horizon and hope for high speed rail and light rail for intercity transportation; and

WHEREAS, Mr. Esteban has worked with leaders in private businesses and government officials in both countries to introduce Spanish language, culture, heritage, and history programs into our public school curriculum; and

WHEREAS, The historical and cultural roots of Washington State are deeply rooted in Spain, which highlights the importance of a Spanish Consul presence here in our state; and

WHEREAS, Mr. Esteban continues to volunteer his valuable time to further the cause of positive international relations between Spain and the United States;

NOW, THEREFORE, BE IT RESOLVED, That the Senate urges all citizens to formally recognize Mr. Luis Fernando Esteban and duly honor his most distinguished dedication to sharing the very best of the Hispanic heritage; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to His Royal Highness King Juan Carlos of Spain and the President of Spain, Jose Maria Aznar.

Senators Wood, Fraser and Prentice spoke to Senate Resolution 1998-8714.

#### INTRODUCTION OF SPECIAL GUEST

The President welcome and introduced Mr. Luis Fernando Esteban, who was seated on the rostrum.

With permission of the Senate, business was suspended to permit Mr. Esteban to address the Senate.

#### MOTION

On motion of Senator Wood, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8712

By Senators McAuliffe, Goings, Spanel, Rossi, Sellar, Johnson, Rasmussen, Long, Swecker, Deccio, Brown, Bauer, Fraser, Franklin, B. Sheldon and Haugen

WHEREAS, A significant number of the public education staff serving the needs of the children of this state are classified school employees; and

WHEREAS, Classified school employees are instrumental in the fulfilling of this state's paramount responsibility to educate children; and

WHEREAS, Classified school employees are involved in maintaining school buildings, providing safe transportation to and from school facilities, keeping school facilities clean and orderly, assisting students in the classroom, and providing many other necessary services; and

WHEREAS, These dedicated individuals deserve recognition and thanks for the excellent work they are doing for this state, for their communities, and for the children enrolled in Washington's public schools;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize the week of March 9th through the 13th as Classified School Employee Week in Washington State, and urge all citizens to join in recognizing the dedication and hard work of these individuals.

Senators Hochstatter, Kohl, Johnson and Rasmussen spoke to Senate Resolution 1998-8712.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the members of the classified school employees, who were seated in the gallery.

#### PERSONAL PRIVILEGE

Senator Thibaudeau: "Mr. President, I rise to a point of personal privilege. If I can just explain very, very briefly--some years ago I worked for a freshman legislator; watched him grow into an important committee chair, after he stopped sliding down the ramps in the rotunda; watched him break his back and recover swiftly; and then become King County Executive and now is our Governor. More importantly, he married and last year on this day, became the father of Emily Nicole Locke. Today, she is one year old and I just wanted to wish her a very Happy, Happy Birthday. Thank you."

#### REPLY BY THE PRESIDENT

President Owen: "Thank you. I think we all wish to do the same. If Emily is listening, Happy Birthday from the Washington State Senate."

#### HAPPY BIRTHDAY TO SENATOR TIM SHELDON

President Owen: "The President would like to point out that another outstanding person was born on this day only quite a few years ago--the unimpeachable Senator from the thirty-fifth district, Tim Sheldon. Happy Birthday to Senator Sheldon, as well."

#### MOTION

On motion of Senator Johnson, the Senate returned to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6264 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that mass marking of hatchery-raised salmon is an effective tool for implementing selective salmon fisheries in this state. Mass marking of coho salmon is currently underway and holds great promise for maintaining both recreational and commercial fishing opportunities while protecting wild stocks. In view of the anticipated listing of Puget Sound chinook salmon as endangered under the federal endangered species act, the legislature finds that it is essential to expeditiously proceed with implementing a mass marking program for chinook salmon in Puget Sound and elsewhere in the state.

Through a cooperative effort by state and federal agencies and private enterprise, appropriate technologies have been developed for marking chinook salmon. It is the intent of the legislature to use these newly developed tools to implement chinook salmon mass marking beginning in April 1999.

**Sec. 2.** RCW 75.08.510 and 1995 c 372 s 2 are each amended to read as follows:

The department shall mark appropriate coho salmon that are released from department operated hatcheries and rearing ponds in such a manner that the fish are externally recognizable as hatchery origin salmon by fishers for the purpose of maximized catch while sustaining wild and hatchery reproduction.

The department shall mark all appropriate chinook salmon targeted for contribution to the Washington catch that are released from department operated hatcheries and rearing ponds in such a manner that the fish are externally recognizable as hatchery origin salmon by fishers.

The goal of the marking program is: (1) The annual marking by June 30, 1997, of all appropriate hatchery origin ((~~chinook and~~) coho salmon produced by the department with marking to begin with the 1994 Puget Sound coho brood; and (2) the annual marking by June 30, 1999, of all appropriate hatchery origin chinook salmon produced by the department with marking to begin with the 1998 chinook brood. The department may experiment with different methods for marking hatchery salmon with the primary objective of maximum survival of hatchery marked fish, maximum contribution to fisheries, and minimum cost consistent with the other goals.

The department shall coordinate with other entities that are producing hatchery chinook and coho salmon for release into public waters to enable the broadest application of the marking program to all hatchery produced chinook and coho salmon. The department shall work with the treaty Indian tribes in order to reach mutual agreement on the implementation of the mass marking program. The department shall report to the appropriate legislative committees by January 1, 1999, on the progress made in reaching mutual agreement with the treaty Indian tribes and any Pacific coast state or province to achieve the goal of coast-wide marking of chinook and coho salmon. The ultimate goal of the program is the coast-wide marking of appropriate hatchery origin chinook and coho salmon, and the protection of all wild chinook and coho salmon, where appropriate.

NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Oke, the Senate concurred in the House amendment to Second Substitute Senate Bill No. 6264.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6264, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6264, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley and Wood - 42. Voting nay: Senators Fairley, Fraser, Kohl, Prentice and Wojahn - 5. Absent: Senator Zarelli - 1. Excused: Senator Benton - 1. SECOND SUBSTITUTE SENATE BILL NO. 6264, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6324 with the following amendment(s):

On page 2, beginning on line 8, after "in" strike all material through "Dam" on line 9 and insert "Washington state"

On page 2, line 9, after "in" strike "these"

On page 2, after line 36, insert the following:

"NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

## MOTION

Senator Oke moved that the Senate concur in the House amendments to Substitute Senate Bill No. 6324.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Oke that the Senate concur in the House amendments to Substitute Senate Bill No. 6324.

The motion by Senator Oke carried and the Senate concurred in the House amendments to Substitute Senate Bill No. 6324.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6324, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6324, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Wojahn, Wood and Zarelli - 47. Absent: Senator Winsley - 1. Excused: Senator Benton - 1. SUBSTITUTE SENATE BILL NO. 6324, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6408 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are each reenacted and amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of nine hundred days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) Any minimum nonsuspendable and nondeferrable jail sentence required by this section shall be doubled for any offender convicted of a violation of RCW 46.61.502 or 46.61.504 who committed the offense with another person or persons in the motor vehicle.

(5) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

~~((5))~~ (6) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.



~~((6))~~ (7) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

~~((7))~~ (8)(a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock or other biological or technical device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

~~((8))~~ (9)(a) A "prior offense" means any of the following:

- (i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;
- (ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;
- (iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;
- (iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;
- (v) A conviction for a violation of RCW 46.61.5249 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;
- (vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;
- (vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or
- (viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(b) "Within five years" means that the arrest for a prior offense occurred within five years of the arrest for the current offense.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.61 RCW to read as follows:

(1) Immediately before the court orders a sentence, or deferred prosecution under RCW 10.05.120, for any offense listed in subsection (2) of this section, the court and prosecutor shall verify the defendant's criminal history and driving record. The order shall include specific findings as to the criminal history and driving record. For purposes of this section, the criminal history shall include all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the periods specified in subsection (3) of this section before the date of the order. For purposes of this section, the driving record shall include all information reported to the court by the department of licensing.

(2) The offenses to which this section applies are violations of (a) RCW 46.61.502 or an equivalent local ordinance; (b) RCW 46.61.504 or an equivalent local ordinance; (c) RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug; (d) RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; and (e) RCW 46.61.5249 or 9A.36.050, or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(3) The periods applicable to previous convictions and orders of deferred prosecution are: (a) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and (b) seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Roach moved that the Senate refuse to concur in the House amendment to Engrossed Substitute Senate Bill No. 6408 and requests of the House a conference thereon.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate refuse to concur in the House amendment to Engrossed Substitute Senate Bill No. 6408 and requests of the House a conference thereon.

The motion by Senator Roach carried and the Senate refuses to concur in the House amendment to Engrossed Substitute Senate Bill No. 6408 and requests of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 6408 and the House amendment(s) thereto: Senators Johnson, Thibaudeau and Stevens.

MOTION

On motion of Senator Strannigan, the Conference Committee appointments were confirmed.

There being no objection, the Senate resumed consideration of Substitute Senate Bill No. 6181 and the pending motion by Senator Fairley to concur in House amendment, deferred March 7, 1998. Senator Snyder had demanded a roll call and the demand was sustained.

MOTION

There being no objection, Senator Fairley withdrew the motion to concur in the House amendment to Substitute Senate Bill No. 6181.

MOTION

There being no objection, Senator Snyder withdrew the demand for the roll call.

MOTION

On motion of Senator Roach, the Senate refuses to concur in the House amendment to Substitute Senate Bill No. 6181 and requests of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 6181 and the House amendment(s) thereto: Senators Johnson, Bauer and Roach.

MOTION

On motion of Senator Strannigan, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

March 3, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5305 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 69.50.401 and 1997 c 71 s 2 are each amended to read as follows:

(a) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(i) a controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, or (A) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (B) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(ii) methamphetamine, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, or (A) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (B) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(iii) any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(iv) a substance classified in Schedule IV, except flunitrazepam, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(v) a substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(i) a counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(ii) a counterfeit substance which is methamphetamine, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(iii) any other counterfeit substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(iv) a counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(v) a counterfeit substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(c) It is unlawful, except as authorized in this chapter and chapter 69.41 RCW, for any person to offer, arrange, or negotiate for the sale, gift, delivery, dispensing, distribution, or administration of a controlled substance to any person and then sell, give, deliver, dispense, distribute, or administer to that person any other liquid, substance, or material in lieu of such controlled substance. Any person who violates this subsection is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(d) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a crime, and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both, except as provided for in subsection (e) of this section.

(e) Except as provided for in subsection (a)(1)(iii) of this section any person found guilty of possession of forty grams or less of marihuana shall be guilty of a misdemeanor.

(f) It is unlawful to compensate, threaten, solicit, or in any other manner involve a person under the age of eighteen years in a transaction unlawfully to manufacture, sell, or deliver a controlled substance. A violation of this subsection shall be punished as a class C felony punishable in accordance with RCW 9A.20.021.

This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.410.

**Sec. 2.** RCW 69.50.406 and 1996 c 205 s 7 are each amended to read as follows:

(a) Any person eighteen years of age or over who violates RCW 69.50.401(a) by distributing a controlled substance listed in Schedules I or II which is a narcotic drug or methamphetamine, or flunitrazepam listed in Schedule IV, to a person under eighteen years of age is punishable by the fine authorized by RCW 69.50.401(a)(1) (i) or (ii), by a term of imprisonment of up to twice that authorized by RCW 69.50.401(a)(1) (i) or (ii), or by both.

(b) Any person eighteen years of age or over who violates RCW 69.50.401(a) by distributing any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his junior is punishable by the fine authorized by RCW 69.50.401(a)(1) (iii), (iv), or (v), by a term of imprisonment up to twice that authorized by RCW 69.50.401(a)(1) (iii), (iv), or (v), or both.

**Sec. 3.** RCW 9.94A.030 and 1997 c 365 s 1, 1997, c 340 s 4, 1997 c 339 s 1, 1997 c 338 s 2, 1997 c 144 s 1, and 1997 c 70 s 1 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(12) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (a) whether the defendant has been placed on probation and the length and terms thereof; and (b) whether the defendant has been incarcerated and the length of incarceration.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

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

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

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

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

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

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22) "First-time offender" means any person who is convicted of a felony (a) not classified as a violent offense or a sex offense under this chapter, or (b) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or flunitrazepam classified in Schedule IV, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

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

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

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

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under subsection (27)(b)(i) only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under subsection (27)(b)(i) only when the offender was eighteen years of age or older when the offender committed the offense.

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

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

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

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

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

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

(33) "Sex offense" means:

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

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

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

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

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

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

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

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

**Sec. 4.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each reenacted and amended to read as follows:

## TABLE 2

### CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV Aggravated Murder 1 (RCW 10.95.020)

XIV Murder 1 (RCW 9A.32.030)

Homicide by abuse (RCW 9A.32.055)

Malicious explosion 1 (RCW 70.74.280(1))  
XIII Murder 2 (RCW 9A.32.050)  
Malicious explosion 2 (RCW 70.74.280(2))  
Malicious placement of an explosive 1 (RCW 70.74.270(1))  
XII Assault 1 (RCW 9A.36.011)  
Assault of a Child 1 (RCW 9A.36.120)  
Rape 1 (RCW 9A.44.040)  
Rape of a Child 1 (RCW 9A.44.073)  
Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))  
XI Rape 2 (RCW 9A.44.050)  
Rape of a Child 2 (RCW 9A.44.076)  
Manslaughter 1 (RCW 9A.32.060)  
X Kidnapping 1 (RCW 9A.40.020)  
Child Molestation 1 (RCW 9A.44.083)  
Malicious explosion 3 (RCW 70.74.280(3))  
Over 18 and deliver heroin ((~~or~~), a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)  
Leading Organized Crime (RCW 9A.82.060(1)(a))  
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
IX Assault of a Child 2 (RCW 9A.36.130)  
Robbery 1 (RCW 9A.56.200)  
Explosive devices prohibited (RCW 70.74.180)  
Malicious placement of an explosive 2 (RCW 70.74.270(2))  
Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)  
Controlled Substance Homicide (RCW 69.50.415)  
Sexual Exploitation (RCW 9.68A.040)  
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))  
Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)  
VIII Arson 1 (RCW 9A.48.020)  
Promoting Prostitution 1 (RCW 9A.88.070)  
Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)  
Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))  
Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))  
Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)  
Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)  
Manslaughter 2 (RCW 9A.32.070)  
VII Burglary 1 (RCW 9A.52.020)  
Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)  
Introducing Contraband 1 (RCW 9A.76.140)  
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))  
Child Molestation 2 (RCW 9A.44.086)  
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)  
Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)  
Involving a minor in drug dealing (RCW 69.50.401(f))  
Drive-by Shooting (RCW 9A.36.045)  
Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))  
Malicious placement of an explosive 3 (RCW 70.74.270(3))  
VI Bribery (RCW 9A.68.010)  
Rape of a Child 3 (RCW 9A.44.079)



- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Incest 1 (RCW 9A.64.020(1))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))
- Intimidating a Judge (RCW 9A.72.160)
- Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
- Theft of a Firearm (RCW 9A.56.300)
- V Persistent prison misbehavior (RCW 9.94.070)
  - Criminal Mistreatment 1 (RCW 9A.42.020)
  - Abandonment of dependent person 1 (RCW 9A.42.060)
  - Rape 3 (RCW 9A.44.060)
  - Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
  - Child Molestation 3 (RCW 9A.44.089)
  - Kidnapping 2 (RCW 9A.40.030)
  - Extortion 1 (RCW 9A.56.120)
  - Incest 2 (RCW 9A.64.020(2))
  - Perjury 1 (RCW 9A.72.020)
  - Extortionate Extension of Credit (RCW 9A.82.020)
  - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
  - Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
  - Rendering Criminal Assistance 1 (RCW 9A.76.070)
  - Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
  - Sexually Violating Human Remains (RCW 9A.44.105)
  - Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
  - Possession of a Stolen Firearm (RCW 9A.56.310)
- IV Residential Burglary (RCW 9A.52.025)
  - Theft of Livestock 1 (RCW 9A.56.080)
  - Robbery 2 (RCW 9A.56.210)
  - Assault 2 (RCW 9A.36.021)
  - Escape 1 (RCW 9A.76.110)
  - Arson 2 (RCW 9A.48.030)
  - Commercial Bribery (RCW 9A.68.060)
  - Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
  - Malicious Harassment (RCW 9A.36.080)
  - Threats to Bomb (RCW 9.61.160)
  - Willful Failure to Return from Furlough (RCW 72.66.060)
  - Hit and Run--Injury Accident (RCW 46.52.020(4))
  - Hit and Run with Vessel--Injury Accident (RCW 88.12.155(3))
  - Vehicular Assault (RCW 46.61.522)
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana ((~~or~~), methamphetamines, or flunitrazepam) (RCW 69.50.401 (a)(1) (iii) through (v))
  - Influencing Outcome of Sporting Event (RCW 9A.82.070)
  - Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
  - Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal Gang Intimidation (RCW 9A.46.120)
  - Criminal Mistreatment 2 (RCW 9A.42.030)
  - Abandonment of dependent person 2 (RCW 9A.42.070)
  - Extortion 2 (RCW 9A.56.130)
  - Unlawful Imprisonment (RCW 9A.40.040)
  - Assault 3 (RCW 9A.36.031)
  - Assault of a Child 3 (RCW 9A.36.140)

Custodial Assault (RCW 9A.36.100)  
 Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))  
 Harassment (RCW 9A.46.020)  
 Promoting Prostitution 2 (RCW 9A.88.080)  
 Willful Failure to Return from Work Release (RCW 72.65.070)  
 Burglary 2 (RCW 9A.52.030)  
 Introducing Contraband 2 (RCW 9A.76.150)  
 Communication with a Minor for Immoral Purposes (RCW 9.68A.090)  
 Patronizing a Juvenile Prostitute (RCW 9.68A.100)  
 Escape 2 (RCW 9A.76.120)  
 Perjury 2 (RCW 9A.72.030)  
 Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))  
 Intimidating a Public Servant (RCW 9A.76.180)  
 Tampering with a Witness (RCW 9A.72.120)  
 Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))  
 Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))  
 Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))  
     Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))  
 Theft of livestock 2 (RCW 9A.56.080)  
 Securities Act violation (RCW 21.20.400)  
 II Unlawful Practice of Law (RCW 2.48.180)  
     Malicious Mischief 1 (RCW 9A.48.070)  
     Possession of Stolen Property 1 (RCW 9A.56.150)  
     Theft 1 (RCW 9A.56.030)  
     Class B Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))  
     Trafficking in Insurance Claims (RCW 48.30A.015)  
     Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))  
     Health Care False Claims (RCW 48.80.030)  
     Possession of controlled substance that is either heroin or narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(d))  
     Possession of phencyclidine (PCP) (RCW 69.50.401(d))  
     Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))  
     Computer Trespass 1 (RCW 9A.52.110)  
     Escape from Community Custody (RCW 72.09.310)  
 I Theft 2 (RCW 9A.56.040)  
     Class C Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))  
     Possession of Stolen Property 2 (RCW 9A.56.160)  
     Forgery (RCW 9A.60.020)  
     Taking Motor Vehicle Without Permission (RCW 9A.56.070)  
     Vehicle Prowl 1 (RCW 9A.52.095)  
     Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)  
     Malicious Mischief 2 (RCW 9A.48.080)  
     Reckless Burning 1 (RCW 9A.48.040)  
     Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
     Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
     False Verification for Welfare (RCW 74.08.055)  
     Forged Prescription (RCW 69.41.020)  
     Forged Prescription for a Controlled Substance (RCW 69.50.403)  
     Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine or flunitrazepam) (RCW 69.50.401(d))

**Sec. 5.** RCW 13.40.0357 and 1997 c 338 s 12 and 1997 c 66 s 6 are each reenacted and amended to read as follows:

**DESCRIPTION AND OFFENSE CATEGORY**

Juvenile	Juvenile Disposition
Disposition	Category for Attempt,
Offense	Bailjump, Conspiracy,
Category Description (RCW Citation)	or Solicitation

**Arson and Malicious Mischief**

A Arson 1 (9A.48.020) B+  
 B Arson 2 (9A.48.030) C  
 C Reckless Burning 1 (9A.48.040) D  
 D Reckless Burning 2 (9A.48.050) E  
 B Malicious Mischief 1 (9A.48.070) C  
 C Malicious Mischief 2 (9A.48.080) D  
 D Malicious Mischief 3 (<\$50 is  
 E class) (9A.48.090) E  
 E Tampering with Fire Alarm  
 Apparatus (9.40.100) E  
 A Possession of Incendiary Device  
 (9.40.120) B+

**Assault and Other Crimes  
 Involving Physical Harm**

A Assault 1 (9A.36.011) B+  
 B+ Assault 2 (9A.36.021) C+  
 C+ Assault 3 (9A.36.031) D+  
 D+ Assault 4 (9A.36.041) E  
 B+ Drive-By Shooting  
 (9A.36.045) C+  
 D+ Reckless Endangerment  
 (9A.36.050) E  
 C+ Promoting Suicide Attempt  
 (9A.36.060) D+  
 D+ Coercion (9A.36.070) E  
 C+ Custodial Assault (9A.36.100) D+

**Burglary and Trespass**

B+ Burglary 1 (9A.52.020) C+  
 B Residential Burglary  
 (9A.52.025) C  
 B Burglary 2 (9A.52.030) C  
 D Burglary Tools (Possession of)  
 (9A.52.060) E  
 D Criminal Trespass 1 (9A.52.070) E  
 E Criminal Trespass 2 (9A.52.080) E  
 C Vehicle Prowling 1 (9A.52.095) D  
 D Vehicle Prowling 2 (9A.52.100) E

**Drugs**

E Possession/Consumption of Alcohol

(66.44.270) E  
C Illegally Obtaining Legend Drug  
(69.41.020) D  
C+ Sale, Delivery, Possession of Legend  
Drug with Intent to Sell  
(69.41.030) D+  
E Possession of Legend Drug  
(69.41.030) E  
B+ Violation of Uniform Controlled  
Substances Act - Narcotic ((~~Ø~~)),  
Methamphetamine, or Flunitrazepam  
Sale (69.50.401(a)(1)(i) or (ii)) B+  
C Violation of Uniform Controlled  
Substances Act - Nonnarcotic Sale  
(69.50.401(a)(1)(iii)) C  
E Possession of Marihuana <40 grams  
(69.50.401(e)) E  
C Fraudulently Obtaining Controlled  
Substance (69.50.403) C  
C+ Sale of Controlled Substance  
for Profit (69.50.410) C+  
E Unlawful Inhalation (9.47A.020) E  
B Violation of Uniform Controlled  
Substances Act - Narcotic ((~~Ø~~)),  
Methamphetamine, or Flunitrazepam  
Counterfeit Substances  
(69.50.401(b)(1)(i) or (ii)) B  
C Violation of Uniform Controlled  
Substances Act - Nonnarcotic  
Counterfeit Substances  
(69.50.401(b)(1) (iii), (iv), (v)) C  
C Violation of Uniform Controlled  
Substances Act - Possession of a  
Controlled Substance  
(69.50.401(d)) C  
C Violation of Uniform Controlled  
Substances Act - Possession of a  
Controlled Substance  
(69.50.401(c)) C

#### **Firearms and Weapons**

B Theft of Firearm (9A.56.300) C  
B Possession of Stolen Firearm  
(9A.56.310) C  
E Carrying Loaded Pistol Without  
Permit (9.41.050) E  
C Possession of Firearms by Minor (<18)  
(9.41.040(1) (b) (iii)) C  
D+ Possession of Dangerous Weapon  
(9.41.250) E  
D Intimidating Another Person by use  
of Weapon (9.41.270) E

#### **Homicide**

A+ Murder 1 (9A.32.030) A  
A+ Murder 2 (9A.32.050) B+  
B+ Manslaughter 1 (9A.32.060) C+  
C+ Manslaughter 2 (9A.32.070) D+  
B+ Vehicular Homicide (46.61.520) C+

#### **Kidnapping**

A Kidnap 1 (9A.40.020) B+  
B+ Kidnap 2 (9A.40.030) C+  
C+ Unlawful Imprisonment  
(9A.40.040) D+

#### **Obstructing Governmental Operation**

D Obstructing a Law Enforcement  
Officer (9A.76.020) E  
E Resisting Arrest (9A.76.040) E  
B Introducing Contraband 1  
(9A.76.140) C  
C Introducing Contraband 2  
(9A.76.150) D  
E Introducing Contraband 3  
(9A.76.160) E  
B+ Intimidating a Public Servant  
(9A.76.180) C+  
B+ Intimidating a Witness  
(9A.72.110) C+

#### **Public Disturbance**

C+ Riot with Weapon (9A.84.010) D+  
D+ Riot Without Weapon  
(9A.84.010) E  
E Failure to Disperse (9A.84.020) E  
E Disorderly Conduct (9A.84.030) E

#### **Sex Crimes**

A Rape 1 (9A.44.040) B+  
A- Rape 2 (9A.44.050) B+  
C+ Rape 3 (9A.44.060) D+  
A- Rape of a Child 1 (9A.44.073) B+  
B+ Rape of a Child 2 (9A.44.076) C+  
B Incest 1 (9A.64.020(1)) C  
C Incest 2 (9A.64.020(2)) D  
D+ Indecent Exposure  
(Victim <14) (9A.88.010) E  
E Indecent Exposure  
(Victim 14 or over) (9A.88.010) E  
B+ Promoting Prostitution 1  
(9A.88.070) C+  
C+ Promoting Prostitution 2  
(9A.88.080) D+  
E O & A (Prostitution) (9A.88.030) E  
B+ Indecent Liberties (9A.44.100) C+  
A- Child Molestation 1 (9A.44.083) B+  
B Child Molestation 2 (9A.44.086) C+

**Theft, Robbery, Extortion, and Forgery**

- B Theft 1 (9A.56.030) C
- C Theft 2 (9A.56.040) D
- D Theft 3 (9A.56.050) E
- B Theft of Livestock (9A.56.080) C
- C Forgery (9A.60.020) D
- A Robbery 1 (9A.56.200) B+
- B+ Robbery 2 (9A.56.210) C+
- B+ Extortion 1 (9A.56.120) C+
- C+ Extortion 2 (9A.56.130) D+
- B Possession of Stolen Property 1  
(9A.56.150) C
- C Possession of Stolen Property 2  
(9A.56.160) D
- D Possession of Stolen Property 3  
(9A.56.170) E
- C Taking Motor Vehicle Without  
Owner's Permission (9A.56.070) D

**Motor Vehicle Related Crimes**

- E Driving Without a License  
(46.20.005) E
- C Hit and Run - Injury  
(46.52.020(4)) D
- D Hit and Run-Attended  
(46.52.020(5)) E
- E Hit and Run-Unattended  
(46.52.010) E
- C Vehicular Assault (46.61.522) D
- C Attempting to Elude Pursuing  
Police Vehicle (46.61.024) D
- E Reckless Driving (46.61.500) E
- D Driving While Under the Influence  
(46.61.502 and 46.61.504) E

**Other**

- B Bomb Threat (9.61.160) C
- C Escape 1<sup>1</sup> (9A.76.110) C
- C Escape 2<sup>1</sup> (9A.76.120) C
- D Escape 3 (9A.76.130) E
- E Obscene, Harassing, Etc.,  
Phone Calls (9.61.230) E
- A Other Offense Equivalent to an  
Adult Class A Felony B+
- B Other Offense Equivalent to an  
Adult Class B Felony C
- C Other Offense Equivalent to an  
Adult Class C Felony D
- D Other Offense Equivalent to an  
Adult Gross Misdemeanor E
- E Other Offense Equivalent to an  
Adult Misdemeanor E
- V Violation of Order of Restitution,  
Community Supervision, or

Confinement (13.40.200)<sup>2</sup> V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

- 1st escape or attempted escape during 12-month period - 4 weeks confinement
- 2nd escape or attempted escape during 12-month period - 8 weeks confinement
- 3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, or C.

**OPTION A  
 JUVENILE OFFENDER SENTENCING GRID  
 STANDARD RANGE**

A+ 180 WEEKS TO AGE 21 YEARS

A 103 WEEKS TO 129 WEEKS

A- 15-36 | 52-65 | 80-100 | 103-129  
 WEEKS | WEEKS | WEEKS | WEEKS  
 EXCEPT | | |  
 30-40 | | |  
 WEEKS FOR | | |  
 15-17 | | |  
 YEAR OLDS | | |

Current B+ 15-36 | 52-65 | 80-100 | 103-129  
 Offense WEEKS | WEEKS | WEEKS | WEEKS  
 Category \_\_\_\_

B LOCAL | | 52-65  
 SANCTIONS (LS) | 15-36 WEEKS | WEEKS

C+ LS |  
 | 15-36 WEEKS

C LS | 15-36 WEEKS  
 Local Sanctions: |  
 0 to 30 Days \_  
 D+ LS 0 to 12 Months Community Supervision  
 0 to 150 Hours Community Service  
 D LS \$0 to \$500 Fine

E LS

0 1 2 3 4 or more  
 PRIOR ADJUDICATIONS

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

**OR**  
**OPTION B**

**CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under RCW 13.40.160(5) and 13.40.165.

**OR**  
**OPTION C**  
**MANIFEST INJUSTICE**

If the court determines that a disposition under option A or B would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

**Sec. 6.** RCW 9A.44.050 and 1997 c 392 s 514 are each amended to read as follows:

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

(a) By forcible compulsion;

(b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated, including physical helplessness or mental incapacity induced by any controlled substance, and the perpetrator knows of the helplessness or incapacity;

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment;

(e) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim.

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

**Sec. 7.** RCW 9A.44.100 and 1997 c 392 s 515 are each amended to read as follows:

(1) A person is guilty of indecent liberties when he knowingly causes another person who is not his spouse to have sexual contact with him or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless, including mental incapacity or physical helplessness induced by any controlled substance, and the perpetrator knows of the defect, incapacity, or helplessness;

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or



(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim.

(2) Indecent liberties is a class B felony.

NEW SECTION. Sec. 8. A new section is added to chapter 9A.44 RCW to read as follows:

Rape crisis centers, law enforcement, and hospital emergency rooms shall provide to all personnel investigating cases of sexual assault training on how to recognize the presence of sedating substances, how to test for the substances, and the appropriate chain of custody procedures to follow so that the evidence may be used in a court of law. The training required by this section may be incorporated into existing training programs.

NEW SECTION. Sec. 9. This act applies to crimes committed on or after July 1, 1998.

NEW SECTION. Sec. 10. This act takes effect July 1, 1998.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Deccio moved that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 5305.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Deccio that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 5305.

The motion by Senator Deccio carried and the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 5305.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5305, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5305, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Hargrove - 1. Excused: Senator Benton - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 5305, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6348 with the following amendment(s):

On page 3, beginning on line 27, strike section 3 and insert:

"NEW SECTION. Sec. 3. The department shall not deny exemptions under RCW 82.08.02565 or 82.12.02565 solely on the basis of failure to comply with duplicate certificate or summary filing requirements. The amendments of RCW 82.08.02565 or 82.12.02565 in this act do not terminate requirements to file duplicate certificates or summaries in respect to exemptions claimed for periods before January 1, 1999.

NEW SECTION. Sec. 4. Sections 1 and 2 of this act take effect January 1, 1999."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator McCaslin moved that the Senate concur in the House amendment to Senate Bill No. 6348.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator McCaslin that the Senate concur in the House amendment to Senate Bill No. 6348.

The motion by Senator McCaslin carried and the Senate concurred in the House amendment to Senate Bill No. 6348.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6348, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6348, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator McDonald - 1. SENATE BILL NO. 6348, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of Engrossed Substitute Senate Bill No. 6421, deferred March 7, 1998, after the motion by Senator Schow to concur in the House amendment carried.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6421, as amended by the House.

Debate ensued.

#### POINT OF INQUIRY

Senator Heavey: "Senator Schow, I've read the bill about three times and still don't understand it. If you have a written severance agreement, does that remuneration--and therefore you are not--you would not get unemployment insurance?"

Senator Schow: "That is my understanding."

Senator Heavey: "So, if you don't have a written one, do you get unemployment insurance?"

Senator Schow: "If you don't have--"

Senator Heavey: "If you don't have a written severance package--"

Senator Schow: "Well, if the severance that you get is not designated as pay for the future, it is my understanding that for both public and private, you would be eligible for unemployment."

Senator Heavey: "Thank you."

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6421, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 48. Voting nay: Senator Thibaudeau - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6421, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6445 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to:

- (1) Enhance public safety and maximize the rehabilitative potential of juvenile offenders through modifications to licensed community residential placements for juveniles;
- (2) Ensure community support for community facilities by enabling community participation in decisions involving these facilities and assuring the safety of communities in which community facilities for juvenile offenders are located; and
- (3) Improve public safety by strengthening the safeguards in placement, oversight, and monitoring of the juvenile offenders placed in the community, and by establishing minimum standards for operation of licensed residential community facilities. The legislature finds that community support and participation is vital to the success of community programming.

**Sec. 2.** RCW 72.05.020 and 1979 c 141 s 178 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility.

(2) "Department" means the department of social and health services.

(3) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(4) "Service provider" means the entity that operates a community facility.

**Sec. 3.** RCW 74.15.020 and 1997 c 245 s 7 are each amended to read as follows:

For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

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

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

(3) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

(a) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(d) "Child day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;

(e) "Family day-care provider" means a child day-care provider who regularly provides child day care for not more than twelve children in the provider's home in the family living quarters;

(f) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(g) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

(h) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility.

(i) "Service provider" means the entity that operates a community facility.

(4) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (4)(a), even after the marriage is terminated; or

(v) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where: (i) The person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care; or (ii) the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(f) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(g) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(h) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(i) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(j) Licensed physicians or lawyers;

(k) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(l) Facilities approved and certified under chapter 71A.22 RCW;

(m) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(n) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(o) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(p) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(5) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

**Sec. 4.** RCW 13.50.010 and 1997 c 386 s 21 and 1997 c 338 s 39 are each reenacted and amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of family and children's ombudsman, the department of social and health services and its contracting agencies, schools; ~~((and, in addition,))~~ persons or public or private agencies having children committed to their custody; and any placement oversight committee created under section 9 of this act;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court ~~((, upon proof presented,))~~ to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.040 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the sentencing guidelines commission under RCW 9.94A.040 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(10) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombudsman.

**NEW SECTION. Sec. 5.** A new section is added to chapter 72.05 RCW to read as follows:

(1) Whenever the department operates, or the secretary enters a contract to operate, a community facility, the community facility may be operated only after the public notification and opportunities for review and comment as required by this section.

(2) The secretary shall establish a process for early and continuous public participation in establishing or relocating community facilities. The process shall include, at a minimum, public meetings in the local communities affected, as well as opportunities for written and oral comments, in the following manner:

(a) If there are more than three sites initially selected as potential locations and the selection process by the secretary or a service provider reduces the number of possible sites for a community facility to no fewer than three, the secretary or the chief operating officer of the service provider shall notify the public of the possible siting and hold at least two public hearings in each community where a community facility may be sited.

(b) When the secretary or service provider has determined the community facility's location, the secretary or the chief operating officer of the service provider shall hold at least one additional public hearing in the community where the community facility will be sited.

(c) When the secretary has entered negotiations with a service provider and only one site is under consideration, then at least two public hearings shall be held.

(d) To provide adequate notice of, and opportunity for interested persons to comment on, a proposed location, the secretary or the chief operating officer of the service provider shall provide at least fourteen days advance notice of the meeting to all newspapers of general circulation in the community, all radio and television stations generally available to persons in the community, any school district in which the community facility would be sited or whose boundary is within two miles of a proposed community facility, any library district in which the community facility would be sited, local business or fraternal organizations that request notification from the secretary or agency, and any person or property owner within a one-half mile radius of the proposed community facility. Before initiating this process, the department shall contact local government planning agencies in the communities containing the proposed community facility. The department shall coordinate with local government agencies to ensure that opportunities are provided for effective citizen input and to reduce the duplication of notice and meetings.

(3) The secretary shall not issue a license to any service provider until the service provider submits proof that the requirements of this section have been met.

(4) This section shall apply only to community facilities sited after the effective date of this act.

**NEW SECTION. Sec. 6.** A new section is added to chapter 72.05 RCW to read as follows:

The department shall adopt an infraction policy for juveniles placed in community facilities. The policy shall require written documentation by the department and service providers of all infractions and violations by juveniles of conditions set by the department. Any juvenile who commits a serious infraction or a serious violation of conditions set by the department shall be returned to an institution. The secretary shall not return a juvenile to a community facility until a new risk assessment has been completed and the secretary reasonably believes that the juvenile can adhere to the conditions set by the department. The department shall define the terms "serious infraction" and "serious violation" in rule and shall include but not necessarily limited to the commission of any criminal offense, any unlawful use or possession of a controlled substance, and any use or possession of an alcoholic beverage.

**NEW SECTION. Sec. 7.** A new section is added to chapter 74.15 RCW to read as follows:

(1) Whenever the secretary contracts with a service provider to operate a community facility, the contract shall include a requirement that each service provider must report to the department any known infraction or violation of conditions committed by any juvenile under its supervision. The report must be made immediately upon learning of serious infractions or violations and within twenty-four hours for other infractions or violations.

(2) The secretary shall adopt rules to implement and enforce the provisions of this section. The rules shall contain a schedule of monetary penalties not to exceed the total compensation set forth in the contract, and include provisions that allow the secretary to terminate all contracts with a service provider that has violations of this section and the rules adopted under this section.

(3) The secretary shall document in writing all violations of this section and the rules adopted under this section, penalties, actions by the department to remove juveniles from a community facility, and contract terminations. The department shall give great weight to a service provider's record of violations, penalties, actions by the department to remove juveniles from a community facility, and contract terminations in determining to execute, renew, or renegotiate a contract with a service provider.

**NEW SECTION. Sec. 8.** A new section is added to chapter 72.05 RCW to read as follows:

(1) The department shall publish and operate a staffed, toll-free twenty-four-hour hotline for the purpose of receiving reports of violation of conditions set for juveniles who are placed in community facilities.

(2) The department shall include the phone number on all documents distributed to the juvenile and the juvenile's employer, school, parents, and treatment providers.

(3) The department shall include the phone number in every contract it executes with any service provider after the effective date of this act.

**NEW SECTION. Sec. 9.** A new section is added to chapter 72.05 RCW to read as follows:

(1) Promptly following the report due under section 17 of this act, the secretary shall develop a process with local governments that allows each community to establish a community placement oversight committee. The department may conduct community awareness activities. The community placement oversight committees developed pursuant to this section shall be implemented no later than September 1, 1999.

(2) The community placement oversight committees may review and make recommendations regarding the placement of any juvenile who the secretary proposes to place in the community facility.

(3) The community placement oversight committees, their members, and any agency represented by a member shall not be liable in any cause of action as a result of its decision in regard to a proposed placement of a juvenile unless the committee acts with gross negligence or bad faith in making a placement decision.

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

(5) Except as provided in RCW 13.40.215, at least seventy-two hours prior to placing a juvenile in a community facility the secretary shall provide to the chief law enforcement officer of the jurisdiction in which the community facility is sited: (a) The name of the juvenile; (b) the juvenile's criminal history; and (c) such other relevant and disclosable information as the law enforcement officer may require.

**NEW SECTION. Sec. 10.** A new section is added to chapter 72.05 RCW to read as follows:

(1) The department shall not initially place an offender in a community facility unless:

(a) The department has conducted a risk assessment, including a determination of drug and alcohol abuse, and the results indicate the juvenile will pose not more than a minimum risk to public safety; and

(b) The offender has spent at least ten percent of his or her sentence, but in no event less than thirty days, in a secure institution operated by, or under contract with, the department.

The risk assessment must include consideration of all prior convictions and all available nonconviction data released upon request under RCW 10.97.050, and any serious infractions or serious violations while under the jurisdiction of the secretary or the courts.

(2) No juvenile offender may be placed in a community facility until the juvenile's student records and information have been received and the department has reviewed them in conjunction with all other information used for risk assessment, security classification, and placement of the juvenile.

(3) A juvenile offender shall not be placed in a community facility until the department's risk assessment and security classification is complete and local law enforcement has been properly notified.

**Sec. 11.** RCW 28A.600.475 and 1992 c 205 s 120 are each amended to read as follows:

School districts may participate in the exchange of information with law enforcement and juvenile court officials to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g. When directed by court order or pursuant to any lawfully issued subpoena, a school district shall make student records and information available to law enforcement officials, probation officers, court personnel, and others legally entitled to the information. Except as provided in section 12 of this act, parents and students shall be notified by the school district of all such orders or subpoenas in advance of compliance with them.

**NEW SECTION. Sec. 12.** A new section is added to chapter 13.40 RCW to read as follows:

(1) Pursuant to RCW 28A.600.475, and to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g(b), and in order to serve the juvenile while in detention and to prepare any postconviction services, schools shall make all student records and information necessary for risk assessment, security classification, and placement available to court personnel and the department within three working days of a request under this section.

(2)(a) When a juvenile has one or more prior convictions, a request for records shall be made by the county prosecuting attorney, or probation department if available, to the school not more than ten days following the juvenile's arrest or detention, whichever occurs later, and prior to trial. The request may be made by subpoena.

(b) Where a juvenile has no prior conviction, a request to release records shall be made by subpoena upon the juvenile's conviction. When the request for a juvenile's student records and information is made by subpoena following conviction, the court or other issuing agency shall order the school on which the subpoena is served not to disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena. When the court or issuing agency so orders, the school shall not provide notice to the juvenile or his or her parents.

**NEW SECTION. Sec. 13.** A new section is added to chapter 72.05 RCW to read as follows:

(1) The department shall establish by rule, in consultation with the office of the superintendent of public instruction, those student records and information necessary to conduct a risk assessment, make a security classification, and ensure proper placement. Those records shall include at least:

- (a) Any history of placement in special education programs;
- (b) Any past, current, or pending disciplinary action;
- (c) Any history of violent, aggressive, or disruptive behavior, or gang membership, or behavior listed in RCW 13.04.155;
- (d) Any use of weapons that is illegal or in violation of school policy;
- (e) Any history of truancy;
- (f) Any drug or alcohol abuse;
- (g) Any health conditions affecting the juvenile's placement needs; and
- (h) Any other relevant information.

(2) For purposes of this section "gang" has the meaning defined in RCW 28A.225.225.

**NEW SECTION. Sec. 14.** A new section is added to chapter 72.05 RCW to read as follows:

(1) Whenever the department operates, or the secretary enters a contract to operate, a community facility, the placement and supervision of juveniles must be accomplished in accordance with this section.

(2) The secretary shall require that any juvenile placed in a community facility and who is employed or assigned as a volunteer be subject to monitoring for compliance with requirements for attendance at his or her job or assignment. The monitoring requirements shall be included in a written agreement between the employer or supervisor, the secretary or chief operating officer of the contracting agency, and the juvenile. The requirements shall include, at a minimum, the following:

- (a) Acknowledgment of the juvenile's offender status;
- (b) The name, address, and telephone number of the community facility at which the juvenile resides;
- (c) The twenty-four-hour telephone number required under section 8 of this act;
- (d) The name and work telephone number of all persons responsible for the supervision of the juvenile;
- (e) A prohibition on the juvenile's departure from the work or volunteer site without prior approval of the person in charge of the community facility;
- (f) A prohibition on personal telephone calls except to the community facility;
- (g) A prohibition on receiving compensation in any form other than a negotiable instrument;
- (h) A requirement that rest breaks during work hours be taken only in those areas at the location which are designated for such breaks;
- (i) A prohibition on visits from persons not approved in advance by the person in charge of the community facility;
- (j) A requirement that any unexcused absence, tardiness, or departure by the juvenile be reported immediately upon discovery to the person in charge of the community facility;
- (k) A requirement that any notice from the juvenile that he or she will not report to the work or volunteer site be verified as legitimate by contacting the person in charge of the community facility; and
- (l) An agreement that the community facility will conduct and document random visits to determine compliance by the juvenile with the terms of this section.

(3) The secretary shall require that any juvenile placed in a community facility and who is enrolled in a public or private school be subject to monitoring for compliance with requirements for attendance at his or her school. The monitoring requirements shall be included in a written agreement between the school district or appropriate administrative officer, the secretary or chief operating officer of the contracting agency, and the juvenile. The requirements shall include, at a minimum, the following:

- (a) Acknowledgment of the juvenile's offender status;
- (b) The name, address, and telephone number of the community facility at which the juvenile resides;
- (c) The twenty-four-hour telephone number required under section 8 of this act;
- (d) The name and work telephone number of at least two persons at the school to contact if issues arise concerning the juvenile's compliance with the terms of his or her attendance at school;
- (e) A prohibition on the juvenile's departure from the school without prior approval of the appropriate person at the school;
- (f) A prohibition on personal telephone calls except to the community facility;
- (g) A requirement that the juvenile remain on school grounds except for authorized and supervised school activities;
- (h) A prohibition on visits from persons not approved in advance by the person in charge of the community facility;
- (i) A requirement that any unexcused absence or departure by the juvenile be reported immediately upon discovery to the person in charge of the community facility;
- (j) A requirement that any notice from the juvenile that he or she will not attend school be verified as legitimate by contacting the person in charge of the community facility; and
- (k) An agreement that the community facility will conduct and document random visits to determine compliance by the juvenile with the terms of this section.

(4) The secretary shall require that when any juvenile placed in a community facility is employed, assigned as a volunteer, or enrolled in a public or private school:

- (a) Program staff members shall make and document periodic and random accountability checks while the juvenile is at the school or work facility;
- (b) A program counselor assigned to the juvenile shall contact the juvenile's employer, teacher, or school counselor regularly to discuss school or job performance-related issues.

(5) The department shall maintain a copy of all agreements executed under this section. The department shall also provide each affected juvenile with a copy of every agreement to which he or she is a party. The service provider shall maintain a copy of every agreement it executes under this section.

**NEW SECTION. Sec. 15.** A new section is added to chapter 72.05 RCW to read as follows:

(1) The department shall establish by rule a policy for the common use of residential group homes for juvenile offenders under the jurisdiction of the juvenile rehabilitation administration and the children's administration.

(2) A juvenile confined under the jurisdiction of the juvenile rehabilitation administration who is convicted of a class A felony is not eligible for placement in a community facility operated by children's administration that houses juveniles who are not under the jurisdiction of juvenile rehabilitation administration unless:

- (a) The juvenile is housed in a separate living unit solely for juvenile offenders;
- (b) The community facility is a specialized treatment program and the youth is not assessed as sexually aggressive under RCW 13.40.470; or
- (c) The community facility is a specialized treatment program that houses one or more sexually aggressive youth and the juvenile is not assessed as sexually vulnerable under RCW 13.40.470.

**NEW SECTION. Sec. 16.** A new section is added to chapter 72.05 RCW to read as follows:

(1) A person shall not be eligible for an employed or volunteer position within the juvenile rehabilitation administration or any agency with which it contracts in which the person may have regular access to juveniles under the jurisdiction of the department of social and health services or the department of corrections if the person has been convicted of one or more of the following:

- (a) Any felony sex offense;
- (b) Any violent offense, as defined in RCW 9.94A.030.

(2) Subsection (1) of this section applies only to persons hired by the department or any of its contracting agencies after the effective date of this act.

(3) Any person employed by the juvenile rehabilitation administration, or by any contracting agency, who may have regular access to juveniles under the jurisdiction of the department or the department of corrections and who is convicted of an offense set forth in this section after the effective date of this act, shall report the conviction to his or her supervisor. The report must be made within seven days of conviction. Failure to report within seven days of conviction constitutes misconduct under Title 50 RCW.

- (4) For purposes of this section "may have regular access to juveniles" means access for more than a nominal amount of time.
- (5) The department shall adopt rules to implement this section.



NEW SECTION. **Sec. 17.** (1) The Washington state institute for public policy shall conduct a special study of the contracts, operations, and monitoring of community residential facilities that house juvenile offenders who are under the jurisdiction of the department's juvenile rehabilitation administration.

(2) The institute must consult with nearby residents, local sheriffs and police chiefs, courts, probation departments, schools, and employers in the community in which the community residential facility is located.

(3) The institute shall investigate and report on at least the following issues:

(a) Community residential security, staffing, and operation:

(i) Are the facilities physically secured with door locks, alarms, video monitors, and other security features so that staff are immediately aware of any unauthorized exits or unauthorized visitors? Which homes are not?

(ii) What legal barriers exist, if any, that prevent equipping community residential facilities with locks, alarms, video monitors, and other equipment that would make the facilities more physically secure?

(iii) How much would it cost to equip community residential facilities with security equipment?

(iv) For each facility describe:

(A) The staffing level by shift;

(B) The times, if any, in which offenders are either locked inside secure rooms or locked inside the facility;

(C) What constitutes an escape;

(D) How much time must elapse before an unauthorized absence becomes an escape;

(E) The escape reporting procedure;

(F) Who may visit the offender and at what hours;

(G) What is the screening process used to authorize visitors;

(H) What controls exist to monitor and regulate persons who visit the facilities; and

(I) Whether offenders share bedrooms.

(v) Describe the monitoring level by the juvenile rehabilitation administration and specifically address the following:

(A) How often does the juvenile rehabilitation staff visit the community residential facilities?

(B) How many of these visits are random, unannounced, or conducted at night and on weekends and holidays?

(C) What does the juvenile rehabilitation staff person investigate when conducting these visits?

(D) How often does the juvenile rehabilitation staff contact neighbors, schools, employers, and law enforcement to determine whether juvenile offenders in the community residential facilities are disruptive or that staff is responsive to community concerns?

(b) Offender intake and assessment procedures:

(i) Identify procedural and financial barriers to sharing information about juvenile offenders in community residential facilities between the juvenile rehabilitation administration, schools, courts, law enforcement, other department of social and health services' programs including the division of children and family services and the division of alcohol and substance abuse, and the public.

(ii) What authority does the state have to remove the barriers?

(iii) Identify what entity is responsible for collecting risk assessment data. Describe the process and if it varies in different counties.

(iv) What types and sources of data are being collected inconsistently?

(v) What types and sources of data are being used inconsistently in performing risk assessments?

(vi) What safeguards exist to ensure that assessments are being made with complete information?

(c) Violations or infractions committed by juvenile offenders in community residential facilities:

(i) How many violations, by type and seriousness level, have occurred or have been reported about juvenile offenders residing in community residential facilities during fiscal year 1997?

(ii) What appeals process, if any, exists that governs an offender's appeal from a finding that the offender committed an infraction?

(d) Community notification and participation in the facility siting and offender placement process:

(i) What process, if any, does the juvenile rehabilitation administration use to notify local law enforcement, residents, schools, and businesses that a community residential facility that will house juvenile offenders will be located in a particular place?

(ii) What process, if any, does the juvenile rehabilitation administration or the community residential facilities use to notify the individuals and entities identified in (d)(i) of this subsection regarding the placement of specific offenders into a community residential facility?

(iii) To what extent, if any, does the juvenile rehabilitation administration or the community residential facility seek public comment on or participation in siting community residential facilities or placing particular offenders in those facilities?

(iv) Compare the department of corrections' practices in obtaining community comment and participation in siting facilities and placement of offenders;

- (v) Identify models in other jurisdictions that provide for greater community comment and participation in siting facilities and placement of offenders;
- (vi) Identify any legal, procedural, practical barriers to increasing community comment and participation in siting facilities and placement of offenders.
- (e) Juvenile detention standards:
  - (i) What standards are in place and proposed for all existing and planned detention facilities in this state?
  - (ii) What is the current compliance of detention standards with recommended American correctional association standards and those delineated in RCW 13.06.050?
  - (iii) What concerns, problems, or issues regarding current standards have a direct impact on the safety and health of offenders, staff, and the community?
  - (iv) Identify and make recommendations with regard to the improvements needed including a timeline for the implementation of such improvements;
  - (v) Recommend a schedule for periodic review of juvenile detention standards;
  - (vi) Analyze the costs to implement the recommendations in accordance with the recommended timeline.
- (f) Recidivism rates of juveniles receiving parole services who are not sex offenders or receiving services under RCW 13.40.212, compared with juveniles who do not receive parole services.
- (4) The institute shall recommend changes to existing laws, procedures, and practices governing community residential facilities to increase public safety, community residential facility security, protection of juvenile offenders housed in community residential facilities, and community comment and participation in siting facilities and placement of offenders. The institute shall also identify costs associated with implementing recommended changes.
- (5) An initial status report of the progress of the study shall be presented to the senate human services and corrections committee and the house criminal justice and corrections committee no later than September 1, 1998. The institute shall present a final report to those committees no later than December 1, 1998.

NEW SECTION. Sec. 18. The code reviser shall alphabetize the definitions in RCW 13.50.010 and 74.15.020 and correct any references.

NEW SECTION. Sec. 19. This act takes effect September 1, 1998.

NEW SECTION. Sec. 20. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

Correct the title , and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Long, the Senate concurred in the House amendment to Engrossed Second Substitute Senate Bill No. 6445.

#### MOTION

On motion of Senator Hale, Senators Strannigan and Swecker were excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6445, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6445, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senators Finkbeiner and McCaslin - 2. Excused: Senators Strannigan and Swecker - 2.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6445, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6751 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 71A.10 RCW to read as follows:

It is the intent of the legislature to affirm its longtime commitment to secure for eligible persons with developmental disabilities in partnership with their families or legal guardians the opportunity to choose where they live. Consistent with this commitment, the legislature supports the existence of a complete spectrum of options, including community support services and residential habilitation centers.

The choice of service options must be supported by state policy, whether the choice is residential habilitation centers or community support services. The intent of the legislature is to ensure choice of service options to persons with developmental disabilities allowing, to the maximum extent possible, that they not have to leave their home or community.

The legislature supports the respective roles that both residential habilitation centers and community support services play in providing options and resources for people with developmental disabilities and their families who need services. The legislature recognizes that services must ensure credibility, responsiveness, and reasonable quality, whether they are state, county, or community funded.

**Sec. 2.** RCW 71A.10.020 and 1988 c 176 s 102 are each amended to read as follows:

As used in this title, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Community residential support services," or "community support services," and "in-home services" means one or more of the services listed in RCW 71A.12.040.

(2) "Department" means the department of social and health services.

~~((2))~~ (3) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual. By January 1, 1989, the department shall promulgate rules which define neurological or other conditions in a way that is not limited to intelligence quotient scores as the sole ~~((determinate determinant))~~ determinant of these conditions, and notify the legislature of this action.

~~((3))~~ (4) "Eligible person" means a person who has been found by the secretary under RCW 71A.16.040 to be eligible for services.

~~((4))~~ (5) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and to raise their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

~~((5))~~ (6) "Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of the limited guardianship, a person's attorney at law, a person's attorney in fact, or any other person who is authorized by law to act for another person.

~~((6))~~ (7) "Notice" or "notification" of an action of the secretary means notice in compliance with RCW 71A.10.060.

~~((7))~~ (8) "Residential habilitation center" means a state-operated facility for persons with developmental disabilities governed by chapter 71A.20 RCW.

~~((8))~~ (9) "Secretary" means the secretary of social and health services or the secretary's designee.

~~((9))~~ (10) "Service" or "services" means services provided by state or local government to carry out this title.

(11) "Vacancy" means an opening at a residential habilitation center, which when filled, would not require the center to exceed its biannually budgeted capacity.

**Sec. 3.** RCW 71A.16.010 and 1988 c 176 s 401 are each amended to read as follows:

(1) It is the intention of the legislature in this chapter to establish a single point of referral for persons with developmental disabilities and their families so that they may have a place of entry and continuing contact for services authorized under this title to persons with developmental disabilities. Eligible persons with developmental disabilities, whether they live in the community or residential habilitation centers, should have the opportunity to choose where they live.

(2) Until June 30, 2003, and subject to subsection (3) of this section, if there is a vacancy in a residential habilitation center, the department shall offer admittance to the center to any eligible adult, or eligible adolescent on an exceptional case-by-case basis, with developmental disabilities if his or her assessed needs require the funded level of resources that are provided by the center.

(3) The department shall not offer a person admittance to a residential habilitation center under subsection (2) of this section unless the department also offers the person appropriate community support services listed in RCW 71A.12.040.

(4) Community support services offered under subsection (3) of this section may only be offered using funds specifically designated for this purpose in the state operating budget. When these funds are exhausted, the department may not offer admittance to a residential habilitation center, or community support services under this section.

(5) Nothing in this section shall be construed to create an entitlement to state services for persons with developmental disabilities.

(6) Subsections (2) through (6) of this section expire June 30, 2003.

**Sec. 4.** RCW 71A.16.030 and 1988 c 176 s 403 are each amended to read as follows:

(1) The department will develop an outreach program to ensure that any eligible person with developmental disabilities services in homes, the community, and residential habilitation centers will be made aware of these services. This subsection (1) expires June 30, 2003.

(2) The secretary shall establish a single procedure for persons to apply for a determination of eligibility for services provided to persons with developmental disabilities.

((2)) (3) Until June 30, 2003, the procedure set out under subsection (1) of this section must require that all applicants and all persons with developmental disabilities currently receiving services from the division of developmental disabilities within the department be given notice of the existence and availability of residential habilitation center and community support services. For genuine choice to exist, people must know what the options are. Available options must be clearly explained, with services customized to fit the unique needs and circumstances of developmentally disabled clients and their families. Choice of providers and design of services and supports will be determined by the individual in conjunction with the department. When the person cannot make these choices, the person's legal guardian may make them, consistent with chapter 11.88 or 11.92 RCW. This subsection (3) expires June 30, 2003.

(4) An application may be submitted by a person with a developmental disability, by the legal representative of a person with a developmental disability, or by any other person who is authorized by rule of the secretary to submit an application.

**NEW SECTION. Sec. 5.** A new section is added to chapter 71A.12 RCW to read as follows:

(1) The legislature recognizes that residential habilitation center and community support services should be available to each eligible person with developmental disabilities in our state within appropriated funds.

(2) The legislature recognizes that there have been substantially increasing demands for all of these services. Therefore, the legislature believes that any reductions in the capacity of these services could jeopardize a needed balance in the developmental disabilities system. The legislature intends to stabilize the capacity of community support services and residential habilitation center services. The capacity of the residential habilitation centers shall not be reduced below the number of persons budgeted to be served in residential habilitation centers in chapter 149, Laws of 1997, subject to budget direction from the governor or reductions needed to adhere to an agreement with the federal department of justice regarding Fircrest School. The capacity of community support services shall not be reduced below the capacity provided for by the appropriation specified in chapter 149, Laws of 1997, subject to budget direction from the governor. If the direction from the governor requires reductions in the division of developmental disabilities, the budgets of both the residential habilitation centers and community support services shall be given equal consideration.

(3) If such capacity is not needed for current clients of the department, any vacancies that may occur in community support services or residential habilitation center services shall be used to expand services to eligible persons with developmental disabilities not now receiving services. If a vacancy is created it will be made available to any eligible individual who is seeking and desires the services of a residential habilitation center pursuant to section 3 of this act. If residential habilitation center capacity is not being used for permanent residents, the department shall make any residential habilitation center vacancies available for respite care and any other services needed to care for this population in residential habilitation centers, other than permanent residence.

**NEW SECTION. Sec. 6.** A new section is added to chapter 71A.12 RCW to read as follows:

Any restrictions in staffing ratios that may be needed to implement section 5 of this act within available resources may not result in reductions to direct care staff.

**NEW SECTION. Sec. 7.** A new section is added to chapter 71A.20 RCW to read as follows:

As a means of implementing a choice-oriented system for people with developmental disabilities, staff of residential habilitation centers will continue to increase vocational and community access for current residents. Likewise, specialized residential habilitation services will be more easily accessed by community residents within available funds.

**NEW SECTION. Sec. 8.** A new section is added to chapter 71A.12 RCW to read as follows:

The department shall conduct an analysis whereby it identifies all persons with developmental disabilities who are eligible for services under Title 71A RCW, and whether they are served, unserved, or underserved. The department will gather data on the services and supports required by this population, their families or their guardians, and the cost of providing these services. This analysis will include assessing services such as those at residential habilitation centers, those community support services listed in RCW 71A.12.040, and including, but not limited to, supported employment, family support, post high school transition programs, crisis intervention services, supports for persons who have a developmental disability and also a mental illness, alternative uses for residential habilitation centers, community vocational services, respite care, specialized medical treatment, and appropriate placements for persons with developmental disabilities who are also offenders. The assessment shall be done with the participation of the developmental disabilities stakeholders work group. The assessment will commence no later than July 1, 1998.

The assessment data will not be used to determine or allocate services for individual people. It will be used by the department, with the participation of the developmental disabilities stakeholder work group, to develop a long-term strategic plan. The plan will include three phases, the first one beginning December 1, 1998; the second beginning December 1, 2000; and the third beginning December 1, 2002. For each phase the department will provide incremental data and assessment of programs, services, and funding for persons with developmental disabilities and their families. For each phase the plan must also include budget and statutory recommendations intended to secure for all persons with developmental disabilities the opportunity to choose where they live, and shall support the existence of a complete spectrum of options including community support services, and residential habilitation centers that are consistent with those needs.

NEW SECTION. Sec. 9. A new section is added to chapter 71A.12 RCW to read as follows:

For the purposes of section 8 of this act, the developmental disabilities stakeholder work group is the division of developmental disabilities strategies for the future stakeholder work group established by the secretary in 1997 to develop recommendations on future directions and strategies for service delivery improvement, resulting in an agreement on the directions the department should follow in considering the respective roles of the residential habilitation centers and community support services, including a focus on the resources for people in need of services.

NEW SECTION. Sec. 10. Sections 1 and 5 through 9 of this act expire June 30, 2003.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Deccio, the Senate refuses to concur in the House amendment to Substitute Senate Bill No. 6751 and requests of the House a conference thereon.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 6751 and the House amendment(s) thereto: Senators Deccio, Wojahn and Wood.

#### MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5703 with the following amendment(s):

On page 1, line 18, after "least" strike "one" and insert "three"

On page 5, line 1, after "**Sec. 6.**" strike "This section does" and insert "Sections 1 through 6 of this act do"

On page 5, line 5, after "rights." strike "This section does" and insert "Sections 1 through 6 of this act do"

On page 5, after line 22, insert the following:

"NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Anderson moved that the Senate refuse to concur in the House amendments to Engrossed Substitute Senate Bill No. 5703 and asks the House to recede therefrom.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Anderson that the Senate refuse to concur in the House amendments to Engrossed Substitute Senate Bill No. 5703 and asks the House to recede therefrom.

The motion by Senator Anderson carried and the Senate refuses to concur in the House amendments to Engrossed Substitute Senate Bill No. 5703 and asks the House to recede therefrom.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6392 with the following amendment(s):

On page 2, line 8, after "are" strike "currently"

On page 2, beginning on line 17, strike all of section 3

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Long, the Senate refuses to concur in the House amendments to Senate Bill No. 6392 and asks the House to recede therefrom.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6727 with the following amendment(s):

On page 2, line 17, after "(b)" strike all material through "(c)" on line 18 and insert "~~((enrollments in state institutions of higher education,~~

~~(e)))~~

On page 2, line 22, strike "(d)" and insert "~~((d)) (c)"~~

On page 2, line 23, strike "(e)" and insert "~~((e)) (d)"~~

On page 2, after line 32, insert the following:

"(5) For purposes of this section, state institutions of higher education as defined in RCW 28B.10.016(4) are not state agencies and are not eligible to participate in the savings incentive account."

On page 3, line 3, after "~~the))~~" strike everything through "moneys" on line 9 and insert "Moneys"

On page 3, line 11, strike "~~((+)) (a)"~~ and insert "(1)"

On page 3, line 13, strike "~~((2)) (b)"~~ and insert "(2)"

On page 3, line 16, after "**Sec. 4.**" strike the remainder of the section and insert "A new section is added to chapter 43.79 RCW to read as follows:

(1) The higher education savings account is established in the custody of the state treasurer. The account shall consist of all moneys appropriated to the account by the legislature. Only the state treasurer or his or her designee may authorize distributions from the account.

(2) Within the account, the treasurer may create subaccounts for each state institution of higher education as defined in RCW 28B.10.016(4) to be credited with the higher education savings attributable to each individual state institution of higher education. For purposes of this section, "higher education savings" means the state general fund appropriations to each state institution of higher education that would otherwise lapse at the end of the fiscal year, to the extent that such amounts are appropriated to this account by the legislature.

(3) Moneys from the account shall be distributed as follows: (a) For subaccounts of state baccalaureate institutions, (i) seventy-five percent to the distinguished professorship trust fund under RCW 28B.10.868, and (ii) twenty-five percent to the graduate fellowship trust fund under RCW 28B.10.882; and (b) for subaccounts of state community and technical colleges, to the college faculty awards trust fund under RCW 28B.50.837. Amounts distributed to the trust funds from the subaccounts shall be disbursed from the trust funds only on behalf of the institution whose subaccount contributed the amounts to the trust fund."

On page 2, line 22, after "obligations" strike "~~((;)) and"~~ and insert "~~((and));"~~

On page 2, line 23, after "obligations" insert "; and

(f) Caseload and administration costs in the temporary assistance to needy families program"

Renumber the subsections consecutively.

On page 2, after line 32, insert the following:

**"NEW SECTION. Sec. 2.** A new section is added to chapter 43.79 RCW to read as follows:

The WorkFirst savings account is created in the state treasury. The account shall consist of all moneys appropriated to the account by the legislature. An appropriation is required for expenditure from the account. Moneys in the WorkFirst savings account may be appropriated solely for the purposes of chapter 74.08A RCW (Washington WorkFirst temporary assistance for needy families), including supported employment."

Renumber remaining sections consecutively and correct title and internal references accordingly., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator West, the Senate refuses to concur in the House amendments to Substitute Senate Bill No. 6727 and asks the House to recede therefrom.

MOTION

At 11:51 a.m., on motion of Senator Johnson, the Senate recessed until 1:30 p.m.

The Senate was called to order at 1:30 p.m. by President Owen.

MOTION

On motion of Senator Hale, Senators Benton and Wood were excused.

MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5622 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 82.08.02915 and 1997 c 386 s 56 are each amended to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales to health or social welfare organizations, as defined in RCW 82.04.431, of items necessary for new construction of alternative housing for youth in crisis, so long as the facility will be a licensed agency under chapter 74.15 RCW, upon completion. ~~((This section shall expire July 1, 1999.))~~

**Sec. 2.** RCW 82.12.02915 and 1997 c 386 s 57 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of any item acquired by a health or social welfare organization, as defined in RCW 82.04.431, of items necessary for new construction of alternative housing for youth in crisis, so long as the facility will be a licensed agency under chapter 74.15 RCW, upon completion. ~~((This section shall expire July 1, 1999.))~~"

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator West, the Senate concurred in the House amendment to Senate Bill No. 5622.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 5622, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5622, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Wojahn and Zarelli - 45. Absent: Senator Winsley - 1. Excused: Senators Benton, Strannigan and Wood - 3. SENATE BILL NO. 5622, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 6305 with the following amendment(s):

On page 1, line 7, strike "Plan I" and insert "Provisions Applicable to Plan I and Plan II"

On page 1, line 12, before "shall be" strike "general authority police officers", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Johnson, the Senate concurred in the House amendments to Engrossed Senate Bill No. 6305.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6305, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6305, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 46. Excused: Senators Benton, Strannigan and Wood - 3. ENGROSSED SENATE BILL NO. 6305, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Rossi was excused.

#### MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6113 with the following amendment(s):

On page 1, line 13, after "taxation." insert "If the real or personal property is leased, the benefit of the exemption shall inure to the nonprofit corporation or association."

On page 1, after line 16, insert the following:

**"Sec. 2.** RCW 84.36.805 and 1997 c 156 s 8 and 1997 c 143 s 3 are each reenacted and amended to read as follows:

In order to be exempt pursuant to RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, 84.36.480, 84.36.550, and 84.36.046, the nonprofit organizations, associations or corporations shall satisfy the following conditions:

(1) The property is used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose, except:

(a) The loan or rental of the property does not subject the property to tax if:



- (i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and
- (ii) Except for the exemptions under RCW 84.36.030(4) and 84.36.037, the property would be exempt from tax if owned by the organization to which it is loaned or rented;
- (b) The use of the property for fund-raising activities does not subject the property to tax if the fund-raising activities are consistent with the purposes for which the exemption is granted;
- (2) The property is irrevocably dedicated to the purpose for which exemption has been granted, and on the liquidation, dissolution, or abandonment by said organization, association, or corporation, said property will not inure directly or indirectly to the benefit of any shareholder or individual, except a nonprofit organization, association, or corporation which too would be entitled to property tax exemption. This property need not be irrevocably dedicated if it is leased or rented to those qualified for exemption pursuant to RCW 84.36.035, 84.36.040, 84.36.041, 84.36.043, ~~84.36.045~~, or 84.36.046 or those qualified for exemption as an association engaged in the production or performance of musical, dance, artistic, dramatic, or literary works pursuant to RCW 84.36.060, but only if under the terms of the lease or rental agreement the nonprofit organization, association, or corporation receives the benefit of the exemption;
- (3) The facilities and services are available to all regardless of race, color, national origin or ancestry;
- (4) The organization, association, or corporation is duly licensed or certified where such licensing or certification is required by law or regulation;
- (5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status;
- (6) The director of the department of revenue shall have access to its books in order to determine whether such organization, association, or corporation is exempt from taxes within the intent of RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, 84.36.480, and 84.36.046."

Renumber the remaining sections consecutively and correct internal references accordingly., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Deccio, the Senate concurred in the House amendments to Senate Bill No. 6113.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6113, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6113, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 45. Excused: Senators Benton, Rossi, Strannigan and Wood - 4. SENATE BILL NO. 6113, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6474 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature intends to strengthen the state's fertilizer adulteration laws to protect human health and the environment by:

- (a) Ensuring that all fertilizers meet standards for allowable metals;
- (b) Allowing fertilizer purchasers and users to know about the contents of fertilizer products; and
- (c) Clarifying the department of ecology's oversight authority over waste-derived fertilizers.

(2) The legislature intends to provide better information to the public on fertilizers, soils, and potential health effects by authorizing additional studies on plant uptake of metals and levels of dioxins in soils and products.

**Sec. 2.** RCW 15.54.270 and 1997 c 427 s 1 are each amended to read as follows:

Terms used in this chapter have the meaning given to them in this chapter unless the context clearly indicates otherwise.

(1) "Brand" means a term, design, or trademark used in connection with the distribution and sale of one or more grades of commercial fertilizers.

(2) "Bulk fertilizer" means commercial fertilizer distributed in a (~~nonpackage~~) nonpackaged form such as, but not limited to, tote bags, tote tanks, bins, tanks, trailers, spreader trucks, and railcars.

(3) "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

(4) "Commercial fertilizer" means a substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures (~~and a material approved under RCW 70.95.830~~). It does not include unmanipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the department by rule.

(5) "Composting" means the controlled aerobic degradation of organic waste materials. Natural decay of organic waste under uncontrolled conditions is not composting.

(6) "Customer-formula fertilizer" means a mixture of commercial fertilizer or materials of which each batch is mixed according to the specifications of the final purchaser.

~~((6))~~ (7) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.

~~((7))~~ (8) "Director" means the director of the department of agriculture.

~~((8))~~ (9) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend commercial fertilizer, or to offer for sale, sell, barter, exchange, or otherwise supply commercial fertilizer in this state.

~~((9))~~ (10) "Distributor" means a person who distributes.

~~((10))~~ (11) "Fertilizer material" means a commercial fertilizer that either:

(a) Contains important quantities of no more than one of the primary plant nutrients: Nitrogen, phosphate, and potash;

(b) Has eighty-five percent or more of its plant nutrient content present in the form of a single chemical compound; or

(c) Is derived from a plant or animal residue or byproduct or natural material deposit that has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(12) "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the "guaranteed analysis," unless otherwise allowed by a rule adopted by the department. Specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or potash. Fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units.

~~((14))~~ (13) "Guaranteed analysis."

(a) Until the director prescribes an alternative form of "guaranteed analysis" by rule the term "guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:

Total nitrogen (N)	percent
Available phosphoric acid (P205)	percent
Soluble potash (K20)	percent

The percentage shall be stated in whole numbers unless otherwise allowed by the department by rule.

The "guaranteed analysis" may also include elemental guarantees for phosphorus (P) and potassium (K).

(b) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphatic materials, the total phosphoric acid or degree of fineness may also be guaranteed.

(c) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium shall be as allowed or required by rule of the department. The guarantees for such other nutrients shall be expressed in the form of the element.

(d) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists; and the minimum percentage of material that will pass respectively a one hundred mesh, sixty mesh, and ten mesh sieve. The mesh size declaration may also include the percentage of material that will pass additional mesh sizes.

(e) In commercial fertilizer, the principal constituent of which is calcium sulfate (gypsum), the percentage of calcium sulfate (CaSO<sub>4</sub>.2H<sub>2</sub>O) shall be given along with the percentage of total sulfur.

~~((f) The guaranteed analysis for a material approved under RCW 70.95.830 and to be used as a soil amendment shall include the name and percentage of each soil amending ingredient and the total percentage of all other ingredients.~~

~~((12))~~ (14) "Imported fertilizer" means any fertilizer distributed into Washington from any other state, province, or country.

(15) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

~~((13))~~ (16) "Labeling" includes all written, printed, or graphic matter, upon or accompanying a commercial fertilizer, or advertisement, brochures, posters, television, and radio announcements used in promoting the sale of such fertilizer.

~~((14))~~ (17) "Licensee" means the person who receives a license to distribute a commercial fertilizer under the provisions of this chapter.

~~((15))~~ (18) "Lime" means a substance or a mixture of substances, the principal constituent of which is calcium or magnesium carbonate, hydroxide, or oxide, singly or combined.

~~((16))~~ (19) "Manipulation" means processed or treated in any manner, including drying to a moisture content less than thirty percent.

~~((17))~~ (20) "Manufacture" means to compound, produce, granulate, mix, blend, repackage, or otherwise alter the composition of fertilizer materials.

~~((18))~~ (21) "Micronutrients" are: Boron; chlorine; cobalt; copper; iron; manganese; molybdenum; sodium; and zinc.

(22) "Micronutrient fertilizer" means a produced or imported commercial fertilizer that contains commercially valuable concentrations of micronutrients but does not contain commercially valuable concentrations of nitrogen, phosphoric acid, available phosphorus, potash, calcium, magnesium, or sulfur.

(23) "Official sample" means a sample of commercial fertilizer taken by the department and designated as "official" by the department.

~~((19))~~ (24) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that include biosolids.

(25) "Packaged fertilizer" means commercial fertilizers, either agricultural or specialty, distributed in nonbulk form.

~~((20))~~ (26) "Person" means an individual, firm, brokerage, partnership, corporation, company, society, or association.

~~((21))~~ (27) "Percent" or "percentage" means the percentage by weight.

~~((22))~~ (28) "Produce" means to compound or fabricate a commercial fertilizer through a physical or chemical process, or through mining. "Produce" does not include mixing, blending, or repackaging commercial fertilizer products.

(29) "Registrant" means the person who registers commercial fertilizer under the provisions of this chapter.

~~((23))~~ (30) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as, but not limited to, use on home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

~~((24))~~ (31) "Ton" means the net weight of two thousand pounds avoirdupois.

~~((25))~~ (32) "Total nutrients" means the sum of the percentages of total nitrogen, available phosphoric acid, and soluble potash as guaranteed and as determined by analysis.

(33) "Washington application rate" is calculated by using an averaging period of up to four consecutive years that incorporates agronomic rates that are representative of soil, crop rotation, and climatic conditions in Washington state.

(34) "Waste-derived fertilizer" means a commercial fertilizer that is derived in whole or in part from solid waste as defined in chapter 70.95 or 70.105 RCW, or rules adopted thereunder, but does not include fertilizers derived from biosolids or biosolids products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

**Sec. 3.** RCW 15.54.275 and 1993 c 183 s 2 are each amended to read as follows:

(1) No person may distribute a ~~((commercial))~~ bulk fertilizer in this state ~~((, except packaged fertilizers,))~~ until a license to distribute has been obtained by that person. An annual license is required for each out-of-state or in-state location that distributes ~~((nonpackaged commercial))~~ bulk fertilizer in Washington state. An application for each location shall be filed on forms provided by the master license system and shall be accompanied by an annual fee of twenty-five dollars per location. The license shall expire on the master license expiration date.

(2) An application for license shall include the following:

(a) The name and address of licensee.

(b) Any other information required by the department by rule.

(3) The name and address shown on the license shall be shown on all labels, pertinent invoices, and storage facilities for fertilizer distributed by the licensee in this state.

(4) If an application for license renewal provided for in this section is not filed prior to ~~((the))~~ the master license expiration date, a delinquency fee of twenty-five dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued. The assessment of this delinquency fee shall not prevent the department from taking any other action as provided for in this chapter. The penalty shall not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of his or her prior license.

**Sec. 4.** RCW 15.54.325 and 1993 c 183 s 3 are each amended to read as follows:

(1) No person may distribute in this state a ~~((packaged))~~ commercial fertilizer until it ~~((is))~~ has been registered with the department by the ~~((distributor whose name appears on the label))~~ producer, importer, or packager of that product. A bulk fertilizer does not require registration if all commercial fertilizer products contained in the final product are registered.

(2) An application for ~~((each packaged fertilizer product))~~ registration shall be made on a form furnished by the department and shall be accompanied by ~~((an initial))~~ a fee of twenty-five dollars for ~~((the first))~~ each product ~~((and ten dollars for each additional product)).~~ Labels for each product shall accompany the application. All companies planning to mix ~~((packaged))~~ customer-formula fertilizers shall include the statement "customer-formula grade mixes" under the column headed "product name" on the product registration application form. All customer-formula fertilizers sold under one brand name shall be considered one product. ~~((Upon the approval of an application by the department, a copy of the registration shall be furnished to the applicant. All registrations expire on June 30th of each year except that for the period beginning January 1, 1994, the registration shall expire on June 30, 1995.~~

~~((2))~~ (3) An application for registration shall include the following:

(a) The product name;

(b) The brand and grade;

(c) The guaranteed analysis;

(d) Name ~~((and))~~, address, and phone number of the registrant;

(e) Labels for each product being registered;

(f) Identification of those products that are (i) waste-derived fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer materials containing phosphate;

(g) Identification of the fertilizer components in the commercial fertilizer product and verification that all the components are registered. If any of the components are not registered, then the application must include the concentration of each metal in each fertilizer component, for which standards are established under RCW 15.54.800;

(h) Waste-derived fertilizers and micronutrient fertilizers shall include at a minimum, information to ensure the product complies with chapter 70.105 RCW and the resource conservation and recovery act, 42 U.S.C. Sec. 6901 et seq.; and

(i) Any other information required by the department by rule.

~~((3))~~ (4) If an application for renewal of the product registration provided for in this section is not filed prior to July 1st of any one year, a penalty of ten dollars per product shall be assessed and added to the original fee and shall be paid by the applicant before the renewal registration shall be issued. The assessment of this late collection fee shall not prevent the department from taking any other action as provided for in this chapter. The penalty shall not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of his or her prior registration.

**Sec. 5.** RCW 15.54.330 and 1993 c 183 s 4 are each amended to read as follows:

(1) The department shall examine the ~~((packaged))~~ commercial fertilizer product registration application form and labels for conformance with the requirements of this chapter. If the application and appropriate labels are in proper form and contain the required information, the particular ~~((packaged))~~ commercial fertilizer products shall be registered by the department and a certificate of registration shall be issued to the applicant. All registrations expire June 30th of each year.

(2) In reviewing the ~~((packaged))~~ commercial fertilizer product registration application, the department may consider experimental data, manufacturers' evaluations, data from agricultural experiment stations, product review evaluations, or other authoritative sources to substantiate labeling claims. The data shall be from statistically designed and analyzed trials representative of the soil, crops, and climatic conditions found in the northwestern area of the United States.

(3) In determining whether approval of a labeling statement or guarantee of an ingredient is appropriate, the department may require the submission of a written statement describing the methodology of laboratory analysis utilized, the source of the ingredient material, and any reference material relied upon to support the label statement or guarantee of ingredient.

(4) Before registering a waste-derived fertilizer or micronutrient fertilizer, the department shall obtain written approval from the department of ecology as provided in RCW 15.54.800. Once a waste-derived fertilizer or micronutrient fertilizer has been approved by the department of ecology, its subsequent use in another product during that registration cycle shall not require department of ecology review. This subsection shall apply to new and renewal registration applications for periods beginning July 1, 1999, and thereafter.

**Sec. 6.** RCW 15.54.340 and 1993 c 183 s 5 are each amended to read as follows:

(1) Any ~~((packaged))~~ commercial fertilizer distributed in this state ~~((in containers))~~ shall have placed on or affixed to the package a label setting forth in clearly legible and conspicuous form the following information:

(a) The net weight;

(b) The product name, brand, and grade. The grade is not required if no primary nutrients are claimed;

(c) The guaranteed analysis;

(d) The name and address of the registrant or licensee. The name and address of the manufacturer, if different from the registrant or licensee, may also be stated; ~~((and))~~

(e) Any information required under WAC 296-62-054;

(f) At a minimum the following labeling statement: "This product has been registered with the Washington State Department of Agriculture. When applied as directed, this fertilizer meets the Washington standards for arsenic, cadmium, cobalt, mercury, molybdenum, lead, nickel, selenium, and zinc. You have the right to receive specific information about Washington standards from the distributor of this product."

(g) After July 1, 1999, the label must also state: "Information received by the Washington State Department of Agriculture regarding the components in this product is available on the internet at <http://www.wa.gov/agr/>."; and

(h) Other information as required by the department by rule.

(2) If a commercial fertilizer is distributed in bulk, a written or printed statement of the information required by subsection (1) ~~((above))~~ of this section shall accompany delivery and be supplied to the purchaser at the time of delivery.

(3) Each delivery of a customer-formula fertilizer shall be subject to containing those ingredients specified by the purchaser, which ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant or licensee for a period of twelve months and shall be available to the department upon request: PROVIDED, That each such delivery shall be accompanied by either a statement, invoice, a delivery slip, or a label if bagged, containing the following information: The net weight; the brand; the guaranteed analysis which may be stated to the nearest tenth of a percent or to the next lower whole number; the name and address of the registrant or licensee, or manufacturer, or both; and the name and address of the purchaser.

(4) Any person who distributes a commercial fertilizer in this state shall make available to the purchaser on request, a copy of standards for metals established in RCW 15.54.800.

**Sec. 7.** RCW 15.54.380 and 1993 c 183 s 9 are each amended to read as follows:

(1) If the analysis shall show that any commercial fertilizer falls short of the guaranteed analysis in any one plant nutrient or in total nutrients, penalty shall be assessed in favor of the department in accordance with the following provisions:

(a) A penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than two percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed up to and including ten percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than three percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed from ten and one-tenth percent to twenty percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than four percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed twenty and one-tenth percent and above.

(b) A penalty of three times the commercial value of the total nutrient deficiency shall be assessed when such deficiency is more than two percent under the calculated total nutrient guarantee.

(c) When a commercial fertilizer is subject to penalty under both (a) and (b) ~~((above))~~ of this subsection, only the larger penalty shall be assessed.

(2) All penalties assessed under this section on any one commercial fertilizer, represented by the sample analyzed, shall be paid to the department within three months after the date of notice from the department to the registrant or licensee. The department shall deposit the amount of the penalty into ~~((the fertilizer, agricultural mineral and lime account))~~ an account with the agricultural local fund.

(3) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction for a judgment as to the justification of such penalties imposed under subsections (1) and (2) ~~((above))~~ of this section.

(4) The civil penalties payable in subsections (1) and (2) ~~((above))~~ of this section shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant or licensee paying said civil penalties.

**Sec. 8.** RCW 15.54.414 and 1993 c 183 s 10 are each amended to read as follows:

No person may distribute an adulterated commercial fertilizer. A commercial fertilizer is adulterated:

(1) If it contains any deleterious or harmful ~~((ingredient))~~ substance in sufficient amount to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life are not shown upon the label;

(2) If its composition falls below or differs from that which it is purported to possess by its labeling; ~~((or))~~

(3) If it contains unwanted viable seed; or

(4) If the concentration of any nonnutritive constituent in a representative sample of commercial fertilizer exceeds the maximum concentration stated on the registration application or on the label.

**Sec. 9.** RCW 15.54.420 and 1993 c 183 s 11 are each amended to read as follows:

It shall be unlawful for any person to:

(1) Distribute an adulterated or misbranded commercial fertilizer;

(2) Fail, refuse, or neglect to place upon or attach to each package of distributed commercial fertilizer a label containing all of the information required by this chapter;

(3) Fail, refuse, or neglect to deliver to a purchaser of bulk commercial fertilizer a statement containing the information required by this chapter;

(4) Distribute a ~~((packaged))~~ commercial fertilizer product which has not been registered with the department;

(5) Distribute bulk fertilizer without holding a license to do so;

~~(6) ((Distribute unregistered packaged fertilizer. It is the responsibility of the person who manufactures or subsequently packages that fertilizer to register it prior to distribution in this state;~~

~~(7))~~ Refuse or neglect to keep and maintain records, or to make reports when and as required; or

~~((8))~~ (7) Make false or fraudulent applications, records, invoices, or reports.

**Sec. 10.** RCW 15.54.436 and 1993 c 183 s 12 are each amended to read as follows:

The department may cancel the license to distribute commercial fertilizer or registration of any ~~((packaged))~~ commercial fertilizer product or refuse to license a distributor or register any ~~((packaged))~~ commercial fertilizer product as provided in this chapter due to:

- (1) An incomplete or insufficient license or registration application;
- (2) The misbranding or adulteration of a commercial fertilizer; or
- (3) A violation of this chapter or rules adopted under this chapter.

If the department cancels or refuses to renew an existing license or registration due to the misbranding or adulteration of a commercial fertilizer or due to a violation of this chapter or a rule adopted hereunder, the licensee/registrant or applicant may request a hearing as provided for in chapter 34.05 RCW.

**Sec. 11.** RCW 15.54.470 and 1993 c 183 s 13 are each amended to read as follows:

(1) Any person who violates any provision of this chapter shall be guilty of a misdemeanor, and the fines collected shall be disposed of as provided under RCW 15.54.480.

(2) Nothing in this chapter shall be considered as requiring the department to report for prosecution or to cancel the registration of a ~~((packaged))~~ commercial fertilizer product or to stop the sale of fertilizers for violations of this chapter, when violations are of a minor character, and/or when the department believes that the public interest will be served and protected by a suitable notice of the violation in writing.

(3) It shall be the duty of each prosecuting attorney to whom any violation of this chapter is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the department reports a violation of this chapter for such prosecution, an opportunity shall be given the distributor to present his or her view in writing or orally to the department.

(4) The department is hereby authorized to apply for, and the court authorized to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule adopted under this chapter, notwithstanding the existence of any other remedy at law. Any such injunction shall be issued without bond.

**Sec. 12.** RCW 15.54.474 and 1987 c 45 s 10 are each amended to read as follows:

Every person who fails to comply with this chapter, or any rule adopted under it, may be subjected to a civil penalty, as determined by the director, in an amount of not more than ~~((one))~~ seven thousand five hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense. Every person, who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this chapter and may be subject to the penalty provided for in this section.

**Sec. 13.** RCW 15.54.480 and 1988 c 254 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, all moneys collected under the provisions of this chapter shall be paid to the director and deposited in an account within the agricultural local fund. Such deposits shall be used only in the administration and enforcement of this chapter. ((Any residual balance remaining in the fertilizer, agricultural mineral and lime fund on June 9, 1988, shall be transferred to that account within the agricultural local fund.))

(2) Moneys collected under RCW 15.54.474 shall be deposited in the general fund.

**NEW SECTION. Sec. 14.** The department of agriculture shall conduct a comprehensive study of plant uptake of metals. The department shall work cooperatively with the department of ecology and the department of health to interpret the study results regarding potential impacts to public and environmental health. A report of the results of the study shall be submitted to appropriate committees of the legislature by December 31, 2000.

**Sec. 15.** RCW 15.54.800 and 1997 c 427 s 3 are each amended to read as follows:

(1) The director shall administer and enforce the provisions of this chapter and any rules adopted under this chapter. All authority and requirements provided for in chapter 34.05 RCW apply to this chapter in the adoption of rules.

(2) The director may adopt appropriate rules for carrying out the purpose and provisions of this chapter, including but not limited to rules providing for:

- (a) Definitions of terms;
- (b) Determining standards for labeling and registration of commercial fertilizers;
- (c) The collection and examination of commercial fertilizers;
- (d) Recordkeeping by registrants and licensees;
- (e) Regulation of the use and disposal of commercial fertilizers for the protection of ground water and surface water; and
- (f) The safe handling, transportation, storage, display, and distribution of commercial fertilizers.

(3)(a) Standards are established for allowable levels of nonnutritive substances in commercial fertilizers. These standards are Canadian figures for agricultural and agri-food Canadian maximum acceptable cumulative metal additions to soil established under Trade

Memorandum T-4-93 dated August 1996. Washington application rates shall be used to ensure that the maximum acceptable cumulative metal additions to soil are not exceeded.

(b) If federal or other risk-based standards are adopted or scientific peer-reviewed studies show that the standards adopted in this section are not at the appropriate level to protect human health or the environment, the department, in consultation with the departments of ecology and health, may initiate a rule making to amend these standards.

**NEW SECTION. Sec. 16.** A new section is added to chapter 15.54 RCW to read as follows:

(1) After receipt from the department of the completed application required by RCW 15.54.325, the department of ecology shall evaluate whether the use of the proposed waste-derived fertilizer or the micronutrient fertilizer as defined in RCW 15.54.270 is consistent with the following:

- (a) Chapter 70.95 RCW, the solid waste management act;
- (b) Chapter 70.105 RCW, the hazardous waste management act; and
- (c) 42 U.S.C. Sec. 6901 et seq., the resource conservation and recovery act.

(2) The department of ecology shall apply the standards adopted in RCW 15.54.800. If more stringent standards apply under chapter 173-303 WAC for the same constituents, the department of ecology must use the more stringent standards.

(3) Within sixty days of receiving the completed application, the department of ecology shall advise the department as to whether the application complies with the requirements of subsections (1) and (2) of this section. In making a determination, the department of ecology shall consult with the department of health and the department of labor and industries.

(4) A party aggrieved by a decision of the department of ecology to issue a written approval under this section or to deny the issuance of such an approval may appeal the decision to the pollution control hearings board within thirty days of the decision. Review of such a decision shall be conducted in accordance with chapter 43.21B RCW. Any subsequent appeal of a decision of the hearings board shall be obtained in accordance with RCW 43.21B.180.

**Sec. 17.** RCW 70.95.030 and 1997 c 213 s 1 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "City" means every incorporated city and town.  
(2) "Commission" means the utilities and transportation commission.  
(3) "Committee" means the state solid waste advisory committee.  
(4) "Composted material" means organic solid waste that has been subjected to controlled aerobic degradation at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.

~~(5)~~ (5) "Department" means the department of ecology.

~~((5))~~ (6) "Director" means the director of the department of ecology.

~~((6))~~ (7) "Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.

~~((7))~~ (8) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.

~~((8))~~ (9) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.

~~((9))~~ (10) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.

~~((10))~~ (11) "Jurisdictional health department" means city, county, city-county, or district public health department.

~~((11))~~ (12) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

~~((12))~~ (13) "Local government" means a city, town, or county.

~~((13))~~ (14) "Modify" means to substantially change the design or operational plans including, but not limited to, removal of a design element previously set forth in a permit application or the addition of a disposal or processing activity that is not approved in the permit.

~~((14))~~ (15) "Multiple family residence" means any structure housing two or more dwelling units.

~~((15))~~ (16) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

~~((16))~~ (17) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2), local governments may identify recyclable materials by ordinance from July 23, 1989.

~~((17))~~ (18) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

~~((18))~~ (19) "Residence" means the regular dwelling place of an individual or individuals.

~~((19))~~ (20) "Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of chapter 70.95J RCW.

~~((20))~~ (21) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70.95J RCW and wastewater as regulated in chapter 90.48 RCW.

(22) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

~~((21))~~ (23) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.

~~((22))~~ (24) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

~~((23))~~ (25) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

~~((24))~~ (26) "Waste-derived soil amendment" means any soil amendment as defined in this chapter that is derived from solid waste as defined in RCW 70.95.030, but does not include biosolids or biosolids products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

(27) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

**NEW SECTION. Sec. 18.** A new section is added to chapter 70.95 RCW to read as follows:

(1) Waste-derived soil amendments that meet the standards and criteria in this section may apply for exemption from solid waste permitting as required under RCW 70.95.170. The application shall be submitted to the department in a format determined by the department or an equivalent format. The application shall include:

- (a) Analytical data showing that the waste-derived soil amendments meet standards established under RCW 15.54.800; and
- (b) Other information deemed appropriate by the department to protect human health and the environment.

(2) After receipt of an application, the department shall review it to determine whether the application is complete, and forward a copy of the complete application to all interested jurisdictional health departments for review and comment. Within forty-five days, the jurisdictional health departments shall forward their comments and any other information they deem relevant to the department, which shall then give final approval or disapproval of the application. Every complete application shall be approved or disapproved by the department within ninety days after receipt.

(3) The department, after providing opportunity for comments from the jurisdictional health departments, may at any time revoke an exemption granted under this section if the quality or use of the waste-derived soil amendment changes or the management, storage, or end use of the waste-derived soil amendment constitutes a threat to human health or the environment.

(4) Any aggrieved party may appeal the determination by the department in subsection (2) or (3) of this section to the pollution control hearings board.

**Sec. 19.** RCW 70.95.240 and 1997 c 427 s 4 are each amended to read as follows:

(1) After the adoption of regulations or ordinances by any county, city, or jurisdictional board of health providing for the issuance of permits as provided in RCW 70.95.160, it shall be unlawful for any person to dump or deposit or permit the dumping or depositing of any solid waste onto or under the surface of the ground or into the waters of this state except at a solid waste disposal site for which there is a valid permit. This section ~~((shall))~~ does not:

(a) Prohibit a person from dumping or depositing solid waste resulting from his or her own activities onto or under the surface of ground owned or leased by him or her when such action does not violate statutes or ordinances, or create a nuisance; ~~((or))~~

(b) ~~((Apply to a person using a material or materials on the land as commercial fertilizer if (i) the department of ecology has issued written approval for the use of the material or materials as commercial fertilizer as provided in RCW 70.95.830, (ii) the registration of the material or materials as a packaged commercial fertilizer has not been canceled under RCW 15.54.335, and (iii) the distribution of the material or materials as a commercial fertilizer has not been prohibited by the department of agriculture under RCW 15.54.335))~~ Apply to a person using a waste-derived soil amendment that has been approved by the department under section 18 of this act; or

(c) Apply to the application of commercial fertilizer that has been registered with the department of agriculture as provided in RCW 15.54.325, and that is applied in accordance with the standards established in RCW 15.54.800(3).

(2)(a) It is a class 3 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.

(b) It is a class 1 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount greater than one cubic foot. Unless suspended or modified by a court, the person shall also pay a litter cleanup fee of twenty-five dollars per cubic foot of litter. The court may, in



addition to or in lieu of part or all of the cleanup fee, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property.

**NEW SECTION. Sec. 20.** The department of ecology, in conjunction with the departments of agriculture and health, shall undertake a study of whether dioxins occur in fertilizers, soil amendments, and soils and if so, at what levels. The department of ecology shall seek additional financial and technical assistance from appropriate federal agencies, the fertilizer industry, and other appropriate sources in conducting this study. The department of ecology shall report its findings to the legislature in November 1998.

**NEW SECTION. Sec. 21.** A new section is added to chapter 15.54 RCW to read as follows:

(1) The department shall expand its fertilizer data base to include additional information required for registration under RCW 15.54.325 and 15.54.330.

(2) Except for confidential information under RCW 15.54.362 regarding fertilizer tonnages distributed in the state, information in the fertilizer data base shall be made available to the public upon request.

(3) The department, and the department of ecology in consultation with the department of health, shall biennially prepare a report to the legislature presenting information on levels of nonnutritive substances in fertilizers. Results from agency testing of products that were sampled shall also be displayed. The first such report will be provided to the legislature by December 1, 1999.

(4) After July 1, 1999, the department shall post on the internet the information contained in applications for fertilizer registration.

**Sec. 22.** RCW 43.21B.110 and 1993 c 387 s 22 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, ~~((the administrator of the office of marine safety,))~~ and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, and 90.48.120.

(c) The issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, or the modification of the conditions or the terms of a waste disposal permit.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under section 16 of this act, and decisions of the department regarding waste-derived soil amendments under section 18 of this act.

(g) Any other decision by the department ~~((, the administrator of the office of marine safety,))~~ or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings by the department relating to general adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

**NEW SECTION. Sec. 23.** The following acts or parts of acts are each repealed:

(1) RCW 15.54.335 and 1997 c 427 s 2; and

(2) RCW 70.95.830 and 1997 c 427 s 5.

**NEW SECTION. Sec. 24.** This act may be known and cited as the fertilizer regulation act.

**NEW SECTION. Sec. 25.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "regulation;" strike the remainder of the title and insert "amending RCW 15.54.270, 15.54.275, 15.54.325, 15.54.330, 15.54.340, 15.54.380, 15.54.414, 15.54.420, 15.54.436, 15.54.470, 15.54.474, 15.54.480, 15.54.800, 70.95.030, 70.95.240, and 43.21B.110; adding new sections to chapter 15.54 RCW; adding a new section to chapter 70.95 RCW; creating new sections; repealing RCW 15.54.335 and 70.95.830; and prescribing penalties.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

## MOTION

Senator Morton moved that the Senate concur in the House amendments to Substitute Senate Bill No. 6474.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Morton that the Senate concur in the House amendments to Substitute Senate Bill No. 6474.

The motion by Senator Morton carried and the Senate concurred in the House amendments to Substitute Senate Bill No. 6474.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6474, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6474, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Deccio, Franklin, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wojahn and Zarelli - 35. Voting nay: Senators Brown, Fairley, Finkbeiner, Fraser, Heavey, Kline, Kohl, McAuliffe, Patterson, Spanel and Thibaudeau - 11. Excused: Senators Benton, Rossi and Wood - 3.

SUBSTITUTE SENATE BILL NO. 6474 as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6328 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. PURPOSE.** The legislature finds that merger of the departments of fisheries and wildlife resulted in two criminal codes applicable to fish and wildlife, and that it has become increasingly difficult to administer and enforce the two criminal codes. Furthermore, laws defining crimes involving fish and wildlife have evolved over many years of changing uses and management objectives for fish and wildlife. The resulting two codes make it difficult for citizens to comply with the law and unnecessarily complicate enforcement of laws against violators.

The legislature intends by chapter . . . , Laws of 1998 (this act) to revise and recodify the criminal laws governing fish and wildlife, ensuring that all people involved with fish and wildlife are able to know and understand the requirements of the laws and the risks of violation. Additionally, the legislature intends to create a more uniform approach to criminal laws governing fish and wildlife and to the laws authorizing prosecution, sentencing, and punishments, including defining new crimes and repealing crimes that are redundant to other provisions of the criminal code.

Chapter . . . , Laws of 1998 (this act) is not intended to alter existing powers of the commission or the director to adopt rules or exercise powers over fish and wildlife. In some places reference is made to violation of department rules, but this is intended to conform with current powers of the commission, director, or both, to adopt rules governing fish and wildlife activities.

**NEW SECTION. Sec. 2. EXEMPTION FOR DEPARTMENT ACTIONS.** A person is not guilty of a crime under this chapter if the person is an officer, employee, or agent of the department lawfully acting in the course of his or her authorized duties.

**NEW SECTION. Sec. 3. AUTHORITY TO DEFINE VIOLATION OF A RULE AS AN INFRACTION.** If the commission or director has authority to adopt a rule that is punishable as a crime under this chapter, then the commission or director may provide that violation of the rule shall be punished with notice of infraction under RCW 7.84.030.

**NEW SECTION. Sec. 4. SEPARATE OFFENSES FOR EACH BIG GAME, PROTECTED, OR ENDANGERED ANIMAL.** Where it is unlawful to hunt, take, kill, fish, or possess big game or protected or endangered fish or wildlife, then each individual animal unlawfully killed, taken, or possessed is a separate offense.

**NEW SECTION. Sec. 5. JURISDICTION.** District courts have jurisdiction concurrent with superior courts for misdemeanors and gross misdemeanors committed in violation of this chapter and may impose the punishment provided for these offenses. Superior courts have jurisdiction over felonies committed in violation of this chapter. Venue for offenses occurring in off-shore waters shall be in a county bordering on the Pacific Ocean, or the county where fish or wildlife from the offense are landed.

**NEW SECTION. Sec. 6. CONVICTION IN A STATE OR MUNICIPAL COURT.** Unless the context clearly requires otherwise, as used in this chapter, "conviction" means a final conviction in a state or municipal court or an unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court. A plea of guilty, or a finding of guilt for a violation of this title or rule of the commission or director constitutes a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

**NEW SECTION. Sec. 7. REFERENCE TO CHAPTERS 7.84 AND 9A.20 RCW.** Crimes defined by this chapter shall be punished as infractions, misdemeanors, gross misdemeanors, or felonies, based on the classification of crimes set out in chapters 7.84 and 9A.20 RCW.

**NEW SECTION. Sec. 8. ACTING FOR COMMERCIAL PURPOSES--VALUE OF FISH OR WILDLIFE--PROOF.** (1) For purposes of this chapter, a person acts for commercial purposes if the person:

- (a) Acts with intent to sell, attempted to sell, sold, bartered, attempted to purchase, or purchased fish or wildlife;
- (b) Uses gear typical of that used in commercial fisheries;
- (c) Exceeds the bag or possession limits for personal use by taking or possessing more than three times the amount of fish or wildlife allowed;
- (d) Delivers or attempts to deliver fish or wildlife to a person who sells or resells fish or wildlife including any licensed or unlicensed wholesaler; or
- (e) Takes fish using a vessel designated on a commercial fishery license and gear not authorized in a personal use fishery.

(2) For purposes of this chapter, the value of any fish or wildlife may be proved based on evidence of legal or illegal sales involving the person charged or any other person, of offers to sell or solicitation of offers to sell by the person charged or by any other person, or of any market price for the fish or wildlife including market price for farm-raised game animals. The value assigned to specific wildlife by RCW 77.21.070 may be presumed to be the value of such wildlife. It is not relevant to proof of value that the person charged misrepresented that the fish or wildlife was taken in compliance with law if the fish or wildlife was unlawfully taken and had no lawful market value.

**NEW SECTION. Sec. 9. UNLAWFUL HUNTING OF GAME BIRDS.** (1) A person is guilty of unlawful hunting of game birds in the second degree if the person:

- (a) Hunts a game bird and the person does not have and possess all licenses, tags, stamps, and permits required under this title;
- (b) Recklessly destroys, takes, or harms the eggs or nests of a game bird except when authorized by permit; or
- (c) Violates any rule of the commission or director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas including game reserves, closed times, or other rule addressing the manner or method of hunting or possession of game birds.

(2) A person is guilty of unlawful hunting of game birds in the first degree if the person hunts game birds and the person takes or possesses two times or more than the possession or bag limit for such game birds allowed by rule of the commission or director.

(3)(a) Unlawful hunting of game birds in the second degree is a misdemeanor.

(b) Unlawful hunting of game birds in the first degree is a gross misdemeanor.

**NEW SECTION. Sec. 10. UNLAWFUL HUNTING OF BIG GAME.** (1) A person is guilty of unlawful hunting of big game in the second degree if the person:

- (a) Hunts big game and the person does not have and possess all licenses, tags, or permits required under this title; or
- (b) Violates any rule of the commission or director regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the hunting, taking, or possession of big game.

(2) A person is guilty of unlawful hunting of big game in the first degree if the person was previously convicted of any crime under this title involving unlawful hunting, killing, possessing, or taking big game, and within five years of the date that the prior conviction was entered the person hunts for big game and:

(a) The person does not have and possess all licenses, tags, or permits required under this title; or

(b) The act was in violation of any rule of the commission or director regarding seasons, bag or possession limits, closed areas including game reserves, or closed times.

(3)(a) Unlawful hunting of big game in the second degree is a gross misdemeanor.

(b) Unlawful hunting of big game in the first degree is a class C felony. Upon conviction, the department shall revoke all licenses or tags involved in the crime and the department shall order the person's hunting privileges suspended for two years.

**NEW SECTION. Sec. 11. UNLAWFUL HUNTING OF GAME ANIMALS.** (1) A person is guilty of unlawful hunting of game animals in the second degree if the person:

(a) Hunts a game animal that is not classified as big game, and does not have and possess all licenses, tags, or permits required by this title; or

(b) Violates any rule of the commission or director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas including game reserves, closed times, or other rule addressing the manner or method of hunting or possession of game animals not classified as big game.

(2)(a) A person is guilty of unlawful hunting of game animals in the first degree if the person hunts a game animal that is not classified as big game; and

(b) The person takes or possesses two times or more than the possession or bag limit for such game animals allowed by rule of the commission or director.

(3)(a) Unlawful hunting of game animals in the second degree is a misdemeanor.

(b) Unlawful hunting of game animals in the first degree is a gross misdemeanor.

**NEW SECTION. Sec. 12. WEAPONS, TRAPS, OR DOGS ON GAME RESERVES.** (1) A person is guilty of unlawful use of weapons, traps, or dogs on game reserves if:

(a) The person uses firearms, other hunting weapons, or traps on a game reserve; or

(b) The person negligently allows a dog upon a game reserve.

(2) This section does not apply to persons on a public highway or if the conduct is authorized by rule of the department.

(3) This section does not apply to a person in possession of a handgun if the person in control of the handgun possesses a valid concealed pistol license and the handgun is concealed on the person.

(4) Unlawful use of weapons, traps, or dogs on game reserves is a misdemeanor.

**NEW SECTION. Sec. 13. UNLAWFUL TAKING OF ENDANGERED FISH OR WILDLIFE.** (1) A person is guilty of unlawful taking of endangered fish or wildlife in the second degree if the person hunts, fishes, possesses, harasses, or kills fish or wildlife or destroys the nests or eggs of fish or wildlife and the fish or wildlife is designated by the commission as endangered, and the taking has not been authorized by rule of the commission.

(2) A person is guilty of unlawful taking of endangered fish or wildlife in the first degree if the person has been:

(a) Convicted under subsection (1) of this section or convicted of any crime under this title involving the killing, possessing, harassing, or harming of endangered fish or wildlife; and

(b) Within five years of the date of the prior conviction the person commits the act described by subsection (1) of this section.

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

(b) Unlawful taking of endangered fish or wildlife in the first degree is a class C felony. The department shall revoke any licenses or tags used in connection with the crime and order the person's privileges to hunt, fish, trap, or obtain licenses under this title and Title 75 RCW to be suspended for two years.

**NEW SECTION. Sec. 14. UNLAWFUL TAKING OF PROTECTED FISH OR WILDLIFE.** (1) A person is guilty of unlawful taking of protected fish or wildlife if:

(a) The person hunts, fishes, possesses, or kills protected fish or wildlife, or the person possesses or destroys the eggs or nests of protected fish or wildlife, and the taking has not been authorized by rule of the commission; or

(b) The person violates any rule of the commission regarding the taking, harming, harassment, possession, or transport of protected fish or wildlife.

(2) Unlawful taking of protected fish or wildlife is a misdemeanor.

**NEW SECTION. Sec. 15. UNLAWFUL TAKING OF UNCLASSIFIED FISH OR WILDLIFE.** (1) A person is guilty of unlawful taking of unclassified fish or wildlife if:

(a) The person kills, hunts, fishes, takes, holds, possesses, transports, injures, or harms fish or wildlife that is not classified as big game, game fish, game animals, game birds, food fish, shellfish, protected wildlife, or endangered wildlife; and

(b) The act violates any rule of the commission or the director.

(2) Unlawful taking of unclassified fish or wildlife is a misdemeanor.

**NEW SECTION. Sec. 16. UNLAWFUL USE OF POISON OR EXPLOSIVES.** (1) A person is guilty of unlawful use of poison or explosives if:

(a) The person lays out, sets out, or uses a drug, poison, or other deleterious substance that kills, injures, harms, or endangers fish or wildlife, except if the person is using the substance in compliance with federal and state laws and label instructions; or

(b) The person lays out, sets out, or uses an explosive that kills, injures, harms, or endangers fish or wildlife, except if authorized by law or permit of the director.

(2) Unlawful use of poison or explosives is a gross misdemeanor.

**NEW SECTION. Sec. 17. INFRACTION VIOLATION OF RULES GOVERNING FISH AND WILDLIFE.** A person is guilty of an infraction, which shall be cited and punished as provided under chapter 7.84 RCW, if the person:

(1) Fails to immediately record a catch of fish or shellfish on a catch record card required by RCW 75.25.190 or 77.32.050, or required by rule of the commission under this title or Title 75 RCW; or

(2) Fishes for personal use using barbed hooks in violation of any rule; or

(3) Violates any other rule of the commission or director that is designated by rule as an infraction.

**NEW SECTION. Sec. 18. UNLAWFUL RECREATIONAL FISHING IN THE SECOND DEGREE.** (1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for, takes, possesses, or harvests fish or shellfish and:

(a) The person does not have and possess the license or the catch record card required by chapter 75.25 or 77.32 RCW for such activity; or

(b) The action violates any rule of the commission or the director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing or possession of fish, except for use of a net to take fish as provided for in section 50 of this act.

(2) Unlawful recreational fishing in the second degree is a misdemeanor.

**NEW SECTION. Sec. 19. UNLAWFUL RECREATIONAL FISHING IN THE FIRST DEGREE.** (1) A person is guilty of unlawful recreational fishing in the first degree if:

(a) The person takes, possesses, or retains two times or more than the bag limit or possession limit of fish or shellfish allowed by any rule of the director or commission setting the amount of food fish, game fish, or shellfish that can be taken, possessed, or retained for noncommercial use;

(b) The person fishes in a fishway; or

(c) The person shoots, gaffs, snags, snares, spears, dipnets, or staves fish in state waters, or possesses fish taken by such means, unless such means are authorized by express rule of the commission or director.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

**NEW SECTION. Sec. 20. UNLAWFUL TAKING OF SEAWEED.** (1) A person is guilty of unlawful taking of seaweed if the person takes, possesses, or harvests seaweed and:

(a) The person does not have and possess the license required by chapter 75.25 RCW for taking seaweed; or

(b) The action violates any rule of the department or the department of natural resources regarding seasons, possession limits, closed areas, closed times, or any other rule addressing the manner or method of taking, possessing, or harvesting of seaweed.

(2) Unlawful taking of seaweed is a misdemeanor. This does not affect rights of the state to recover civilly for trespass, conversion, or theft of state-owned valuable materials.

**NEW SECTION. Sec. 21. WASTE OF FISH AND WILDLIFE.** (1) A person is guilty of waste of fish and wildlife in the second degree if:

(a) The person kills, takes, or possesses fish or wildlife and the value of the fish or wildlife is greater than twenty dollars but less than two hundred fifty dollars; and

(b) The person recklessly allows such fish or wildlife to be wasted.

(2) A person is guilty of waste of fish and wildlife in the first degree if:

(a) The person kills, takes, or possesses food fish, shellfish, game fish, game birds, or game animals having a value of two hundred fifty dollars or more; and

(b) The person recklessly allows such fish or wildlife to be wasted.

(3)(a) Waste of fish and wildlife in the second degree is a misdemeanor.

(b) Waste of fish and wildlife in the first degree is a gross misdemeanor. Upon conviction, the department shall revoke any license or tag used in the crime and shall order suspension of the person's privileges to engage in the activity in which the person committed waste of fish and wildlife in the first degree for a period of one year.

(4) It is prima facie evidence of waste if a processor purchases or engages a quantity of food fish, shellfish, or game fish that cannot be processed within sixty hours after the food fish or shellfish are taken from the water, unless the food fish or shellfish are preserved in good marketable condition.

**NEW SECTION. Sec. 22. UNLAWFUL INTERFERENCE WITH FISHING OR HUNTING GEAR.** (1) A person is guilty of unlawful interference with fishing or hunting gear in the second degree if the person:

(a) Takes or releases a wild animal from another person's trap without permission;

(b) Springs, pulls up, damages, possesses, or destroys another person's trap without the owner's permission; or

(c) Interferes with recreational gear used to take fish or shellfish.

(2) Unlawful interference with fishing or hunting gear in the second degree is a misdemeanor.

(3) A person is guilty of unlawful interference with fishing or hunting gear in the first degree if the person:

(a) Takes or releases food fish or shellfish from commercial fishing gear without the owner's permission; or

(b) Intentionally destroys or interferes with commercial fishing gear.

(4) Unlawful interference with fishing or hunting gear in the first degree is a gross misdemeanor.

(5) A person is not in violation of unlawful interference with fishing or hunting gear if the person removes a trap placed on property owned, leased, or rented by the person.

**NEW SECTION. Sec. 23. FAILING TO IDENTIFY TRAPS FOR FURBEARING ANIMALS.** (1) A person is guilty of failing to identify traps for furbearing animals if the person fails to attach to the person's traps or devices a legible metal tag with either the department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.

(2) Failing to identify traps for furbearing animals is a misdemeanor.

**NEW SECTION. Sec. 24. OBSTRUCTING THE TAKING OF FISH OR WILDLIFE.** (1) A person is guilty of obstructing the taking of fish or wildlife if the person:

(a) Harasses, drives, or disturbs fish or wildlife with the intent of disrupting lawful pursuit or taking thereof; or  
(b) Harasses, intimidates, or interferes with an individual engaged in the lawful taking of fish or wildlife or lawful predator control with the intent of disrupting lawful pursuit or taking thereof.

(2) Obstructing the taking of fish or wildlife is a gross misdemeanor.

(3) It is an affirmative defense to a prosecution for obstructing the taking of fish or wildlife that the person charged was:

(a) Interfering with a person engaged in hunting outside the legally established hunting season; or

(b) Preventing or attempting to prevent unauthorized trespass on private property.

(4) The person raising a defense under subsection (3) of this section has the burden of proof by a preponderance of the evidence.

**NEW SECTION. Sec. 25. UNLAWFUL POSTING.** (1) A person is guilty of unlawful posting if the individual posts signs preventing hunting or fishing on any land not owned or leased by the individual, or without the permission of the person who owns, leases, or controls the land posted.

(2) Unlawful posting is a misdemeanor.

**NEW SECTION. Sec. 26. UNLAWFUL USE OF DEPARTMENT LANDS OR FACILITIES.** (1) A person is guilty of unlawful use of department lands or facilities if the person enters upon, uses, or remains upon department lands or facilities in violation of any rule of the department.

(2) Unlawful use of department lands or facilities is a misdemeanor.

**NEW SECTION. Sec. 27. SPOTLIGHTING BIG GAME.** (1) A person is guilty of spotlighting big game in the second degree if the person hunts big game with the aid of a spotlight or other artificial light while in possession or control of a firearm, bow and arrow, or cross bow.

(2) A person is guilty of spotlighting big game in the first degree if:

(a) The person has any prior conviction for gross misdemeanor or felony for a crime under this title involving big game including but not limited to subsection (1) of this section or section 10 of this act; and

(b) Within ten years of the date that such prior conviction was entered the person commits the act described by subsection (1) of this section.

(3)(a) Spotlighting big game in the second degree is a gross misdemeanor.

(b) Spotlighting big game in the first degree is a class C felony. Upon conviction, the department shall order suspension of all privileges to hunt wildlife for a period of two years.

**NEW SECTION. Sec. 28. UNLAWFUL USE OR POSSESSION OF A LOADED FIREARM.** (1) A person is guilty of unlawful possession of a loaded firearm in a motor vehicle if:

(a) The person carries, transports, conveys, possesses, or controls a rifle or shotgun in a motor vehicle; and

(b) The rifle or shotgun contains shells or cartridges in the chamber, or is a muzzle-loading firearm that is loaded and capped or primed.

(2) A person is guilty of unlawful use of a loaded firearm if the person negligently shoots a firearm from, across, or along the maintained portion of a public highway.

(3) Unlawful possession of a loaded firearm in a motor vehicle is a misdemeanor.

(4) This section does not apply if the person:

(a) Is a law enforcement officer who is authorized to carry a firearm and is on duty within the officer's respective jurisdiction;

(b) Possesses a disabled hunter's permit as provided by RCW 77.32.237 and complies with all rules of the department concerning hunting by persons with disabilities.

**NEW SECTION. Sec. 29. UNLAWFULLY AVOIDING WILDLIFE CHECK STATIONS OR FIELD INSPECTIONS.** (1) A person is guilty of unlawfully avoiding wildlife check stations or field inspections if the person fails to:

(a) Obey check station signs;

(b) Stop and report at a check station if directed to do so by a uniformed fish and wildlife officer; or

(c) Produce for inspection upon request by a fish and wildlife officer: (i) Hunting or fishing equipment; (ii) seaweed, fish, shellfish, or wildlife; or (iii) licenses, permits, tags, stamps, or catch record cards required by this title or Title 75 RCW.

(2) Unlawfully avoiding wildlife check stations or field inspections is a gross misdemeanor.

(3) Wildlife check stations may not be established upon interstate highways or state routes.

**NEW SECTION. Sec. 30. UNLAWFUL USE OF DOGS--PUBLIC NUISANCE.** (1) A person is guilty of unlawful use of dogs if the person:

(a) Negligently fails to prevent a dog under the person's control from pursuing or injuring deer, elk, or an animal classified as endangered under this title;

(b) Uses the dog to hunt deer or elk; or

(c) During the closed season for a species of game animal or game bird, negligently fails to prevent the dog from pursuing such animal or destroying the nest of a game bird.

(2) Unlawful use of dogs is a misdemeanor. A dog that is the basis for a violation of this section may be declared a public nuisance.

**NEW SECTION. Sec. 31. UNLAWFUL RELEASE OF FISH OR WILDLIFE.** (1)(a) A person is guilty of unlawfully releasing, planting, or placing fish or wildlife if the person knowingly releases, plants, or places live fish, wildlife, or aquatic plants within the state, except for a release of game fish into private waters for which a game fish stocking permit has been obtained or the planting of food fish or shellfish by permit of the commission.

(b) A violation of this subsection is a gross misdemeanor. In addition, the department shall order the person to pay all costs the department incurred in capturing, killing, or controlling the fish or wildlife released or its progeny. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, controlling the fish or wildlife released or their progeny, or restoration of habitat necessitated by the unlawful release.

(2)(a) A person is guilty of unlawful release of deleterious exotic wildlife if the person knowingly releases, plants, or places live fish or wildlife within the state and such fish or wildlife has been classified as deleterious exotic wildlife by rule of the commission.

(b) A violation of this subsection is a class C felony. In addition, the department shall also order the person to pay all costs the department incurred in capturing, killing, or controlling the fish or wildlife released or its progeny. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, controlling the fish or wildlife released or their progeny, or restoration of habitat necessitated by the unlawful release.

**NEW SECTION. Sec. 32. ENGAGING IN COMMERCIAL WILDLIFE ACTIVITY WITHOUT A LICENSE.** (1) A person is guilty of engaging in commercial wildlife activity without a license if the person:

- (a) Deals in raw furs for commercial purposes and does not hold a fur dealer license required by chapter 77.32 RCW;
- (b) Practices taxidermy for profit and does not hold a taxidermy license required by chapter 77.32 RCW; or
- (c) Operates a game farm without a license required by chapter 77.32 RCW.

(2) Engaging in commercial wildlife activities without a license is a gross misdemeanor.

**NEW SECTION. Sec. 33. UNLAWFUL USE OF A COMMERCIAL WILDLIFE LICENSE.** (1) A person who holds a fur buyer's license or taxidermy license is guilty of unlawful use of a commercial wildlife license if the person:

- (a) Fails to have the license in possession while engaged in fur buying or practicing taxidermy for commercial purposes; or
- (b) Violates any rule of the department regarding the use, possession, display, or presentation of the taxidermy or fur buyer's license.

(2) Unlawful use of a commercial wildlife license is a misdemeanor.

**NEW SECTION. Sec. 34. UNLAWFUL TRAPPING.** (1) A person is guilty of unlawful trapping if the person:

(a) Sets out traps that are capable of taking wild animals, game animals, or furbearing mammals and does not possess all licenses, tags, or permits required under this title; or

(b) Violates any rule of the commission or director regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the trapping of wild animals.

(2) Unlawful trapping is a misdemeanor.

**NEW SECTION. Sec. 35. COMMERCIAL FISHING WITHOUT A LICENSE.** (1) A person is guilty of commercial fishing without a license in the second degree if the person fishes for, takes, or delivers food fish, shellfish, or game fish while acting for commercial purposes and:

- (a) The person does not hold a fishery license or delivery license under chapter 75.28 RCW for the food fish or shellfish; or
- (b) The person is not a licensed operator designated as an alternate operator on a fishery or delivery license under chapter 75.28 RCW for the food fish or shellfish.

(2) A person is guilty of commercial fishing without a license in the first degree if the person commits the act described by subsection (1) of this section and:

- (a) The violation involves taking, delivery, or possession of food fish or shellfish with a value of two hundred fifty dollars or more; or
- (b) The violation involves taking, delivery, or possession of food fish or shellfish from an area that was closed to the taking of such food fish or shellfish by any statute or rule.

(3)(a) Commercial fishing without a license in the second degree is a gross misdemeanor.

(b) Commercial fishing without a license in the first degree is a class C felony.

**NEW SECTION. Sec. 36. COMMERCIAL FISH GUIDING OR CHARTERING WITHOUT A LICENSE.** (1) A person is guilty of commercial fish guiding or chartering without a license if:

- (a) The person operates a charter boat and does not hold the charter boat license required for the food fish taken;
- (b) The person acts as a professional salmon guide and does not hold a professional salmon guide license; or
- (c) The person acts as a game fish guide and does not hold a professional game fish guide license.

(2) Commercial fish guiding or chartering without a license is a gross misdemeanor.

**NEW SECTION. Sec. 37. COMMERCIAL FISHING USING UNLAWFUL GEAR OR METHODS.** (1) A person is guilty of commercial fishing using unlawful gear or methods if the person acts for commercial purposes and takes or fishes for any fish or shellfish using any gear or method in violation of a rule of the department specifying, regulating, or limiting the gear or method for taking, fishing, or harvesting of such fish or shellfish.

(2) Commercial fishing using unlawful gear or methods is a gross misdemeanor.

**NEW SECTION. Sec. 38. UNLAWFUL USE OF A NONDESIGNATED VESSEL.** (1) A person who holds a fishery license required by chapter 75.28 RCW, or who holds an operator's license and is designated as an alternate operator on a fishery license required by chapter 75.28 RCW, is guilty of unlawful use of a nondesignated vessel if the person takes, fishes for, or delivers from that fishery using a vessel not designated on the person's license, when vessel designation is required by chapter 75.28 RCW.

(2) Unlawful use of a nondesignated vessel is a gross misdemeanor.

(3) A nondesignated vessel may be used, subject to appropriate notification to the department and in accordance with rules established by the commission, when a designated vessel is inoperative because of accidental damage or mechanical breakdown.

(4) If the person commits the act described by subsection (1) of this section and the vessel designated on the person's fishery license was used by any person in the fishery on the same day, then the violation for using a nondesignated vessel is a class C felony. Upon conviction the department shall order revocation and suspension of all commercial fishing privileges under chapter 75.28 RCW for a period of one year.

**NEW SECTION. Sec. 39. UNLAWFUL USE OF A COMMERCIAL FISHERY LICENSE.** (1) A person who holds a fishery license required by chapter 75.28 RCW, or who holds an operator's license and is designated as an alternate operator on a fishery license required by chapter 75.28 RCW, is guilty of unlawful use of a commercial fishery license if the person:

(a) Does not have the commercial fishery license or operator's license in possession during fishing or delivery; or

(b) Violates any rule of the department regarding the use, possession, display, or presentation of the person's license, decals, or vessel numbers.

(2) Unlawful use of a commercial fishery license is a misdemeanor.

**NEW SECTION. Sec. 40. VIOLATION OF COMMERCIAL FISHING AREA OR TIME.** (1) A person is guilty of violating commercial fishing area or time in the second degree if the person acts for commercial purposes and takes, fishes for, delivers, or receives food fish or shellfish:

(a) At a time not authorized by statute or rule; or

(b) From an area that was closed to the taking of such food fish or shellfish for commercial purposes by statute or rule.

(2) A person is guilty of violating commercial fishing area or time in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The person acted with knowledge that the area or time was not open to the taking or fishing of food fish or shellfish for commercial purposes; and

(b) The violation involved two hundred fifty dollars or more worth of food fish or shellfish.

(3)(a) Violating commercial fishing area or time in the second degree is a gross misdemeanor.

(b) Violating commercial fishing area or time in the first degree is a class C felony.

**NEW SECTION. Sec. 41. FAILURE TO REPORT COMMERCIAL FISH HARVEST OR DELIVERY.** (1) Except as provided in section 45 of this act, a person is guilty of failing to report a commercial fish or shellfish harvest or delivery if the person acts for commercial purposes and takes or delivers any fish or shellfish, and the person:

(a) Fails to sign a fish-receiving ticket that documents the delivery of fish or shellfish or otherwise documents the taking or delivery;

or

(b) Fails to report or document the taking, landing, or delivery as required by any rule of the department.

(2) Failing to report a commercial fish harvest or delivery is a gross misdemeanor.

(3) For purposes of this section, "delivery" of fish or shellfish occurs when there is a transfer or conveyance of title or control from the person who took, fished for, or otherwise harvested the fish or shellfish.

**NEW SECTION. Sec. 42. UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE.** (1) A person is guilty of unlawful trafficking in fish or wildlife in the second degree if the person traffics in fish or wildlife with a wholesale value of less than two hundred fifty dollars and:

(a) The fish or wildlife is classified as game, food fish, shellfish, game fish, or protected wildlife and the trafficking is not authorized by statute or rule of the department; or

(b) The fish or wildlife is unclassified and the trafficking violates any rule of the department.

(2) A person is guilty of unlawful trafficking in fish or wildlife in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The fish or wildlife has a value of two hundred fifty dollars or more; or

(b) The fish or wildlife is designated as endangered or deleterious exotic wildlife and such trafficking is not authorized by any statute or rule of the department.

(3)(a) Unlawful trafficking in fish or wildlife in the second degree is a gross misdemeanor.

(b) Unlawful trafficking in fish or wildlife in the first degree is a class C felony.

**NEW SECTION. Sec. 43. ENGAGING IN FISH DEALING ACTIVITY WITHOUT A LICENSE.** (1) A person is guilty of engaging in fish dealing activity without a license in the second degree if the person:



(a) Engages in the commercial processing of fish or shellfish, including custom canning or processing of personal use fish or shellfish and does not hold a wholesale dealer's license required by RCW 75.28.300(1) or 77.32.211 for anadromous game fish;

(b) Engages in the wholesale selling, buying, or brokering of food fish or shellfish and does not hold a wholesale dealer's or buying license required by RCW 75.28.300(2) or 77.32.211 for anadromous game fish;

(c) Is a fisher who lands and sells his or her catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state and does not hold a wholesale dealer's license required by RCW 75.28.300(3) or 77.32.211 for anadromous game fish; or

(d) Engages in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other byproducts from food fish or shellfish and does not hold a wholesale dealer's license required by RCW 75.28.300(4) or 77.32.211 for anadromous game fish.

(2) Engaging in fish dealing activity without a license in the second degree is a gross misdemeanor.

(3) A person is guilty of engaging in fish dealing activity without a license in the first degree if the person commits the act described by subsection (1) of this section and the violation involves fish or shellfish worth two hundred fifty dollars or more. Engaging in fish dealing activity without a license in the first degree is a class C felony.

**NEW SECTION. Sec. 44. UNLAWFUL USE OF FISH BUYING AND DEALING LICENSES.** (1) A person who holds a fish dealer's license required by RCW 75.28.300, an anadromous game fish buyer's license required by RCW 77.32.211, or a fish buyer's license required by RCW 75.28.340 is guilty of unlawful use of fish buying and dealing licenses in the second degree if the person:

(a) Possesses or receives fish or shellfish for commercial purposes worth less than two hundred fifty dollars; and

(b) Fails to document such fish or shellfish with a fish-receiving ticket required by statute or rule of the department.

(2) A person is guilty of unlawful use of fish buying and dealing licenses in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The violation involves fish or shellfish worth two hundred fifty dollars or more;

(b) The person acted with knowledge that the fish or shellfish were taken from a closed area, at a closed time, or by a person not licensed to take such fish or shellfish for commercial purposes; or

(c) The person acted with knowledge that the fish or shellfish were taken in violation of any tribal law.

(3)(a) Unlawful use of fish buying and dealing licenses in the second degree is a gross misdemeanor.

(b) Unlawful use of fish buying and dealing licenses in the first degree is a class C felony. Upon conviction, the department shall suspend all privileges to engage in fish buying or dealing for two years.

**NEW SECTION. Sec. 45. VIOLATING RULES GOVERNING WHOLESALE FISH BUYING AND DEALING.** (1) A person who holds a wholesale fish dealer's license required by RCW 75.28.300, an anadromous game fish buyer's license required by RCW 77.32.211, or a fish buyer's license required by RCW 75.28.340 is guilty of violating rules governing wholesale fish buying and dealing if the person:

(a) Fails to possess or display his or her license when engaged in any act requiring the license;

(b) Fails to display or uses the license in violation of any rule of the department;

(c) Files a signed fish-receiving ticket but fails to provide all information required by rule of the department; or

(d) Violates any other rule of the department regarding wholesale fish buying and dealing.

(2) Violating rules governing wholesale fish buying and dealing is a gross misdemeanor.

**NEW SECTION. Sec. 46. PROVIDING FALSE INFORMATION REGARDING FISH OR WILDLIFE.** (1) A person is guilty of providing false information regarding fish or wildlife if the person knowingly provides false or misleading information required by any statute or rule to be provided to the department regarding the taking, delivery, possession, transportation, sale, transfer, or any other use of fish or wildlife.

(2) Providing false information regarding fish or wildlife is a gross misdemeanor.

**NEW SECTION. Sec. 47. VIOLATING RULES REQUIRING REPORTING OF FISH OR WILDLIFE HARVEST.** (1) A person is guilty of violating rules requiring reporting of fish or wildlife harvest if the person:

(a) Fails to make a harvest log report of a commercial fish or shellfish catch in violation of any rule of the commission or the director;

(b) Fails to maintain a trapper's report or taxidermist ledger in violation of any rule of the commission or the director;

(c) Fails to submit any portion of a big game animal for a required inspection required by rule of the commission or the director; or

(d) Fails to return a catch record card or wildlife harvest report to the department as required by rule of the commission or director.

(2) Violating rules requiring reporting of fish or wildlife harvest is a misdemeanor.

**NEW SECTION. Sec. 48. UNLAWFUL TRANSPORTATION OF FISH OR WILDLIFE.** (1) A person is guilty of unlawful transportation of fish or wildlife in the second degree if the person:

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

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

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

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

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

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

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

**Sec. 49.** RCW 75.12.320 and 1983 1st ex.s. c 46 s 63 are each amended to read as follows:

(1) Except as provided in subsection ~~((2))~~ (3) of this section, it is unlawful for a person who is not a treaty Indian fisherman to participate in the taking of ~~((fish))~~ fish or shellfish in a treaty Indian fishery, or to be on board a vessel, or associated equipment, operating in a treaty Indian fishery. A violation of this subsection is a gross misdemeanor.

(2) A person who violates subsection (1) of this section with the intent of acting for commercial purposes, including any sale of catch, control of catch, profit from catch, or payment for fishing assistance, is guilty of a class C felony. Upon conviction, the department shall order revocation of any license and a one-year suspension of all commercial fishing privileges requiring a license under chapter 75.28 or 75.30 RCW.

(3)(a) The spouse, forebears, siblings, children, and grandchildren of a treaty Indian fisherman may assist the fisherman in exercising treaty Indian fishing rights when the treaty Indian fisherman is present at the fishing site.

(b) Other treaty Indian fishermen with off-reservation treaty fishing rights in the same usual and accustomed places, whether or not the fishermen are members of the same tribe or another treaty tribe, may assist a treaty Indian fisherman in exercising treaty Indian fishing rights when the treaty Indian fisherman is present at the fishing site.

(c) Biologists approved by the department may be on board a vessel operating in a treaty Indian fishery.

~~((3))~~ (4) For the purposes of this section:

(a) "Treaty Indian fisherman" means a person who may exercise treaty Indian fishing rights as determined under United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and post-trial orders of those courts;

(b) "Treaty Indian fishery" means a fishery open to only treaty Indian fishermen by tribal or federal regulation;

(c) "To participate" and its derivatives mean an effort to operate a vessel or fishing equipment, provide immediate supervision in the operation of a vessel or fishing equipment, or otherwise assist in the fishing operation, ~~((to))~~ to claim possession of a share of the catch, or to represent that the catch was lawfully taken in an Indian fishery.

~~((4))~~ (5) A violation of this section ~~((involving salmon))~~ constitutes illegal fishing and is subject to the ~~((sanctions provided under RCW 75.10.130))~~ suspensions provided for commercial fishing violations.

**NEW SECTION. Sec. 50. UNLAWFUL USE OF NETS TO TAKE FISH.** (1) A person is guilty of unlawful use of a net to take fish in the second degree if the person:

(a) Lays, sets, uses, or controls a net or other device or equipment capable of taking fish from the waters of this state, except if the person has a valid license for such fishing gear from the director under this title and is acting in accordance with all rules of the commission and director; or

(b) Fails to return unauthorized fish to the water immediately while otherwise lawfully operating a net under a valid license.

(2) A person is guilty of unlawful use of a net to take fish in the first degree if the person:

(a) Commits the act described by subsection (1) of this section; and

(b) The violation occurs within five years of entry of a prior conviction for a gross misdemeanor or felony under this title or Title 75 RCW involving fish, other than a recreational fishing violation, or involving unlawful use of nets.

(3)(a) Unlawful use of a net to take fish in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any license held under this title or Title 75 RCW allowing commercial net fishing used in connection with the crime.

(b) Unlawful use of a net to take fish in the first degree is a class C felony. Upon conviction, the department shall order a one-year suspension of all commercial fishing privileges requiring a license under this title or Title 75 RCW.

(4) Notwithstanding subsections (1) and (2) of this section, it is lawful to use a landing net to land fish otherwise legally hooked.

**NEW SECTION. Sec. 51. UNLAWFUL USE OF COMMERCIAL FISHING VESSEL FOR RECREATIONAL OR CHARTER FISHING.** (1) A person is guilty of unlawful use of a commercial fishing vessel, except as may be authorized by rule of the commission, for recreational or charter fishing if the person uses, operates, or controls a vessel on the same day for both:

(a) Charter or recreational fishing; and

(b) Commercial fishing or shellfish harvesting.

(2) Unlawful use of a commercial fishing vessel for recreational or charter fishing is a gross misdemeanor.

**NEW SECTION. Sec. 52. UNLAWFUL HYDRAULIC PROJECT ACTIVITIES.** (1) A person is guilty of unlawfully undertaking hydraulic project activities if the person constructs any form of hydraulic project or performs other work on a hydraulic project and:

(a) Fails to have a hydraulic project approval required under chapter 75.20 RCW for such construction or work; or

(b) Violates any requirements or conditions of the hydraulic project approval for such construction or work.

(2) Unlawfully undertaking hydraulic project activities is a gross misdemeanor.

**NEW SECTION. Sec. 53. UNLAWFUL FAILURE TO USE OR MAINTAIN APPROVED FISH GUARD ON WATER DIVERSION DEVICE.** (1) A person is guilty of unlawful failure to use or maintain an approved fish guard on a diversion device if the person owns, controls, or operates a device used for diverting or conducting water from a lake, river, or stream and:

(a) The device is not equipped with a fish guard, screen, or bypass approved by the director as required by RCW 75.20.040 or 77.16.220; or

(b) The person knowingly fails to maintain or operate an approved fish guard, screen, or bypass so as to effectively screen or prevent fish from entering the intake.

(2) Unlawful failure to use or maintain an approved fish guard, screen, or bypass on a diversion device is a gross misdemeanor.

Following written notification to the person from the department that there is a violation, each day that a diversion device is operated without an approved or maintained fish guard, screen, or bypass is a separate offense.

**NEW SECTION. Sec. 54. UNLAWFUL FAILURE TO PROVIDE, MAINTAIN, OR OPERATE FISHWAY FOR DAM OR OTHER OBSTRUCTION.** (1) A person is guilty of unlawful failure to provide, maintain, or operate a fishway for dam or other obstruction if the person owns, operates, or controls a dam or other obstruction to fish passage on a river or stream and:

(a) The dam or obstruction is not provided with a durable and efficient fishway approved by the director as required by RCW 75.20.060;

(b) Fails to maintain a fishway in efficient operating condition; or

(c) Fails to continuously supply a fishway with a sufficient supply of water to allow the free passage of fish.

(2) Unlawful failure to provide, maintain, or operate a fishway for dam or other obstruction is a gross misdemeanor. Following written notification to the person from the department that there is a violation, each day of unlawful failure to provide, maintain, or operate a fishway is a separate offense.

**NEW SECTION. Sec. 55. UNLAWFUL USE OF SCIENTIFIC PERMIT.** (1) A person is guilty of unlawful use of a scientific permit if the person:

(a) Violates any terms or conditions of a scientific permit issued by the director;

(b) Buys or sells fish or wildlife taken with a scientific permit; or

(c) Violates any rule of the commission or the director applicable to the issuance or use of scientific permits.

(2) Unlawful use of a scientific permit is a gross misdemeanor.

**NEW SECTION. Sec. 56. UNLAWFUL HUNTING OR FISHING CONTESTS.** (1) A person is guilty of unlawfully holding a hunting or fishing contest if the person:

(a) Conducts, holds, or sponsors a hunting contest, a fishing contest involving game fish, or a competitive field trial using live wildlife without the permit required by RCW 77.32.211; or

(b) Violates any rule of the commission or the director applicable to a hunting contest, fishing contest involving game fish, or a competitive field trial using live wildlife.

(2) Unlawfully holding a hunting or fishing contest is a misdemeanor.

**NEW SECTION. Sec. 57. UNLAWFUL OPERATION OF A GAME FARM.** (1) A person is guilty of unlawful operation of a game farm if the person (a) operates a game farm without the license required by RCW 77.32.211; or (b) violates any rule of the commission or the director applicable to game farms under RCW 77.12.570, 77.12.580, and 77.12.590.

(2) Unlawful operation of a game farm is a gross misdemeanor.

**NEW SECTION. Sec. 58. VIOLATION OF A RULE REGARDING INSPECTION AND CONTROL OF AQUATIC FARMS.** (1) A person is guilty of violating a rule regarding inspection and disease control of aquatic farms if the person:

(a) Violates any rule adopted under chapter 75.58 RCW regarding the inspection and disease control program for an aquatic farm; or

(b) Fails to register or report production from an aquatic farm as required by chapter 75.58 RCW.

(2) A violation of a rule regarding inspection and disease control of aquatic farms is a misdemeanor.

**NEW SECTION. Sec. 59. UNLAWFUL PURCHASE OR USE OF A LICENSE.** (1) A person is guilty of unlawful purchase or use of a license in the second degree if the person buys, holds, uses, displays, transfers, or obtains any license, tag, permit, or approval required by this title or Title 75 RCW and the person:

(a) Uses false information to buy, hold, use, display, or obtain a license, permit, tag, or approval;

(b) Acquires, holds, or buys in excess of one license, permit, or tag for a license year if only one license, permit, or tag is allowed per license year;

(c) Uses or displays a license, permit, tag, or approval that was issued to another person;

(d) Permits or allows a license, permit, tag, or approval to be used or displayed by another person not named on the license, permit, tag, or approval;

(e) Acquires or holds a license while privileges for the license are revoked or suspended.

(2) A person is guilty of unlawful purchase or use of a license in the first degree if the person commits the act described by subsection (1) of this section and the person was acting with intent that the license, permit, tag, or approval be used for any commercial purpose. A person is presumed to be acting with such intent if the violation involved obtaining, holding, displaying, or using a license or permit for participation in any commercial fishery issued under this title or Title 75 RCW or a license authorizing fish or wildlife buying, trafficking, or wholesaling.

(3)(a) Unlawful purchase or use of a license in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a two-year suspension of participation in the activities for which the person unlawfully obtained, held, or used a license.

(b) Unlawful purchase or use of a license in the first degree is a class C felony. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a five-year suspension of participation in any activities for which the person unlawfully obtained, held, or used a license.

(4) For purposes of this section, a person "uses" a license, permit, tag, or approval if the person engages in any activity authorized by the license, permit, tag, or approval held or possessed by the person. Such uses include but are not limited to fishing, hunting, taking, trapping, delivery or landing fish or wildlife, and selling, buying, or wholesaling of fish or wildlife.

(5) Any license obtained in violation of this section is void upon issuance and is of no legal effect.

**NEW SECTION. Sec. 60. UNLAWFUL HUNTING OR FISHING WHEN PRIVILEGES ARE REVOKED OR SUSPENDED.** (1) A person is guilty of unlawful hunting or fishing when privileges are revoked or suspended in the second degree if the person hunts or fishes and the person's privilege to engage in such hunting or fishing were revoked or suspended by any court or the department.

(2) A person is guilty of unlawful hunting or fishing when privileges are revoked or suspended in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The suspension of privileges that was violated was a permanent suspension;

(b) The person takes or possesses more than two hundred fifty dollars' worth of unlawfully taken food fish, wildlife, game fish, seaweed, or shellfish; or

(c) The violation involves the hunting, taking, or possession of fish or wildlife classified as endangered or threatened or big game.

(3)(a) Unlawful hunting or fishing when privileges are revoked or suspended in the second degree is a gross misdemeanor. Upon conviction, the department shall order permanent suspension of the person's privileges to engage in such hunting or fishing activities.

(b) Unlawful hunting or fishing when privileges are revoked or suspended in the first degree is a class C felony. Upon conviction, the department shall order permanent suspension of all privileges to hunt, fish, trap, or take wildlife, food fish, or shellfish.

(4) As used in this section, hunting includes trapping with a trapping license.

**NEW SECTION. Sec. 61. UNLAWFUL INTERFERING IN DEPARTMENT OPERATIONS.** (1) A person is guilty of unlawful interfering in department operations if the person prevents department employees from carrying out duties authorized by this title or Title 75 RCW, including but not limited to interfering in the operation of department vehicles, vessels, or aircraft.

(2) Unlawful interfering in department operations is a gross misdemeanor.

**NEW SECTION. Sec. 62. CRIMINAL WILDLIFE PENALTY ASSESSMENT FOR ILLEGALLY TAKEN OR POSSESSED WILDLIFE.** (1) If a person is convicted of violating section 10 of this act and that violation results in the death of wildlife listed in this section, the court shall require payment of the following amounts for each animal killed or possessed. This shall be a criminal wildlife penalty assessment that shall be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the public safety and education account.

(a) Moose, mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission, except for mountain caribou and grizzly bear as listed under (d) of this subsection

\$ 4,000

(b) Elk, deer, black bear, and cougar

\$ 2,000

(c) Trophy animal elk and deer

\$ 6,000

(d) Mountain caribou, grizzly bear, and trophy animal mountain sheep

\$12,000

(2) No forfeiture of bail may be less than the amount of the bail established for hunting during closed season plus the amount of the criminal wildlife penalty assessment in subsection (1) of this section.

(3) For the purpose of this section a "trophy animal" is:

(a) A buck deer with four or more antler points on both sides, not including eyeguards;

(b) A bull elk with five or more antler points on both sides, not including eyeguards; or

(c) A mountain sheep with a horn curl of three-quarter curl or greater.

For purposes of this subsection, "eyeguard" means an antler protrusion on the main beam of the antler closest to the eye of the animal.

(4) If two or more persons are convicted of illegally possessing wildlife in subsection (1) of this section, the criminal wildlife penalty assessment shall be imposed on them jointly and separately.

(5) The criminal wildlife penalty assessment shall be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this title. The criminal wildlife penalty assessment shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. This section may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(6) A defaulted criminal wildlife penalty assessment may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(7) A person assessed a criminal wildlife penalty assessment under this section shall have his or her hunting license revoked and all hunting privileges suspended until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

**NEW SECTION. Sec. 63. DISPOSITION OF FORFEITED WILDLIFE AND ARTICLES.** (1) Unless otherwise provided in this title or Title 75 RCW, fish, shellfish, or wildlife unlawfully taken or possessed, or involved in a violation shall be forfeited to the state upon conviction. Unless already held by, sold, destroyed, or disposed of by the department, the court shall order such fish or wildlife to be delivered to the department. Where delay will cause loss to the value of the property and a ready wholesale buying market exists, the department may sell property to a wholesale buyer at a fair market value.

(2) The department may use, sell, or destroy any other property forfeited by the court or the department. Any sale of other property shall be at public auction or after public advertisement reasonably designed to obtain the highest price. The time, place, and manner of holding the sale shall be determined by the director. The director may contract for the sale to be through the department of general administration as state surplus property, or, except where not justifiable by the value of the property, the director shall publish notice of the sale once a week for at least two consecutive weeks before the sale in at least one newspaper of general circulation in the county in which the sale is to be held. Proceeds of the sale shall be deposited in the state treasury to be credited to the state wildlife fund.

**NEW SECTION. Sec. 64. DEPARTMENT AUTHORITY TO REVOKE LICENSES.** (1) Upon any conviction of any violation of this chapter, the department may revoke any license, tag, or stamp, or other permit involved in the violation or held by the person convicted, in addition to other penalties provided by law.

(2) If the department orders that a license, tag, stamp, or other permit be revoked, that order is effective upon entry of the order and any such revoked license, tag, stamp, or other permit is void as a result of such order of revocation. The department shall order such license, tag, stamp, or other permit turned over to the department, and shall order the person not to acquire a replacement or duplicate for the remainder of the period for which the revoked license, tag, stamp, or other permit would have been valid. During this period when a license is revoked, the person is subject to punishment under this chapter. If the person appeals the sentence by the court, the revocation shall be effective during the appeal.

(3) If an existing license, tag, stamp, or other permit is voided and revoked under this chapter, the department and its agents shall not be required to refund or restore any fees, costs, or money paid for the license, nor shall any person have any right to bring a collateral appeal under chapter 34.05 RCW to attack the department order.

**NEW SECTION. Sec. 65. DEPARTMENT AUTHORITY TO SUSPEND PRIVILEGES--FORM AND PROCEDURE.** (1) If any crime in this chapter is punishable by a suspension of privileges, then the department shall issue an order that specifies the privileges suspended and period when such suspension shall begin and end. The department has no authority to issue licenses, permits, tags, or stamps for the suspended activity until the suspension ends and any license, tag, stamp, or other permission obtained in violation of an order of suspension is void and ineffective.

(2) A court sentence may include a suspension of privileges only if grounds are provided by statute. There is no right to seek reinstatement of privileges from the department during a period of court-ordered suspension.

(3) If this chapter makes revocation or suspension of privileges mandatory, then the department shall impose the punishment in addition to any other punishments authorized by law.

**NEW SECTION. Sec. 66. GROUNDS FOR DEPARTMENT REVOCATION AND SUSPENSION OF PRIVILEGES.** The department shall impose revocation and suspension of privileges upon conviction in the following circumstances:

(1) If directed by statute for an offense;

(2) If the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife. Such suspension of privileges may be permanent;

(3) If a person is convicted twice within ten years for a violation involving unlawful hunting, killing, or possessing big game, the department shall order revocation and suspension of all hunting privileges for two years. RCW 77.16.020 or 77.16.050 as it existed before the effective date of this section may comprise one of the convictions constituting the basis for revocation and suspension under this subsection;

(4) If a person is convicted three times in ten years of any violation of recreational hunting or fishing laws or rules, the department shall order a revocation and suspension of all recreational hunting and fishing privileges for two years;

(5) If a person is convicted twice within five years of a gross misdemeanor or felony involving unlawful commercial fish or shellfish harvesting, buying, or selling, the department shall impose a revocation and suspension of the person's commercial fishing privileges for one year. A commercial fishery license suspended under this subsection may not be used by an alternate operator or transferred during the period of suspension.

**Sec. 67.** RCW 77.16.135 and 1995 1st sp.s. c 2 s 43 are each amended to read as follows:

(1) The commission shall revoke all licenses and order a ten-year suspension of all privileges extended under ~~((Title 77 RCW))~~ the authority of the department of a person convicted of assault on a ~~((state wildlife agent))~~ fish and wildlife officer or other law enforcement officer provided that:

(a) The ~~((wildlife agent))~~ fish and wildlife officer or other law enforcement officer was on duty at the time of the assault; and

(b) The ~~((wildlife agent))~~ fish and wildlife officer or other law enforcement officer was enforcing the provisions of this title ~~((77 RCW))~~.

(2) For the purposes of this section, the definition of assault includes:

(a) RCW 9A.32.030; murder in the first degree;

(b) RCW 9A.32.050; murder in the second degree;

(c) RCW 9A.32.060; manslaughter in the first degree;

(d) RCW 9A.32.070; manslaughter in the second degree;

(e) RCW 9A.36.011; assault in the first degree;

(f) RCW 9A.36.021; assault in the second degree; and

(g) RCW 9A.36.031; assault in the third degree.

~~((3) For the purposes of this section, a conviction includes:~~

~~(a) A determination of guilt by the court;~~

~~(b) The entering of a guilty plea to the charge or charges by the accused;~~

~~(c) A forfeiture of bail or a vacation of bail posted to the court; or~~

~~(d) The imposition of a deferred or suspended sentence by the court.~~

~~(4) No license described under Title 77 RCW shall be reissued to a person violating this section for a minimum of ten years, at which time a person may petition the director for a reinstatement of his or her license or licenses. The ten-year period shall be tolled during any time the convicted person is incarcerated in any state or local correctional or penal institution, in community supervision, or home detention for an offense under this section. Upon review by the director, and if all provisions of the court that imposed sentencing have been completed, the director may reinstate in whole or in part the licenses and privileges under Title 77 RCW.)~~

**NEW SECTION. Sec. 68. DIRECTOR'S AUTHORITY TO SUSPEND PRIVILEGES.** (1) If a person shoots another person or domestic livestock while hunting, the director shall suspend all hunting privileges for three years. If the shooting of another person or livestock is the result of criminal negligence or reckless or intentional conduct, then the person's privileges shall be suspended for ten years. The suspension may be continued beyond these periods if damages owed to the victim or livestock owner have not been paid by the suspended person.

(2) If a person commits any assault upon employees, agents, or personnel acting for the department, the director shall suspend hunting or fishing privileges for ten years.

(3) Within twenty days of service of an order suspending privileges or imposing conditions under this section, a person may petition for administrative review under chapter 34.05 RCW by serving the director with a petition for review. The order is final and unappealable if there is no timely petition for administrative review.

(4) The commission may by rule authorize petitions for reinstatement of administrative suspensions and define circumstances under which reinstatement will be allowed.

**NEW SECTION. Sec. 69. CIVIL FORFEITURE OF PROPERTY USED FOR VIOLATION OF THIS CHAPTER.** (1) Fish and wildlife officers and ex officio fish and wildlife officers may seize without warrant boats, airplanes, vehicles, gear, appliances, or other articles they have probable cause to believe have been used in violation of this chapter. However, fish and wildlife officers may not seize any item or article, other than for evidence, if under the circumstances, it is reasonable to conclude that the violation was inadvertent. The property seized is subject to forfeiture to the state under this section regardless of ownership. Property seized may be recovered by its owner by depositing into court a cash bond equal to the value of the seized property but not more than twenty-five thousand dollars. Such cash bond is subject to forfeiture in lieu of the property. Forfeiture of property seized under this section is a civil forfeiture against property intended to be a remedial civil sanction.

(2) In the event of a seizure of property under this section, jurisdiction to begin the forfeiture proceedings shall commence upon seizure. Within fifteen days following the seizure, the seizing authority shall serve a written notice of intent to forfeit property on the owner of the property seized and on any person having any known right or interest in the property seized. Notice may be served by any method authorized by law or court rule, including service by certified mail with return receipt requested. Service by mail is deemed complete upon mailing within the fifteen-day period following the seizure.

(3) Persons claiming a right of ownership or right to possession of property are entitled to a hearing to contest forfeiture. Such a claim shall specify the claim of ownership or possession and shall be made in writing and served on the director within forty-five days of the seizure. If the seizing authority has complied with notice requirements and there is no claim made within forty-five days, then the property shall be forfeited to the state.

(4) If any person timely serves the director with a claim to property, the person shall be afforded an opportunity to be heard as to the person's claim or right. The hearing shall be before the director or director's designee, or before an administrative law judge appointed under chapter 34.12 RCW, except that a person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the property seized is more than five thousand dollars.

(5) The hearing to contest forfeiture and any subsequent appeal shall be as provided for in Title 34 RCW. The seizing authority has the burden to demonstrate that it had reason to believe the property was held with intent to violate or was used in violation of this title or rule of the commission or director. The person contesting forfeiture has the burden of production and proof by a preponderance of evidence that the person owns or has a right to possess the property and:

(a) That the property was not held with intent to violate or used in violation of this title or Title 75 RCW; or

(b) If the property is a boat, airplane, or vehicle, that the illegal use or planned illegal use of the boat, airplane, or vehicle occurred without the owner's knowledge or consent, and that the owner acted reasonably to prevent illegal uses of such boat, airplane, or vehicle.

(6) A forfeiture of a conveyance encumbered by a perfected security interest is subject to the interest of the secured party if the secured party neither had knowledge nor consented to the act or omission. No security interest in seized property may be perfected after seizure.

(7) If seized property is forfeited under this section the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release such property to the agency for the use of enforcing this title, or sell such property, and deposit the proceeds to the wildlife fund, as provided for in RCW 77.12.170.

**Sec. 70.** RCW 75.08.011 and 1996 c 267 s 2 are each amended to read as follows:

As used in this title or Title 77 RCW or rules ~~((of the department))~~ adopted under those titles, unless the context clearly requires otherwise:

(1) "Commission" means the fish and wildlife commission.

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

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

(4) "Person" means an individual or a public or private entity or organization. The term "person" includes local, state, and federal government agencies, and all business organizations, including corporations and partnerships.

(5) ~~((Fisheries patrol))~~ Fish and wildlife officer means a person appointed and commissioned by the commission, with authority to enforce this title, rules of the department, and other statutes as prescribed by the legislature. ~~((Fisheries patrol))~~ Fish and wildlife officers are peace officers. Fish and wildlife officer includes a person commissioned before the effective date of this section as a fisheries patrol officer.

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

(7) "To fish," "to harvest," and "to take" and their derivatives mean an effort to kill, injure, harass, or catch ~~((food))~~ fish or shellfish.

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

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

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

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

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

(13) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that have been classified and that shall not be fished for except as authorized by rule of the commission. The term "food fish" includes all stages of development and the bodily parts of food fish species.

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

(15) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in Title 77 RCW, and includes:

Scientific Name	Common Name
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<i>Oncorhynchus tshawytscha</i>	Chinook salmon
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<i>Oncorhynchus kisutch</i>	Coho salmon
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Oncorhynchus keta Chum salmon  
Oncorhynchus gorbuscha Pink salmon  
Oncorhynchus nerka Sockeye salmon

(16) "Commercial" means related to or connected with buying, selling, or bartering. Fishing for food fish or shellfish with gear unlawful for fishing for personal use, or possessing food fish or shellfish in excess of the limits permitted for personal use are commercial activities.

(17) "To process" and its derivatives mean preparing or preserving food fish or shellfish.

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

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

(20) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful fishing, taking, or possession of food fish or shellfish. "Open season" includes the first and last days of the established time.

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

(22) "Limited-entry license" means a license subject to a license limitation program established in chapter 75.30 RCW.

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

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

**Sec. 71.** RCW 75.08.160 and 1983 1st ex.s. c 46 s 19 are each amended to read as follows:

The director, ~~((fisheries patrol))~~ fish and wildlife officers, ex officio ~~((fisheries patrol))~~ fish and wildlife officers, and department employees may enter upon any land or waters and remain there while performing their duties without liability for trespass.

It is lawful for aircraft operated by the department to land and take off from the beaches or waters of the state. ~~((It is unlawful for a person to interfere with the operation of these aircraft.))~~

**Sec. 72.** RCW 75.08.274 and 1995 1st sp.s. c 2 s 15 are each amended to read as follows:

~~((Except by permit of))~~ The commission~~((, it is unlawful to))~~ may adopt rules to authorize issuance of permits to take food fish or shellfish for propagation or scientific purposes within state waters.

**Sec. 73.** RCW 75.08.295 and 1995 1st sp.s. c 2 s 17 are each amended to read as follows:

~~((Except by permit of))~~ The commission~~((, it is unlawful to))~~ may adopt rules to authorize issuance of permits to release, plant, or place food fish or shellfish in state waters.

**Sec. 74.** RCW 75.08.300 and 1985 c 457 s 12 are each amended to read as follows:

~~((1) It is unlawful for any))~~ A person other than the United States, an Indian tribe recognized as such by the federal government, the state, a subdivision of the state, or a municipal corporation or an agency of such a unit of government ~~((to))~~ shall not release salmon or steelhead trout into the public waters of the state and subsequently to recapture and commercially harvest such salmon or trout. This section shall not prevent any person from rearing salmon or steelhead trout in pens or in a confined area under circumstances where the salmon or steelhead trout are confined and never permitted to swim freely in open water.

~~((2) A violation of this section constitutes a gross misdemeanor.))~~

**Sec. 75.** RCW 75.12.010 and 1995 1st sp.s. c 2 s 25 are each amended to read as follows:

~~((1) (Except as provided in this section, it is unlawful to fish commercially for salmon within the waters described in subsection (2) of this section.))~~ The commission may authorize commercial fishing for sockeye salmon within the waters described in subsection (2) of this section only during the period June 10th to July 25th and for other salmon only from the second Monday of September through November 30th, except during the hours between 4:00 p.m. of Friday and 4:00 p.m. of the following Sunday.

(2) All waters east and south of a line commencing at a concrete monument on Angeles Point in Clallam county near the mouth of the Elwha River on which is inscribed "Angeles Point Monument" (latitude 48° 9' 3" north, longitude 123° 33' 01" west of Greenwich Meridian); thence running east on a line 81° 30' true across the flashlight and bell buoy off Partridge Point and thence continued to longitude 122° 40' west; thence north to the southerly shore of Sinclair Island; thence along the southerly shore of the island to the most easterly point of the island; thence 46° true to Carter Point, the most southerly point of Lummi Island; thence northwesterly along the westerly shore line of Lummi Island to where the shore line intersects line of longitude 122° 40' west; thence north to the mainland, including: The southerly portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and their inlets, passages, waters, waterways, and tributaries.



(3) (~~The commission may authorize commercial fishing for sockeye salmon within the waters described in subsection (2) of this section during the period June 10 to July 25 and for other salmon from the second Monday of September through November 30, except during the hours between 4:00 p.m. of Friday and 4:00 p.m. of the following Sunday.~~

(4)) The commission may authorize commercial fishing for salmon with gill net gear prior to the second Monday in September within the waters of Hale Passage, Bellingham Bay, Samish Bay, Padilla Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, and Similk Bay, to wit: Those waters northerly and easterly of a line commencing at Stanwood, thence along the south shore of Skagit Bay to Rocky Point on Camano Island; thence northerly to Polnell Point on Whidbey Island.

((5)) (4) Whenever the commission determines that a stock or run of salmon cannot be harvested in the usual manner, and that the stock or run of salmon may be in danger of being wasted and surplus to natural or artificial spawning requirements, the commission may authorize units of gill net and purse seine gear in any number or equivalents, by time and area, to fully utilize the harvestable portions of these salmon runs for the economic well being of the citizens of this state. Gill net and purse seine gear other than emergency and test gear authorized by the director shall not be used in Lake Washington.

((6)) (5) The commission may authorize commercial fishing for pink salmon in each odd-numbered year from August 1<sup>st</sup> through September 1<sup>st</sup> in the waters lying inside of a line commencing at the most easterly point of Dungeness Spit and thence projected to Point Partridge on Whidbey Island and a line commencing at Olele Point and thence projected easterly to Bush Point on Whidbey Island.

**Sec. 76.** RCW 75.12.015 and 1995 1st sp.s. c 2 s 26 are each amended to read as follows:

(~~Except as provided in this section, it is unlawful to fish commercially for chinook or coho salmon in the Pacific Ocean and the Straits of Juan de Fuca.~~)

(1) The commission may authorize commercial fishing for coho salmon in the Pacific Ocean and the Straits of Juan de Fuca only from June 16<sup>th</sup> through October 31<sup>st</sup>.

(2) The commission may authorize commercial fishing for chinook salmon in the Pacific Ocean and the Straits of Juan de Fuca only from March 15<sup>th</sup> through October 31<sup>st</sup>.

**Sec. 77.** RCW 75.12.040 and 1993 sp.s. c 2 s 27 are each amended to read as follows:

(1) (~~It is unlawful to~~) A person shall not use, operate, or maintain a gill net which exceeds (~~(250 fathoms))~~ 1500 feet in length or a drag seine in the waters of the Columbia river for catching salmon.

(2) (~~It is unlawful to~~) A person shall not construct, install, use, operate, or maintain within state waters a pound net, round haul net, lampara net, fish trap, fish wheel, scow fish wheel, set net, weir, or fixed appliance for catching salmon or steelhead. The director may authorize the use of this gear for scientific investigations.

(3) The department, in coordination with the Oregon department of fish and wildlife, shall adopt rules to regulate the use of monofilament in gill net webbing on the Columbia river.

**Sec. 78.** RCW 75.12.132 and 1984 c 80 s 5 are each amended to read as follows:

(1) (~~It is unlawful to fish for or take salmon commercially with a net within the waters of the tributaries and sloughs described in subsection (2) of this section which flow into or are connected with the Columbia river.~~

(2)) The (~~director~~) commission shall adopt rules defining geographical boundaries of the following Columbia river tributaries and sloughs:

- (a) Washougal river;
- (b) Camas slough;
- (c) Lewis river;
- (d) Kalama river;
- (e) Cowlitz river;
- (f) Elokomin river;
- (g) Elokomin sloughs;
- (h) Skamokawa sloughs;
- (i) Grays river;
- (j) Deep river;
- (k) Grays bay.

((3)) (2) The (~~director~~) commission may authorize commercial net fishing for salmon in the tributaries and sloughs from September 1<sup>st</sup> to November 30<sup>th</sup> only, if the time, areas, and level of effort are regulated in order to maximize the recreational fishing opportunity while minimizing excess returns of fish to hatcheries. The (~~director~~) commission shall not authorize commercial net fishing if a significant catch of steelhead would occur.

**Sec. 79.** RCW 75.12.140 and 1983 1st ex.s. c 46 s 59 are each amended to read as follows:

(~~It is unlawful to fish for salmon with~~) The commission shall not authorize use of reef net fishing gear (~~(in state waters,)~~) except in the reef net areas described in this section.

(1) Point Roberts reef net fishing area includes those waters within 250 feet on each side of a line projected 129° true from a point at longitude 123° 01' 15" W. latitude 48° 58' 38" N. to a point one mile distant, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6300, published September, 1941, in Washington, D.C., eleventh edition.

(2) Cherry Point reef net fishing area includes those waters inland and inside the 10-fathom line between lines projected 205° true from points on the mainland at longitude 122° 44' 54" latitude 48° 51' 48" and longitude 122° 44' 18" latitude 48° 51' 33", a [as] such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(3) Lummi Island reef net fishing area includes those waters inland and inside a line projected from Village Point 208° true to a point 900 yards distant, thence 129° true to the point of intersection with a line projected 259° true from the shore of Lummi Island 122° 40' 42" latitude 48° 41' 32", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition, revised 11-25-57, save and except that there shall be excluded therefrom all waters lying inside of a line projected 259° true from a point at 122° 40' 42" latitude 48° 41' 32" to a point 300 yards distant from high tide, thence in a northerly direction to the United States Coast and Geodetic Survey reference mark number 2, 1941-1950, located on that point on Lummi Island known as Lovers Point, as such descriptions are shown upon the United States Coast and Geodetic Survey map number 6380 as aforesaid. The term "Village Point" as used herein shall be construed to mean a point of location on Village Point, Lummi Island, at the mean high tide line on a true bearing of 43° 53' a distance of 457 feet to the center of the chimney of a wood frame house on the east side of the county road. Said chimney and house being described as Village Point Chimney on page 612 of the United States Coast and Geodetic Survey list of geographic positions No. G-5455, Rosario Strait.

(4) Sinclair Island reef net fishing area includes those waters inland and inside a line projected from the northern point of Sinclair Island to Boulder reef, thence 200° true to the northwesterly point of Sinclair Island, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(5) Flat Point reef net fishing area includes those waters within a radius of 175 feet of a point off Lopez Island located at longitude 122° 55' 24" latitude 48° 32' 33", as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(6) Lopez Island reef net fishing area includes those waters within 400 yards of shore between lines projected true west from points on the shore of Lopez Island at longitude 122° 55' 04" latitude 48° 31' 59" and longitude 122° 55' 54" latitude 48° 30' 55", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(7) Iceberg Point reef net fishing area includes those waters inland and inside a line projected from Davis Point on Lopez Island to the west point of Long Island, thence to the southern point of Hall Island, thence to the eastern point at the entrance to Jones Bay, and thence to the southern point at the entrance to Mackaye Harbor on Lopez Island; and those waters inland and inside a line projected 320° from Iceberg Point light on Lopez Island, a distance of 400 feet, thence easterly to the point on Lopez Island at longitude 122° 53' 00" latitude 48° 25' 39", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(8) Aleck Bay reef net fishing area includes those waters inland and inside a line projected from the southwestern point at the entrance to Aleck Bay on Lopez Island at longitude 122° 51' 11" latitude 48° 25' 14" southeasterly 800 yards to the submerged rock shown on U.S.G.S. map number 6380, thence northerly to the cove on Lopez Island at longitude 122° 50' 49" latitude 48° 25' 42", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(9) Shaw Island reef net fishing area number 1 includes those waters within 300 yards of shore between lines projected true south from points on Shaw Island at longitude 122° 56' 14" latitude 48° 33' 28" and longitude 122° 57' 29" latitude 48° 32' 58", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(10) Shaw Island reef net fishing area number 2 includes those waters inland and inside a line projected from Point George on Shaw Island to the westerly point of Neck Point on Shaw Island, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(11) Stuart Island reef net fishing area number 1 includes those waters within 600 feet of the shore of Stuart Island between lines projected true east from points at longitude 123° 10' 47" latitude 48° 39' 47" and longitude 123° 10' 47" latitude 48° 39' 33", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(12) Stuart Island reef net fishing area number 2 includes those waters within 250 feet of Gossip Island, also known as Happy Island, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(13) Johns Island reef net fishing area includes those waters inland and inside a line projected from the eastern point of Johns Island to the northwestern point of Little Cactus Island, thence northwesterly to a point on Johns Island at longitude 123° 09' 24" latitude 48° 39' 59", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(14) Battleship Island reef net fishing area includes those waters lying within 350 feet of Battleship Island, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(15) Open Bay reef net fishing area includes those waters lying within 150 feet of shore between lines projected true east from a point on Henry Island at longitude 123° 11' 34 1/2" latitude 48° 35' 27 1/2" at a point 250 feet south, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(16) Mitchell Reef net fishing area includes those waters within a line beginning at the rock shown on U.S.G.S. map number 6380 at longitude 123° 10' 56" latitude 48° 34' 49 1/2", and projected 50 feet northwesterly, thence southwesterly 250 feet, thence southeasterly 300 feet, thence northeasterly 250 feet, thence to the point of beginning, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(17) Smugglers Cove reef fishing area includes those waters within 200 feet of shore between lines projected true west from points on the shore of San Juan Island at longitude 123° 10' 29" latitude 48° 33' 50" and longitude 123° 10' 31" latitude 48° 33' 45", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(18) Andrews Bay reef net fishing area includes those waters lying within 300 feet of the shore of San Juan Island between a line projected true south from a point at the northern entrance of Andrews Bay at longitude 123° 09' 53 1/2" latitude 48° 33' 00" and the cable crossing sign in Andrews Bay, at longitude 123° 09' 45" latitude 48° 33' 04", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(19) Orcas Island reef net fishing area includes those waters inland and inside a line projected true west a distance of 1,000 yards from the shore of Orcas Island at longitude 122° 57' 40" latitude 48° 41' 06" thence northeasterly to a point 500 feet true west of Point Doughty, then true east to Point Doughty, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

**Sec. 80.** RCW 75.12.210 and 1993 c 20 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, ~~((it is unlawful to fish for or take salmon with))~~ the commission shall not authorize gear other than troll gear or angling gear for taking salmon within the offshore waters or the waters of the Pacific Ocean over which the state has jurisdiction lying west of the following line: Commencing at the point of intersection of the international boundary line in the Strait of Juan de Fuca and a line drawn between the lighthouse on Tatoosh Island in Clallam County and Bonilla Point on Vancouver Island; thence southerly to the lighthouse on Tatoosh Island; thence southerly to the most westerly point of Cape Flattery; thence southerly along the state shoreline of the Pacific Ocean, crossing any river mouths at their most westerly points of land, to Point Brown at the entrance to Grays Harbor; thence southerly to Point Chehalis Light on Point Chehalis; thence southerly from Point Chehalis along the state shoreline of the Pacific Ocean to the Cape Shoalwater tower at the entrance to Willapa Bay; thence southerly to Leadbetter Point; thence southerly along the state shoreline of the Pacific Ocean to the inshore end of the North jetty at the entrance to the Columbia River; thence southerly to the knuckle of the South jetty at the entrance to said river.

(2) The ~~((director))~~ commission may authorize the use of nets for taking salmon in the waters described in subsection (1) of this section for scientific investigations.

**Sec. 81.** RCW 75.12.230 and 1983 1st ex.s. c 46 s 61 are each amended to read as follows:

Within the waters described in RCW 75.12.210, ~~((it is unlawful to))~~ a person shall not transport or possess salmon on board a vessel carrying fishing gear of a type other than troll lines or angling gear, unless accompanied by a certificate issued by a state or country showing that the salmon have been lawfully taken within the territorial waters of the state or country.

**Sec. 82.** RCW 75.12.390 and 1989 c 172 s 1 are each amended to read as follows:

The commission shall not authorize commercial bottom trawling for food fish and shellfish ~~((is unlawful))~~ in all areas of Hood Canal south of a line projected from Tala Point to Foulweather Bluff and in Puget Sound south of a line projected from Foulweather Bluff to Double Bluff and including all marine waters east of Whidbey Island and Camano Island.

**Sec. 83.** RCW 75.12.440 and 1993 c 340 s 50 are each amended to read as follows:

~~((It is unlawful to use))~~ The commission shall not authorize any commercial fisher to use more than fifty shrimp pots while commercially fishing for shrimp in that portion of Hood Canal lying south of the Hood Canal floating bridge.

**Sec. 84.** RCW 75.12.650 and 1996 c 267 s 24 are each amended to read as follows:

~~((It is unlawful to fish commercially for salmon using fishing gear not authorized for commercial salmon fishing by rule of the department.))~~ The commission shall not authorize angling gear or other personal use gear for commercial salmon fishing.

**Sec. 85.** RCW 75.20.040 and 1983 1st ex.s. c 46 s 70 are each amended to read as follows:

A diversion device used for conducting water from a lake, river, or stream for any purpose shall be equipped with a fish guard approved by the director to prevent the passage of fish into the diversion device. The fish guard shall be maintained at all times when water is taken into the diversion device. The fish guards shall be installed at places and times prescribed by the director upon thirty days' notice to the owner of the diversion device. ~~((It is unlawful for the owner of a diversion device to fail to comply with this section.))~~

Each day the diversion device is not equipped with an approved fish guard is a separate offense. If within thirty days after notice to equip a diversion device the owner fails to do so, the director may take possession of the diversion device and close the device until it is properly equipped. Expenses incurred by the department constitute the value of a lien upon the diversion device and upon the real and personal property of the owner. Notice of the lien shall be filed and recorded in the office of the county auditor of the county in which the action is taken.

**Sec. 86.** RCW 75.20.060 and 1983 1st ex.s. c 46 s 72 are each amended to read as follows:

A dam or other obstruction across or in a stream shall be provided with a durable and efficient fishway approved by the director. Plans and specifications shall be provided to the department prior to the director's approval. The fishway shall be maintained in an effective condition and continuously supplied with sufficient water to freely pass fish. ~~((It is unlawful for the owner, manager, agent, or person in charge of the dam or obstruction to fail to comply with this section.))~~

If a person fails to construct and maintain a fishway or to remove the dam or obstruction in a manner satisfactory to the director, then within thirty days after written notice to comply has been served upon the owner, his agent, or the person in charge, the director may construct a fishway or remove the dam or obstruction. Expenses incurred by the department constitute the value of a lien upon the dam and upon the personal property of the person owning the dam. Notice of the lien shall be filed and recorded in the office of the county auditor of the county in which the dam or obstruction is situated. The lien may be foreclosed in an action brought in the name of the state.

If, within thirty days after notice to construct a fishway or remove a dam or obstruction, the owner, his agent, or the person in charge fails to do so, the dam or obstruction is a public nuisance and the director may take possession of the dam or obstruction and destroy it. No liability shall attach for the destruction.

**Sec. 87.** RCW 75.20.100 and 1997 c 385 s 1 and 1997 c 290 s 4 are each reenacted and amended to read as follows:

(1) In the event that any person or government agency desires to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, such person or government agency shall, before commencing construction or work thereon and to ensure the proper protection of fish life, secure the approval of the department as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld.

(2)(a) Except as provided in RCW 75.20.1001, the department shall grant or deny approval of a standard permit within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the state environmental policy act, made in the manner prescribed in this section.

(b) The applicant may document receipt of application by filing in person or by registered mail. A complete application for approval shall contain general plans for the overall project, complete plans and specifications of the proposed construction or work within the mean higher high water line in salt water or within the ordinary high water line in fresh water, and complete plans and specifications for the proper protection of fish life.

(c) The forty-five day requirement shall be suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection; or

(iii) The applicant requests delay. Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(d) For purposes of this section, "standard permit" means a written permit issued by the department when the conditions under subsections (3) and ~~((6))~~(5)(b) of this section are not met.

(3)(a) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources. Expedited permit requests require a complete written application as provided in subsection (2)(b) of this section and shall be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance.

(b) For the purposes of this subsection, "imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(d) The department or the county legislative authority may determine if an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists.

(4) Approval of a standard permit is valid for a period of up to five years from date of issuance. The permittee must demonstrate substantial progress on construction of that portion of the project relating to the approval within two years of the date of issuance. If the department denies approval, the department shall provide the applicant, in writing, a statement of the specific reasons why and how the proposed project would adversely affect fish life. Protection of fish life shall be the only ground upon which approval may be denied or conditioned. Chapter 34.05 RCW applies to any denial of project approval, conditional approval, or requirements for project modification upon which approval may be contingent.

(5) ~~((If any person or government agency commences construction on any hydraulic works or projects subject to this section without first having obtained approval of the department as to the adequacy of the means proposed for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, the person or director of~~

~~the agency is guilty of a gross misdemeanor. If any such person or government agency is convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.~~

~~(6))~~(a) In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department, through its authorized representatives, shall issue immediately, upon request, oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written approval prior to commencing work. Conditions of an oral approval to protect fish life shall be established by the department and reduced to writing within thirty days and complied with as provided for in this section. Oral approval shall be granted immediately, upon request, for a stream crossing during an emergency situation.

(b) For purposes of this section and RCW 75.20.103, "emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(c) The department or the county legislative authority may declare and continue an emergency when one or more of the criteria under (b) of this subsection are met. The county legislative authority shall immediately notify the department if it declares an emergency under this subsection.

~~((7))~~ (6) The department shall, at the request of a county, develop five-year maintenance approval agreements, consistent with comprehensive flood control management plans adopted under the authority of RCW 86.12.200, or other watershed plan approved by a county legislative authority, to allow for work on public and private property for bank stabilization, bridge repair, removal of sand bars and debris, channel maintenance, and other flood damage repair and reduction activity under agreed-upon conditions and times without obtaining permits for specific projects.

~~((8))~~ (7) This section shall not apply to the construction of any form of hydraulic project or other work which diverts water for agricultural irrigation or stock watering purposes authorized under or recognized as being valid by the state's water codes, or when such hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020. These irrigation or stock watering diversion and streambank stabilization projects shall be governed by RCW 75.20.103.

A landscape management plan approved by the department and the department of natural resources under RCW 76.09.350(2), shall serve as a hydraulic project approval for the life of the plan if fish are selected as one of the public resources for coverage under such a plan.

~~((9))~~ (8) For the purposes of this section and RCW 75.20.103, "bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

~~((10))~~ (9) The phrase "to construct any form of hydraulic project or perform other work" does not include the act of driving across an established ford. Driving across streams or on wetted stream beds at areas other than established fords requires approval. Work within the ordinary high water line of state waters to construct or repair a ford or crossing requires approval.

**Sec. 88.** RCW 75.20.103 and 1993 sp.s. c 2 s 32 are each amended to read as follows:

In the event that any person or government agency desires to construct any form of hydraulic project or other work that diverts water for agricultural irrigation or stock watering purposes, or when such hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, and when such diversion or streambank stabilization will use, divert, obstruct, or change the natural flow or bed of any river or stream or will utilize any waters of the state or materials from the stream beds, the person or government agency shall, before commencing construction or work thereon and to ensure the proper protection of fish life, secure a written approval from the department as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld. Except as provided in RCW 75.20.1001 (~~and 75.20.1002~~), the department shall grant or deny the approval within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the state environmental policy act, made in the manner prescribed in this section. The applicant may document receipt of application by filing in person or by registered mail. A complete application for an approval shall contain general plans for the overall project, complete plans and specifications of the proposed construction or work within ordinary high water line, and complete plans and specifications for the proper protection of fish life. The forty-five day requirement shall be suspended if (1) after ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project; (2) the site is physically inaccessible for inspection; or (3) the applicant requests delay.

Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

An approval shall remain in effect without need for periodic renewal for projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. Approval for streambank stabilization projects shall remain in effect without need for periodic renewal if the problem causing the need for the streambank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the approval.

The permittee must demonstrate substantial progress on construction of that portion of the project relating to the approval within two years of the date of issuance. If the department denies approval, the department shall provide the applicant, in writing, a statement of the specific

reasons why and how the proposed project would adversely affect fish life. Protection of fish life shall be the only ground upon which approval may be denied or conditioned. Issuance, denial, conditioning, or modification shall be appealable to the hydraulic appeals board established in RCW 43.21B.005 within thirty days of the notice of decision. The burden shall be upon the department to show that the denial or conditioning of an approval is solely aimed at the protection of fish life.

The department may, after consultation with the permittee, modify an approval due to changed conditions. The modifications shall become effective unless appealed to the hydraulic appeals board within thirty days from the notice of the proposed modification. The burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

A permittee may request modification of an approval due to changed conditions. The request shall be processed within forty-five calendar days of receipt of the written request. A decision by the department may be appealed to the hydraulic appeals board within thirty days of the notice of the decision. The burden is on the permittee to show that changed conditions warrant the requested modification and that such modification will not impair fish life.

~~(If any person or government agency commences construction on any hydraulic works or projects subject to this section without first having obtained written approval of the department as to the adequacy of the means proposed for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, the person or director of the agency is guilty of a gross misdemeanor. If any such person or government agency is convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.)~~

In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department, through its authorized representatives, shall issue immediately upon request oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written approval prior to commencing work. Conditions of an oral approval shall be reduced to writing within thirty days and complied with as provided for in this section.

For purposes of this chapter, "streambank stabilization" shall include but not be limited to log and debris removal, bank protection (including riprap, jetties, and groins), gravel removal and erosion control.

**Sec. 89.** RCW 75.20.110 and 1995 1st sp.s. c 2 s 27 are each amended to read as follows:

(1) Except for the north fork of the Lewis river and the White Salmon river, all streams and rivers tributary to the Columbia river downstream from McNary dam are established as an anadromous fish sanctuary. This sanctuary is created to preserve and develop the food fish and game fish resources in these streams and rivers and to protect them against undue industrial encroachment.

(2) Within the sanctuary area:

(a) ~~(It is unlawful)~~ The department shall not issue hydraulic project approval to construct a dam greater than twenty-five feet high within the migration range of anadromous fish as determined by the ~~((commission))~~ department.

(b) ~~(Except by order of the commission, it is unlawful to)~~ A person shall not divert water from rivers and streams in quantities that will reduce the respective stream flow below the annual average low flow, based upon data published in United States geological survey reports.

(3) The commission may acquire and abate a dam or other obstruction, or acquire any water right vested on a sanctuary stream or river, which is in conflict with the provisions of subsection (2) of this section.

(4) Subsection (2)(a) of this section does not apply to the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers.

**Sec. 90.** RCW 75.24.080 and 1983 1st ex.s. c 46 s 83 are each amended to read as follows:

The director may designate as "restricted shellfish areas" those areas in which infection or infestation of shellfish is present. ~~((Except by))~~ A permit ~~((of))~~ issued by the director ~~((-it))~~ is ~~((unlawful))~~ required to transplant or transport into or out of a restricted area shellfish or equipment used in culturing, taking, handling, or processing shellfish.

**Sec. 91.** RCW 75.24.100 and 1995 1st sp.s. c 2 s 29 are each amended to read as follows:

(1) ~~((It is unlawful))~~ The department may not authorize a person to take geoduck clams for commercial purposes outside the harvest area designated in a current department of natural resources geoduck harvesting agreement issued under RCW 79.96.080. ~~((It is unlawful to commercially))~~ The department may not authorize commercial harvest of geoduck clams from bottoms that are shallower than eighteen feet below mean lower low water (0.0. ft.), or that lie in an area bounded by the line of ordinary high tide (mean high tide) and a line two hundred yards seaward from and parallel to the line of ordinary high tide. This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

(2) Commercial geoduck harvesting shall be done with a hand-held, manually operated water jet or suction device guided and controlled from under water by a diver. Periodically, the commission shall determine the effect of each type or unit of gear upon the geoduck population or the substrate they inhabit. The commission may require modification of the gear or stop its use if it is being operated in a wasteful or destructive manner or if its operation may cause permanent damage to the bottom or adjacent shellfish populations.

**Sec. 92.** RCW 75.24.110 and 1983 1st ex.s. c 46 s 87 are each amended to read as follows:

~~((It is unlawful for))~~ The department may not authorize a person to import oysters or oyster seed into this state for the purpose of planting them in state waters without a permit from the director. The director shall issue a permit only after an adequate inspection has been made and the oysters or oyster seed are found to be free of disease, pests, and other substances which might endanger oysters in state waters.

**Sec. 93.** RCW 75.28.010 and 1997 c 58 s 883 are each amended to read as follows:

(1) Except as otherwise provided by this title, ~~((it is unlawful to))~~ a person may not engage in any of the following activities without a license or permit issued by the director:

- (a) Commercially fish for or take food fish or shellfish;
- (b) Deliver food fish or shellfish taken in offshore waters;
- (c) Operate a charter boat or commercial fishing vessel engaged in a fishery;
- (d) Engage in processing or wholesaling food fish or shellfish; or
- (e) Act as a guide for salmon for personal use in freshwater rivers and streams, other than that part of the Columbia river below the bridge at Longview.

(2) No person may engage in the activities described in subsection (1) of this section unless the licenses or permits required by this title are in the person's possession, and the person is the named license holder or an alternate operator designated on the license and the person's license is not suspended.

(3) A valid Oregon license that is equivalent to a license under this title is valid in the concurrent waters of the Columbia river if the state of Oregon recognizes as valid the equivalent Washington license. The director may identify by rule what Oregon licenses are equivalent.

(4) No license or permit is required for the production or harvesting of private sector cultured aquatic products as defined in RCW 15.85.020 or for the delivery, processing, or wholesaling of such aquatic products. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, the exemption from licensing or permit requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

**Sec. 94.** RCW 75.28.045 and 1993 c 340 s 7 are each amended to read as follows:

This section applies to all commercial fishery licenses, delivery licenses, and charter licenses.

(1) An applicant for a license subject to this section may designate a vessel to be used with the license. Except for emergency salmon delivery licenses, the director may issue a license regardless of whether the applicant designates a vessel. An applicant may designate no more than one vessel on a license subject to this section.

(2) A license for a fishery that requires a vessel authorizes no taking or delivery of food fish or shellfish unless a vessel is designated on the license. A delivery license authorizes no delivery of food fish or shellfish unless a vessel is designated on the license.

~~(3) ((It is unlawful to take food fish or shellfish in a fishery that requires a vessel except from a vessel designated on a commercial fishery license for that fishery.~~

~~(4) It is unlawful to operate a vessel as a charter boat unless the vessel is designated on a charter license.~~

~~(5))~~ No vessel may be designated on more than one commercial fishery license unless the licenses are for different fisheries. No vessel may be designated on more than one delivery license, on more than one salmon charter license, or on more than one nonsalmon charter license.

**Sec. 95.** RCW 75.28.095 and 1997 c 76 s 2 are each amended to read as follows:

(1) The director shall issue the charter licenses and angler permits listed in this section according to the requirements of this title. The licenses and permits and their annual fees and surcharges are:

License or Permit Annual Fee Governing  
(RCW 75.50.100 Surcharge) Section

Resident Nonresident

- (a) Nonsalmon charter \$225 \$375
- (b) Salmon charter \$380 \$685 RCW 75.30.065  
(plus \$100) (plus \$100)
- (c) Salmon angler \$ 0 \$ 0 RCW 75.30.070
- (d) Salmon roe \$ 95 \$ 95 RCW 75.28.690

~~(2) ((Except as provided in subsection (5) of this section, it is unlawful to operate a vessel as a charter boat from which salmon or salmon and other food fish or shellfish are taken without a salmon charter license designating the vessel))~~ A salmon charter license designating a vessel is required to operate a charter boat to take salmon, other food fish, and shellfish. The director may issue a salmon charter license only to a person who meets the qualifications of RCW 75.30.065.

(3) (~~Except as provided in subsections (2) and (5) of this section, it is unlawful to operate a vessel as a charter boat from which food fish or shellfish are taken without a nonsalmon charter license~~) A nonsalmon charter license designating a vessel is required to operate a charter boat to take food fish other than salmon and shellfish. As used in this subsection, "food fish" does not include salmon.

(4) "Charter boat" means a vessel from which persons may, for a fee, fish for food fish or shellfish for personal use, and that brings food fish or shellfish into state ports or brings food fish or shellfish taken from state waters into United States ports. The director may specify by rule when a vessel is a "charter boat" within this definition. "Charter boat" does not mean a vessel used by a guide for clients fishing for food fish for personal use in freshwater rivers, streams, and lakes, other than Lake Washington or that part of the Columbia River below the bridge at Longview.

(5) A charter boat licensed in Oregon may fish without a Washington charter license under the same rules as Washington charter boat operators in ocean waters within the jurisdiction of Washington state from the southern border of the state of Washington to Leadbetter Point, as long as the Oregon vessel does not land at any Washington port with the purpose of taking on or discharging passengers. The provisions of this subsection shall be in effect as long as the state of Oregon has reciprocal laws and regulations.

(6) A salmon charter license under subsection (1)(b) of this section may be renewed if the license holder notifies the department by May 1st of that year that he or she will not participate in the fishery during that calendar year. The license holder must pay the one hundred-dollar enhancement surcharge, plus a fifteen-dollar handling charge, in order to be considered a valid renewal and eligible to renew the license the following year.

**Sec. 96.** RCW 75.28.113 and 1994 c 260 s 22 are each amended to read as follows:

(1) (~~It is unlawful to deliver salmon taken in offshore waters to a place or port in the state without~~) A salmon delivery license (from the director) is required to deliver salmon taken in offshore waters to a place or port in the state. The annual fee for a salmon delivery license is three hundred eighty dollars for residents and six hundred eighty-five dollars for nonresidents. The annual surcharge under RCW 75.50.100 is one hundred dollars for each license. Holders of nonlimited entry delivery licenses issued under RCW 75.28.125 may apply the nonlimited entry delivery license fee against the salmon delivery license fee.

(2) Only a person who meets the qualifications established in RCW 75.30.120 may hold a salmon delivery license issued under this section.

(3) A salmon delivery license authorizes no taking of salmon or other food fish or shellfish from the waters of the state.

(4) If the director determines that the operation of a vessel under a salmon delivery license results in the depletion or destruction of the state's salmon resource or the delivery into this state of salmon products prohibited by law, the director may revoke the license under the procedures of chapter 34.05 RCW.

**Sec. 97.** RCW 75.28.125 and 1994 c 260 s 21 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, (~~it is unlawful to deliver with~~) a person may not use a commercial fishing vessel to deliver food fish or shellfish taken in offshore waters to a port in the state without a nonlimited entry delivery license. As used in this section, "food fish" does not include salmon. As used in this section, "shellfish" does not include ocean pink shrimp or coastal crab. The annual license fee for a nonlimited entry delivery license is one hundred ten dollars for residents and two hundred dollars for nonresidents.

(2) Holders of salmon troll fishery licenses issued under RCW 75.28.110, salmon delivery licenses issued under RCW 75.28.113, crab pot fishery licenses issued under RCW 75.28.130, food fish trawl—Non-Puget Sound fishery licenses issued under RCW 75.28.120, Dungeness crab—coastal fishery licenses, ocean pink shrimp delivery licenses, and shrimp trawl—Non-Puget Sound fishery licenses issued under RCW 75.28.130 may deliver food fish or shellfish taken in offshore waters without a nonlimited entry delivery license.

(3) A nonlimited entry delivery license authorizes no taking of food fish or shellfish from state waters.

**Sec. 98.** RCW 75.28.710 and 1993 c 340 s 26 are each amended to read as follows:

(1) (~~It is unlawful to~~) A person shall not offer or perform the services of a professional salmon guide in the taking of salmon for personal use in freshwater rivers and streams, other than in that part of the Columbia river below the bridge at Longview, without a professional salmon guide license.

(2) Only an individual at least sixteen years of age may hold a professional salmon guide license. No individual may hold more than one professional salmon guide license.

**Sec. 99.** RCW 75.28.740 and 1993 c 340 s 18 are each amended to read as follows:

(1) The director may by rule designate a fishery as an emerging commercial fishery. The director shall include in the designation whether the fishery is one that requires a vessel.

(2) "Emerging commercial fishery" means the commercial taking of a newly classified species of food fish or shellfish, the commercial taking of a classified species with gear not previously used for that species, or the commercial taking of a classified species in an area from which that species has not previously been commercially taken. Any species of food fish or shellfish commercially harvested in Washington state as of June 7, 1990, may be designated as a species in an emerging commercial fishery, except that no fishery subject to a license limitation program in chapter 75.30 RCW may be designated as an emerging commercial fishery.

(3) (~~It is unlawful to~~) A person shall not take food fish or shellfish in a fishery designated as an emerging commercial fishery without an emerging commercial fishery license and a permit from the director. The director shall issue two types of permits to accompany



emerging commercial fishery licenses: Trial fishery permits and experimental fishery permits. Trial fishery permits are governed by subsection (4) of this section. Experimental fishery permits are governed by RCW 75.30.220.

(4) The director shall issue trial fishery permits for a fishery designated as an emerging commercial fishery unless the director determines there is a need to limit the number of participants under RCW 75.30.220. A person who meets the qualifications of RCW 75.28.020 may hold a trial fishery permit. The holder of a trial fishery permit shall comply with the terms of the permit. Trial fishery permits are not transferable from the permit holder to any other person.

**Sec. 100.** RCW 75.30.070 and 1993 c 340 s 29 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, ~~((it is unlawful to))~~ a person shall not operate a vessel as a charter boat from which salmon are taken in salt water without an angler permit. The angler permit shall specify the maximum number of persons that may fish from the charter boat per trip. The angler permit expires if the salmon charter license is not renewed.

(2) Only a person who holds a salmon charter license issued under RCW 75.28.095 and 75.30.065 may hold an angler permit.

(3) An angler permit shall not be required for charter boats licensed in Oregon and fishing in ocean waters within the jurisdiction of Washington state from the southern border of the state of Washington to Leadbetter Point under the same regulations as Washington charter boat operators, as long as the Oregon vessel does not land at any Washington port with the purpose of taking on or discharging passengers. The provisions of this subsection shall be in effect as long as the state of Oregon has reciprocal laws and regulations.

**Sec. 101.** RCW 75.30.130 and 1997 c 233 s 1 and 1997 c 115 s 1 are each reenacted and amended to read as follows:

(1) ~~((It is unlawful to))~~ A person shall not commercially take Dungeness crab (Cancer magister) in Puget Sound without first obtaining a Dungeness crab--Puget Sound fishery license. As used in this section, "Puget Sound" has the meaning given in RCW 75.28.110(5)(a). A Dungeness crab--Puget Sound fishery license is not required to take other species of crab, including red rock crab (Cancer productus).

(2) Except as provided in subsections (3) and (6) of this section, after January 1, 1982, the director shall issue no new Dungeness crab--Puget Sound fishery licenses. Only a person who meets the following qualification may renew an existing license: The person shall have held the Dungeness crab--Puget Sound fishery license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and shall not have subsequently transferred the license to another person.

(3) Where the person failed to obtain the license during the previous year because of a license suspension, the person may qualify for a license by establishing that the person held such a license during the last year in which the license was not suspended.

(4) This section does not restrict the issuance of commercial crab licenses for areas other than Puget Sound or for species other than Dungeness crab.

(5) Dungeness crab--Puget Sound fishery licenses are transferable from one license holder to another.

(6) If fewer than one hundred twenty-five persons are eligible for Dungeness crab--Puget Sound fishery licenses, the director may accept applications for new licenses. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain one hundred twenty-five licenses in the Puget Sound Dungeness crab fishery. The director shall adopt rules governing the application, selection, and issuance procedures for new Dungeness crab--Puget Sound fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050.

**Sec. 102.** RCW 75.30.140 and 1993 c 340 s 35 are each amended to read as follows:

(1) ~~((It is unlawful to))~~ A person shall not fish commercially for herring in state waters without a herring fishery license. As used in this section, "herring fishery license" means any of the following commercial fishery licenses issued under RCW 75.28.120: Herring dip bag net; herring drag seine; herring gill net; herring lampara; herring purse seine.

(2) Except as provided in this section, a herring fishery license may be issued only to a person who

~~(a) Established initial eligibility for a herring fishery license as provided in subsection (3) of this section or acquired such a license by transfer;~~

~~(b) Held a herring fishery license during the previous year or acquired such a license by transfer; and~~

~~(c) Has not subsequently transferred the license to another person.~~

(3) A person may establish initial eligibility for a herring fishery license by:

~~(a) Documenting to the department that the person landed herring during the period January 1, 1971, through April 15, 1973;~~

~~(b) Documenting to the department that the person landed herring during the period January 1, 1969, through December 31, 1970, if the person was in the armed forces of the United States during the period January 1, 1971, through April 15, 1973; or~~

~~(c) Applying to the department and qualifying for a herring fishery license under hardship criteria established by rule of the director.~~

~~Landings may be documented only by a department fish receiving ticket.~~

(4) A herring fishery license may be issued only for the type of fishing gear used to establish initial eligibility for the license.

(5) The director may establish rules governing the administration of this section based upon recommendations of a board of review established under RCW 75.30.050.

(6) Except as provided in subsection (8) of this section, after January 1, 1995, the director shall issue no new herring fishery licenses. After January 1, 1995, a person may renew an existing license only if the person held the license sought to be renewed during the previous year

or acquired the license by transfer from someone who held it during the previous year, and if the person has not subsequently transferred the license to another person.

~~((7))~~ (3) Herring fishery licenses may be renewed each year. A herring fishery license that is not renewed each year shall not be renewed further.

~~((8))~~ (4) The department may issue additional herring fishery licenses if the stocks of herring will not be jeopardized by granting additional licenses.

~~((9))~~ (5) Subject to the restrictions of ~~(section 11 of this act)~~ RCW 75.28.011, herring fishery licenses are transferable from one license holder to another.

**Sec. 103.** RCW 75.30.160 and 1993 c 340 s 38 are each amended to read as follows:

~~(It is unlawful to)~~ A person shall not commercially take whiting from areas that the department designates within the waters described in RCW 75.28.110(5)(a) without a whiting--Puget Sound fishery license.

**Sec. 104.** RCW 75.30.210 and 1993 c 340 s 41 are each amended to read as follows:

(1) ~~(It is unlawful to)~~ A person shall not commercially take any species of sea urchin using shellfish diver gear without first obtaining a sea urchin dive fishery license.

(2) Except as provided in subsections (3) and (6) of this section, after December 31, 1991, the director shall issue no new sea urchin dive fishery licenses. Only a person who meets the following qualifications may renew an existing license:

(a) The person shall have held the sea urchin dive fishery license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year; and

(b) The person shall document, by valid shellfish receiving tickets issued by the department, that twenty thousand pounds of sea urchins were caught and sold under the license sought to be renewed during the two-year period ending March 31 of the most recent odd-numbered year.

(3) Where the person failed to obtain the license during the previous year because of a license suspension or revocation by the department or the court, the person may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) The director may reduce or waive the poundage requirement of subsection (2)(b) of this section upon the recommendation of a board of review established under RCW 75.30.050. The board of review may recommend a reduction or waiver of the poundage requirement in individual cases if, in the board's judgment, extenuating circumstances prevent achievement of the poundage requirement. The director shall adopt rules governing the operation of the board of review and defining "extenuating circumstances."

(5) Sea urchin dive fishery licenses are not transferable from one license holder to another, except from parent to child, or from spouse to spouse during marriage or as a result of marriage dissolution, or upon the death of the license holder.

(6) If fewer than forty-five persons are eligible for sea urchin dive fishery licenses, the director may accept applications for new licenses. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain up to forty-five licenses in the sea urchin dive fishery. The director shall adopt rules governing the application, selection, and issuance procedure for new sea urchin dive fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050.

**Sec. 105.** RCW 75.30.250 and 1993 c 340 s 44 are each amended to read as follows:

(1) ~~(It is unlawful to)~~ A person shall not commercially take while using shellfish diver gear any species of sea cucumber without first obtaining a sea cucumber dive fishery license.

(2) Except as provided in subsection (6) of this section, after December 31, 1991, the director shall issue no new sea cucumber dive fishery licenses. Only a person who meets the following qualifications may renew an existing license:

(a) The person shall have held the sea cucumber dive fishery license sought to be renewed during the previous two years or acquired the license by transfer from someone who held it during the previous year; and

(b) The person shall establish, by means of dated shellfish receiving documents issued by the department, that thirty landings of sea cucumbers totaling at least ten thousand pounds were made under the license during the previous two-year period ending December 31 of the odd-numbered year.

(3) Where the person failed to obtain the license during either of the previous two years because of a license suspension by the department or the court, the person may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) The director may reduce or waive any landing or poundage requirement established under this section upon the recommendation of a board of review established under RCW 75.30.050. The board of review may recommend a reduction or waiver of any landing or poundage requirement in individual cases if, in the board's judgment, extenuating circumstances prevent achievement of the landing or poundage requirement. The director shall adopt rules governing the operation of the board of review and defining "extenuating circumstances."

(5) Sea cucumber dive fishery licenses are not transferable from one license holder to another except from parent to child, from spouse to spouse during marriage or as a result of marriage dissolution, or upon death of the license holder.

(6) If fewer than fifty persons are eligible for sea cucumber dive fishery licenses, the director may accept applications for new licenses from those persons who can demonstrate two years' experience in the Washington state sea cucumber dive fishery. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain up to fifty licenses in the sea cucumber dive fishery. The director shall adopt rules governing the application, selection, and issuance procedure for new sea cucumber dive fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050.

**Sec. 106.** RCW 75.30.280 and 1993 c 340 s 46 are each amended to read as follows:

(1) ~~((It is unlawful to))~~ A person shall not harvest geoduck clams commercially without a geoduck fishery license. This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

(2) Only a person who has entered into a geoduck harvesting agreement with the department of natural resources under RCW 79.96.080 may hold a geoduck fishery license.

(3) A geoduck fishery license authorizes no taking of geoducks outside the boundaries of the public lands designated in the underlying harvesting agreement, or beyond the harvest ceiling set in the underlying harvesting agreement.

(4) A geoduck fishery license expires when the underlying geoduck harvesting agreement terminates.

(5) The director shall determine the number of geoduck fishery licenses that may be issued for each geoduck harvesting agreement, the number of units of gear whose use the license authorizes, and the type of gear that may be used, subject to RCW 75.24.100. In making those determinations, the director shall seek to conserve the geoduck resource and prevent damage to its habitat.

(6) The holder of a geoduck fishery license and the holder's agents and representatives shall comply with all applicable commercial diving safety regulations adopted by the federal occupational safety and health administration established under the federal occupational safety and health act of 1970 as such law exists on May 8, 1979, 84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et seq. A violation of those regulations is a violation of this subsection. For the purposes of this section, persons who dive for geoducks are "employees" as defined by the federal occupational safety and health act. A violation of this subsection is grounds for suspension or revocation of a geoduck fishery license following a hearing under the procedures of chapter 34.05 RCW. The department shall not suspend or revoke a geoduck fishery license if the violation has been corrected within ten days of the date the license holder receives written notice of the violation. If there is a substantial probability that a violation of the commercial diving standards could result in death or serious physical harm to a person engaged in harvesting geoduck clams, the department shall suspend the license immediately until the violation has been corrected. If the license holder is not the operator of the harvest vessel and has contracted with another person for the harvesting of geoducks, the department shall not suspend or revoke the license if the license holder terminates its business relationship with that person until compliance with this subsection is secured.

**Sec. 107.** RCW 75.30.290 and 1993 c 376 s 5 are each amended to read as follows:

~~((After December 31, 1993, it is unlawful to))~~ A person shall not commercially deliver into any Washington state port ocean pink shrimp caught in offshore waters without an ocean pink shrimp delivery license issued under RCW 75.28.730, or an ocean pink shrimp single delivery license issued under RCW 75.30.320. An ocean pink shrimp delivery license shall be issued to a vessel that:

(1) Landed a total of at least five thousand pounds of ocean pink shrimp in Washington in any single calendar year between January 1, 1983, and December 31, 1992, as documented by a valid shellfish receiving ticket; and

(2) Can show continuous participation in the Washington, Oregon, or California ocean pink shrimp fishery by being eligible to land ocean pink shrimp in either Washington, Oregon, or California each year since the landing made under subsection (1) of this section. Evidence of such eligibility shall be a certified statement from the relevant state licensing agency that the applicant for a Washington ocean pink shrimp delivery license held at least one of the following permits:

(a) For Washington: Possession of a delivery permit or delivery license issued under RCW 75.28.125 or a trawl license (other than Puget Sound) issued under RCW 75.28.140;

(b) For Oregon: Possession of a vessel permit issued under Oregon Revised Statute 508.880; or

(c) For California: A trawl permit issued under California Fish and Game Code sec. 8842.

**Sec. 108.** RCW 75.30.350 and 1995 c 252 s 1 are each amended to read as follows:

(1) ~~((Effective January 1, 1995, it is unlawful to))~~ A person shall not commercially fish for coastal crab in Washington state waters without a Dungeness crab—coastal or a Dungeness crab—coastal class B fishery license. Gear used must consist of one buoy attached to each crab pot. Each crab pot must be fished individually.

(2) A Dungeness crab—coastal fishery license is transferable. Except as provided in subsection (3) of this section, such a license shall only be issued to a person who proved active historical participation in the coastal crab fishery by having designated, after December 31, 1993, a vessel or a replacement vessel on the qualifying license that singly or in combination meets the following criteria:

(a) Made a minimum of eight coastal crab landings totaling a minimum of five thousand pounds per season in at least two of the four qualifying seasons identified in subsection (5) of this section, as documented by valid Washington state shellfish receiving tickets; and showed historical and continuous participation in the coastal crab fishery by having held one of the following licenses or their equivalents each calendar year beginning 1990 through 1993, and was designated on the qualifying license of the person who held one of the following licenses in 1994:

(i) Crab pot—Non-Puget Sound license, issued under RCW 75.28.130(1)(b);

(ii) Nonsalmon delivery license, issued under RCW 75.28.125;

- (iii) Salmon troll license, issued under RCW 75.28.110;
- (iv) Salmon delivery license, issued under RCW 75.28.113;
- (v) Food fish trawl license, issued under RCW 75.28.120; or
- (vi) Shrimp trawl license, issued under RCW 75.28.130; or

(b) Made a minimum of four Washington landings of coastal crab totaling two thousand pounds during the period from December 1, 1991, to March 20, 1992, and made a minimum of eight crab landings totaling a minimum of five thousand pounds of coastal crab during each of the following periods: December 1, 1991, to September 15, 1992; December 1, 1992, to September 15, 1993; and December 1, 1993, to September 15, 1994. For landings made after December 31, 1993, the vessel shall have been designated on the qualifying license of the person making the landings; or

(c) Made any number of coastal crab landings totaling a minimum of twenty thousand pounds per season in at least two of the four qualifying seasons identified in subsection (5) of this section, as documented by valid Washington state shellfish receiving tickets, showed historical and continuous participation in the coastal crab fishery by having held one of the qualifying licenses each calendar year beginning 1990 through 1993, and the vessel was designated on the qualifying license of the person who held that license in 1994.

(3) A Dungeness crab-coastal fishery license shall be issued to a person who had a new vessel under construction between December 1, 1988, and September 15, 1992, if the vessel made coastal crab landings totaling a minimum of five thousand pounds by September 15, 1993, and the new vessel was designated on the qualifying license of the person who held that license in 1994. All landings shall be documented by valid Washington state shellfish receiving tickets. License applications under this subsection may be subject to review by the advisory review board in accordance with RCW 75.30.050. For purposes of this subsection, "under construction" means either:

- (a)(i) A contract for any part of the work was signed before September 15, 1992; and
- (ii) The contract for the vessel under construction was not transferred or otherwise alienated from the contract holder between the date of the contract and the issuance of the Dungeness crab-coastal fishery license; and
- (iii) Construction had not been completed before December 1, 1988; or
- (b)(i) The keel was laid before September 15, 1992; and
- (ii) Vessel ownership was not transferred or otherwise alienated from the owner between the time the keel was laid and the issuance of the Dungeness crab-coastal fishery license; and
- (iii) Construction had not been completed before December 1, 1988.

(4) A Dungeness crab—coastal class B fishery license is not transferable. Such a license shall be issued to persons who do not meet the qualification criteria for a Dungeness crab—coastal fishery license, if the person has designated on a qualifying license after December 31, 1993, a vessel or replacement vessel that, singly or in combination, made a minimum of four landings totaling a minimum of two thousand pounds of coastal crab, documented by valid Washington state shellfish receiving tickets, during at least one of the four qualifying seasons, and if the person has participated continuously in the coastal crab fishery by having held or by having owned a vessel that held one or more of the licenses listed in subsection (2) of this section in each calendar year subsequent to the qualifying season in which qualifying landings were made through 1994. Dungeness crab—coastal class B fishery licenses cease to exist after December 31, 1999, and the continuing license provisions of RCW 34.05.422(3) are not applicable.

(5) The four qualifying seasons for purposes of this section are:

- (a) December 1, 1988, through September 15, 1989;
- (b) December 1, 1989, through September 15, 1990;
- (c) December 1, 1990, through September 15, 1991; and
- (d) December 1, 1991, through September 15, 1992.

(6) For purposes of this section and RCW 75.30.420, "coastal crab" means Dungeness crab (cancer magister) taken in all Washington territorial and offshore waters south of the United States-Canada boundary and west of the Bonilla-Tatoosh line (a line from the western end of Cape Flattery to Tatoosh Island lighthouse, then to the buoy adjacent to Duntz Rock, then in a straight line to Bonilla Point of Vancouver island), Grays Harbor, Willapa Bay, and the Columbia river.

(7) For purposes of this section, "replacement vessel" means a vessel used in the coastal crab fishery in 1994, and that replaces a vessel used in the coastal crab fishery during any period from 1988 through 1993, and which vessel's licensing and catch history, together with the licensing and catch history of the vessel it replaces, qualifies a single applicant for a Dungeness crab—coastal or Dungeness crab—coastal class B fishery license. A Dungeness crab—coastal or Dungeness crab—coastal class B fishery license may only be issued to a person who designated a vessel in the 1994 coastal crab fishery and who designated the same vessel in 1995.

**Sec. 109.** RCW 75.30.450 and 1994 c 260 s 16 are each amended to read as follows:

(1) ~~(It is unlawful for)~~ A Dungeness crab—coastal fishery ~~(licensee to)~~ licensee shall not take Dungeness crab in the waters of the exclusive economic zone westward of the states of Oregon or California and land crab taken in those waters into Washington state unless the licensee also holds the licenses, permits, or endorsements, required by Oregon or California to land crab into Oregon or California, respectively.

(2) This section becomes effective only upon reciprocal legislation being enacted by both the states of Oregon and California. For purposes of this section, "exclusive economic zone" means that zone defined in the federal fishery conservation and management act (16 U.S.C. Sec. 1802) as of January 1, 1995, or as of a subsequent date adopted by rule of the director.

**Sec. 110.** RCW 75.58.010 and 1993 sp.s. c 2 s 55 are each amended to read as follows:

(1) The director of agriculture and the director shall jointly develop a program of disease inspection and control for aquatic farmers as defined in RCW 15.85.020. The program shall be administered by the department under rules established under this section. The purpose of the program is to protect the aquaculture industry and wildstock fisheries from a loss of productivity due to aquatic diseases or maladies. As used in this section "diseases" means, in addition to its ordinary meaning, infestations of parasites or pests. The disease program may include, but is not limited to, the following elements:

- (a) Disease diagnosis;
- (b) Import and transfer requirements;
- (c) Provision for certification of stocks;
- (d) Classification of diseases by severity;
- (e) Provision for treatment of selected high-risk diseases;
- (f) Provision for containment and eradication of high-risk diseases;
- (g) Provision for destruction of diseased cultured aquatic products;
- (h) Provision for quarantine of diseased cultured aquatic products;
- (i) Provision for coordination with state and federal agencies;
- (j) Provision for development of preventative or control measures;
- (k) Provision for cooperative consultation service to aquatic farmers; and
- (l) Provision for disease history records.

(2) The ~~((director))~~ commission shall adopt rules implementing this section. However, such rules shall have the prior approval of the director of agriculture and shall provide therein that the director of agriculture has provided such approval. The director of agriculture or the director's designee shall attend the rule-making hearings conducted under chapter 34.05 RCW and shall assist in conducting those hearings. The authorities granted the department by these rules and by RCW 75.08.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020, 75.58.030, and 75.58.040 constitute the only authorities of the department to regulate private sector cultured aquatic products and aquatic farmers as defined in RCW 15.85.020. Except as provided in subsection (3) of this section, no action may be taken against any person to enforce these rules unless the department has first provided the person an opportunity for a hearing. In such a case, if the hearing is requested, no enforcement action may be taken before the conclusion of that hearing.

(3) The rules adopted under this section shall specify the emergency enforcement actions that may be taken by the department, and the circumstances under which they may be taken, without first providing the affected party with an opportunity for a hearing. Neither the provisions of this subsection nor the provisions of subsection (2) of this section shall preclude the department from requesting the initiation of criminal proceedings for violations of the disease inspection and control rules.

(4) ~~((It is unlawful for any person to))~~ A person shall not violate the rules adopted under subsection (2) or (3) of this section or ~~((to))~~ violate RCW 75.58.040.

(5) In administering the program established under this section, the department shall use the services of a pathologist licensed to practice veterinary medicine.

(6) The director in administering the program shall not place constraints on or take enforcement actions in respect to the aquaculture industry that are more rigorous than those placed on the department or other fish-rearing entities.

**Sec. 111.** RCW 77.08.010 and 1996 c 207 s 2 are each amended to read as follows:

As used in this title or Title 75 RCW or rules adopted pursuant to ~~((this))~~ those titles, unless the context clearly requires otherwise:

- (1) "Director" means the director of fish and wildlife.
- (2) "Department" means the department of fish and wildlife.
- (3) "Commission" means the state fish and wildlife commission.
- (4) "Person" means and includes an individual, a corporation, or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(5) "Fish and wildlife ~~((agent))~~ officer" means a person appointed and commissioned by the director, with authority to enforce laws and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before the effective date of this section as a wildlife agent.

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

- (7) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.
- (8) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.
- (9) "To fish" and its derivatives means an effort to kill, injure, harass, or catch a ((game)) fish.
- (10) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, or possession of game animals, game birds, or game fish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, or possess by rule of the commission. "Open season" includes the first and last days of the established time.
- (11) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, or possession of game animals, game birds, or game fish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, or possess by rule of the commission as an open season.
- (12) "Closed area" means a place where the hunting of some species of wild animals or wild birds is prohibited.
- (13) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing for game fish is prohibited.
- (14) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.
- (15) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.
- (16) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, the family Muridae of the order Rodentia (old world rats and mice), or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.
- (17) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species *Rana catesbeiana* (bullfrog). The term "wild animal" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).
- (18) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.
- (19) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.
- (20) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.
- (21) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.
- (22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.
- (23) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.
- (24) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.
- (25) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.
- (26) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.
- (27) "Person of disability" means a permanently disabled person who is not ambulatory without the assistance of a wheelchair, crutches, or similar devices.

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

**Sec. 112.** RCW 77.12.055 and 1993 sp.s. c 2 s 67 are each amended to read as follows:

- (1) ~~((Jurisdiction and authority granted under RCW 77.12.060, 77.12.070, and 77.12.080 to the director, wildlife agents,))~~ Fish and wildlife officers and ex officio ~~((wildlife agents is limited to the laws and rules adopted pursuant to this title pertaining to wildlife or to the management, operation, maintenance, or use of or conduct on real property used, owned, leased, or controlled by the department))~~ fish and wildlife officers shall enforce this title, Title 75 RCW, rules of the department, and other statutes as prescribed by the legislature. However, when acting within the scope of these duties and when an offense occurs in the presence of the ((wildlife agent)) fish and wildlife officer who is not an ex officio ((wildlife agent, the wildlife agent)) fish and wildlife officer, the fish and wildlife officer may enforce all criminal laws of the state. The ((wildlife agent)) fish and wildlife officer must have successfully completed the basic law enforcement academy course sponsored by the criminal justice training commission, or a ((supplemental)) course ((in criminal law enforcement as)) approved by the department and the criminal justice training commission and provided by the department or the criminal justice training commission, prior to enforcing the criminal laws of the state.
- (2) ~~((Wildlife agents))~~ Fish and wildlife officers are peace officers.
- (3) Any liability or claim of liability ~~((which))~~ under chapter 4.92 RCW that arises out of the exercise or alleged exercise of authority by a ~~((wildlife agent))~~ fish and wildlife officer rests with the department unless the ~~((wildlife agent))~~ fish and wildlife officer acts under the direction and control of another agency or unless the liability is otherwise assumed under ~~((a written))~~ an agreement between the department and another agency.

(4) ~~((Wildlife agents))~~ Fish and wildlife officers may serve and execute warrants and processes issued by the courts.

(5) Fish and wildlife officers may enforce RCW 79.01.805 and 79.01.810.

(6) To enforce the laws of this title and Title 75 RCW, fish and wildlife officers may call to their aid any ex officio fish and wildlife officer or citizen and that person shall render aid.

**NEW SECTION. Sec. 113.** Based upon articulable facts that a person is engaged in fishing or hunting activities, fish and wildlife officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish and wildlife in possession as well as the equipment being used to ensure compliance with the requirements of this title and Title 75 RCW.

**Sec. 114.** RCW 77.12.080 and 1987 c 506 s 19 are each amended to read as follows:

~~((Wildlife agents))~~ Fish and wildlife officers and ex officio ~~((wildlife agents))~~ fish and wildlife officers may arrest without warrant persons found violating the law or rules adopted pursuant to this title and Title 75 RCW.

**Sec. 115.** RCW 77.12.090 and 1987 c 506 s 20 are each amended to read as follows:

~~((Wildlife agents,))~~ Fish and wildlife officers and ex officio ~~((wildlife agents))~~ fish and wildlife officers may make a reasonable search without warrant of a vessel, container, or conveyances, vehicles, packages, game baskets, game coats, or other receptacles for fish and wildlife, or tents, camps, or similar places which they have reason to believe contain evidence of a violation of law or rules adopted pursuant to this title or Title 75 RCW and seize evidence as needed for law enforcement. This does not preclude seizure of property if authorized for forfeiture as authorized by law.

**Sec. 116.** RCW 77.12.095 and 1982 c 152 s 1 are each amended to read as follows:

~~((Wildlife agents))~~ Fish and wildlife officers may inspect without warrant at reasonable times and in a reasonable manner the premises, containers, fishing equipment, fish, and wildlife, and records required by the department of any ~~((commercial enterprise operating under the authority of a license or permit issued by the department or any commercial business that sells, stores, transports, or possesses wildlife))~~ commercial fisher, wholesale dealer or fish buyer, shipping agent, or of any other person placing or attempting to place fish or wildlife into interstate commerce, or any cold storage plant that the department has probable cause to believe contains fish or wildlife, or of any taxidermist or fur buyer. Fish and wildlife officers may inspect without warrant the records required by the department of any retail outlet selling fish or wildlife or both, and, if the officers have probable cause to believe a violation of this title or rules of the commission has occurred, they may inspect without warrant the premises, containers, and fish and wildlife of any retail outlet selling fish or wildlife or both.

**Sec. 117.** RCW 77.12.120 and 1980 c 78 s 26 are each amended to read as follows:

~~((Upon complaint showing probable cause for believing that wildlife unlawfully caught, taken, killed, controlled, possessed, or transported, is concealed or kept in a game basket, game coat, package, or other receptacle for wildlife, or at a business place, vehicle, or other place, the))~~ On a showing of probable cause that there has been a violation of any fish or wildlife law of the state of Washington, or upon a showing of probable cause to believe that evidence of such violation may be found at a place, a court shall issue a search warrant ((and have the place searched for wildlife)) or arrest warrant. Fish and wildlife officers may execute any such arrest or search warrant reasonably necessary to their duties under this title or Title 75 RCW and may seize fish and wildlife or any evidence of a crime and the fruits or instrumentalities of a crime as provided by warrant. The court may have a building, enclosure, vehicle, vessel, container, or receptacle opened or entered and the contents examined.

**Sec. 118.** RCW 77.16.010 and 1987 c 506 s 58 are each amended to read as follows:

~~((It is unlawful to))~~ A person shall not promote, conduct, hold, or sponsor a contest for the hunting or fishing of wildlife or a competitive field trial involving live wildlife for hunting dogs without first obtaining a hunting or fishing contest permit. Contests and field trials shall be held in accordance with established rules.

**Sec. 119.** RCW 77.16.020 and 1996 c 207 s 3 are each amended to read as follows:

~~((1) It is unlawful to hunt, fish, or possess a game animal, game bird, or game fish during closed season for that game animal, game bird, or game fish except as provided in RCW 77.12.105 or 77.12.265.~~

~~(2) It is unlawful to kill, take, catch, possess, or control a game animal, game bird, or game fish in excess of the number fixed as the bag limit for that game animal, game bird, or game fish.~~

~~(3) It is unlawful to hunt within a game reserve or to fish for game fish within closed waters.~~

~~(4) It is unlawful to hunt wild birds or wild animals within a closed area except as authorized by rule of the commission.~~

~~(5) It is unlawful to hunt or fish for wildlife, practice taxidermy for profit, deal in raw furs for profit, act as a fishing guide, or operate a game farm, stock game fish, or collect wildlife for research or display, without having in possession the license, permit, tag, stamp, or catch record card required by chapter 77.32 RCW or rule of the department. The activities described in this subsection shall be conducted in accordance with rules adopted pursuant to this title.~~

~~(6))~~ For the purposes of ~~((this section))~~ establishing a season or bag limit restriction on Canada goose hunting, the department shall not consider leg length or bill length of dusky Canada geese (*Branta canadensis occidentalis*).

**Sec. 120.** RCW 77.16.095 and 1987 c 506 s 63 are each amended to read as follows:

~~((It is unlawful to mutilate))~~ The commission may adopt rules governing the possession of fish and wildlife so that the size, species, or sex ~~((cannot))~~ can be determined visually in the field or while being transported. ~~((The director may prescribe specific criteria for field identification to satisfy this section.))~~

**Sec. 121.** RCW 77.16.170 and 1993 sp.s. c 2 s 75 are each amended to read as follows:

~~((It is unlawful to take a wild animal from another person's trap without permission, or to spring, pull up, damage, possess, or destroy the trap; however, it is not unlawful for))~~ A property owner, lessee, or tenant ~~((to))~~ may remove a trap placed on the owner's, lessee's, or tenant's posted or fenced property by a trapper.

Trappers shall attach to the chain of their traps or devices a legible metal tag with either the department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.

When ~~((an individual))~~ a property owner, lessee, or tenant presents a trapper identification number to the department for a trap found upon the property of the owner, lessee, or tenant and requests identification of the trapper, the department shall provide the ~~((individual))~~ requestor with the name and address of the trapper. Prior to disclosure of the trapper's name and address, the department shall obtain the name and address of the requesting individual in writing and after disclosing the trapper's name and address to the requesting individual, the requesting individual's name and address shall be disclosed in writing to the trapper whose name and address was disclosed.

**Sec. 122.** RCW 77.16.220 and 1980 c 78 s 89 are each amended to read as follows:

~~((It is unlawful to))~~ A person shall not divert water from a lake, river, or stream containing game fish unless the water diversion device is equipped at or near its intake with a fish guard or screen to prevent the passage of game fish into the device and, if necessary, with a means of returning game fish from immediately in front of the fish guard or screen to the waters of origin. A person who is now otherwise lawfully diverting water from a lake, river or stream shall not be deemed guilty of a violation of this section.

Plans for the fish guard, screen, and bypass shall be approved by the director prior to construction. The installation shall be approved by the director prior to the diversion of water.

The director may close a water diversion device operated in violation of this section and keep it closed until it is properly equipped with a fish guard, screen, or bypass.

**Sec. 123.** RCW 77.32.350 and 1992 c 41 s 1 are each amended to read as follows:

In addition to a basic hunting license, a supplemental license, permit, or stamp is required to hunt for quail, partridge, pheasant, or migratory waterfowl, to hunt with a raptor, or to hunt wild animals with a dog.

(1) A hound permit is required to hunt wild animals, except rabbits and hares, with a dog. The fee for this permit is twelve dollars.

(2) An eastern Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in eastern Washington. The fee for this permit is ten dollars.

(3) A western Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in western Washington. The fee for this permit is thirty-five dollars. Western Washington upland game bird permits must contain numbered spaces for recording the location and date of harvest of each western Washington pheasant. ~~((It is unlawful to))~~ A person shall not harvest a western Washington pheasant without immediately recording this information on the permit.

(4) Effective January 1, 1993, the permit shall be available as a season option, a juvenile full season option, or a two-day option. The fee for this permit is:

(a) For the full season option, thirty-five dollars;

(b) For the juvenile full season or the two-day option, twenty dollars.

For the purposes of this subsection a juvenile is defined as a person under fifteen years of age upon the opening date of the western Washington pheasant season.

(5) Western Washington upland game permits are valid for the following number of pheasants and harvesting pheasants in excess of these numbers requires another permit:

(a) A full season permit is valid for no more than ten pheasants;

(b) A juvenile full season permit is valid for no more than six pheasants;

(c) A two-day permit is valid for no more than four pheasants.

(6) A falconry license is required to possess or hunt with a raptor, including seasons established exclusively for hunting in that manner. The fee for this license is thirty-six dollars.

(7) A migratory waterfowl stamp affixed to a basic hunting license is required for all persons sixteen years of age or older to hunt migratory waterfowl. The fee for the stamp is six dollars.

(8) The migratory waterfowl stamp shall be validated by the signature of the licensee written across the face of the stamp.

(9) The migratory waterfowl stamps required by this section expire on March 31st following the date of issuance.

**NEW SECTION. Sec. 124. REPEALER.** The following acts or parts of acts are each repealed:

(1) RCW 75.10.010 and 1996 c 267 s 4;

(2) RCW 75.10.020 and 1996 c 267 s 5, 1983 1st ex.s. c 46 s 33, & 1955 c 12 s 75.08.170;

(3) RCW 75.10.030 and 1996 c 267 s 6, 1990 c 144 s 5, 1983 1st ex.s. c 46 s 34, & 1955 c 12 s 75.36.010;



- (4) RCW 75.10.040 and 1996 c 267 s 7, 1983 1st ex.s. c 46 s 35, 1980 c 78 s 134, & 1955 c 12 s 75.08.200;
- (5) RCW 75.10.050 and 1996 c 267 s 8, 1983 1st ex.s. c 46 s 36, & 1955 c 12 s 75.08.280;
- (6) RCW 75.10.060 and 1983 1st ex.s. c 46 s 37 & 1955 c 12 s 75.36.040;
- (7) RCW 75.10.080 and 1983 1st ex.s. c 46 s 39 & 1955 c 12 s 75.36.050;
- (8) RCW 75.10.090 and 1983 1st ex.s. c 46 s 40 & 1955 c 12 s 75.08.180;
- (9) RCW 75.10.110 and 1996 c 267 s 10, 1990 c 144 s 6, 1987 c 380 s 16, 1983 1st ex.s. c 46 s 42, 1979 ex.s. c 99 s 1, & 1955 c 12 s 75.08.260;
- (10) RCW 75.10.120 and 1996 c 267 s 11, 1990 c 144 s 7, 1983 1st ex.s. c 46 s 43, 1979 ex.s. c 99 s 2, 1957 c 171 s 5, & 1955 c 12 s 75.28.380;
- (11) RCW 75.10.130 and 1996 c 267 s 12, 1983 1st ex.s. c 46 s 44, & 1979 ex.s. c 99 s 3;
- (12) RCW 75.10.140 and 1996 c 267 s 13, 1990 c 163 s 7, 1984 c 80 s 4, 1983 1st ex.s. c 46 s 45, & 1979 ex.s. c 141 s 7;
- (13) RCW 75.10.170 and 1996 c 267 s 15 & 1990 c 63 s 5;
- (14) RCW 75.10.180 and 1996 c 267 s 16 & 1990 c 144 s 1;
- (15) RCW 75.10.190 and 1996 c 267 s 17 & 1990 c 144 s 2;
- (16) RCW 75.10.200 and 1996 c 267 s 18, 1993 sp.s. c 2 s 26, & 1990 c 144 s 3;
- (17) RCW 75.10.210 and 1990 c 144 s 4;
- (18) RCW 75.12.020 and 1996 c 267 s 19, 1983 1st ASCE c 46 s 49, & 1955 c 12 s 75.12.020;
- (19) RCW 75.12.031 and 1983 1st ASCE c 46 s 51 & 1955 c 12 s 75.20.070;
- (20) RCW 75.12.070 and 1996 c 267 s 20, 1983 1st ASCE c 46 s 53, & 1955 c 12 s 75.12.070;
- (21) RCW 75.12.090 and 1990 c 144 s 8, 1983 1st ASCE c 46 s 54, 1982 c 14 s 1, & 1955 c 12 s 75.12.090;
- (22) RCW 75.12.100 and 1996 c 267 s 21, 1983 1st ASCE c 46 s 55, & 1955 c 12 s 75.12.100;
- (23) RCW 75.12.115 and 1996 c 267 s 22, 1983 1st ASCE c 46 s 56, & 1971 ASCE c 106 s 1;
- (24) RCW 75.12.120 and 1985 c 51 s 7, 1983 1st ASCE c 46 s 57, & 1955 c 12 s 75.12.120;
- (25) RCW 75.12.125 and 1983 1st ASCE c 46 s 58;
- (26) RCW 75.12.127 and 1993 c 340 s 49;
- (27) RCW 75.12.400 and 1983 1st ASCE c 46 s 64 & 1982 c 14 s 2;
- (28) RCW 75.12.410 and 1983 1st ASCE c 46 s 66 & 1955 c 12 s 75.08.130;
- (29) RCW 75.12.420 and 1996 c 267 s 23, 1983 1st ASCE c 46 s 67, & 1955 c 12 s 75.08.210;
- (30) RCW 75.12.430 and 1983 1st ASCE c 46 s 68 & 1955 c 12 s 75.08.220;
- (31) RCW 75.24.050 and 1996 c 267 s 25, 1983 1st ASCE c 46 s 80, & 1955 c 12 s 75.24.050;
- (32) RCW 75.24.090 and 1996 c 267 s 26, 1983 1st ex.s. c 46 s 84, 1955 c 212 s 7, & 1955 c 12 s 75.24.090;
- (33) RCW 75.25.150 and 1994 c 255 s 7, 1993 sp.s. c 17 s 9, 1989 c 305 s 13, 1984 c 80 s 9, & 1983 1st ASCE c 46 s 99;
- (34) RCW 77.12.060 and 1987 c 506 s 17, 1980 c 78 s 18, 1961 c 68 s 1, & 1955 c 36 s 77.12.060;
- (35) RCW 77.12.070 and 1987 c 506 s 18, 1980 c 78 s 19, 1971 ASCE c 173 s 1, 1961 c 68 s 2, & 1955 c 36 s 77.12.070;
- (36) RCW 77.16.040 and 1987 c 506 s 60, 1980 c 78 s 72, 1971 ASCE c 166 s 4, 1961 c 75 s 1, & 1955 c 36 s 77.16.040;
- (37) RCW 77.16.050 and 1980 c 78 s 73 & 1955 c 36 s 77.16.050;
- (38) RCW 77.16.060 and 1993 sp.s. c 2 s 73, 1987 c 506 s 61, 1980 c 78 s 74, & 1955 c 36 s 77.16.060;
- (39) RCW 77.16.080 and 1987 c 506 s 62, 1980 c 78 s 76, & 1955 c 36 s 77.16.080;
- (40) RCW 77.16.090 and 1980 c 78 s 77 & 1955 c 36 s 77.16.090;
- (41) RCW 77.16.100 and 1980 c 78 s 79, 1977 ASCE c 275 s 1, & 1955 c 36 s 77.16.100;
- (42) RCW 77.16.110 and 1987 c 506 s 64, 1980 c 78 s 80, & 1955 c 36 s 77.16.110;
- (43) RCW 77.16.120 and 1980 c 78 s 81 & 1955 c 36 s 77.16.120;
- (44) RCW 77.16.130 and 1987 c 506 s 65, 1980 c 78 s 82, & 1955 c 36 s 77.16.130;
- (45) RCW 77.16.150 and 1987 c 506 s 66, 1980 c 78 s 83, & 1955 c 36 s 77.16.150;
- (46) RCW 77.16.160 and 1980 c 78 s 84 & 1955 c 36 s 77.16.160;
- (47) RCW 77.16.180 and 1987 c 506 s 67, 1980 c 78 s 86, & 1955 c 36 s 77.16.180;
- (48) RCW 77.16.190 and 1980 c 78 s 87 & 1955 c 36 s 77.16.190;
- (49) RCW 77.16.250 and 1989 c 297 s 5, 1980 c 78 s 93, & 1955 c 36 s 77.16.250;
- (50) RCW 77.16.260 and 1980 c 78 s 94, 1955 c 85 s 1, & 1955 c 36 s 77.16.260;
- (51) RCW 77.16.310 and 1981 c 310 s 4, 1980 c 78 s 125, & 1979 ASCE c 127 s 1;
- (52) RCW 77.16.320 and 1987 c 506 s 68, 1981 c 310 s 5, & 1980 c 44 s 1;
- (53) RCW 77.16.330 and 1987 c 506 s 104 & 1985 c 243 s 3;
- (54) RCW 77.16.610 and 1982 c 155 s 3;
- (55) RCW 77.21.010 and 1988 c 265 s 3;

(56) RCW 77.21.040 and 1989 c 314 s 5, 1987 c 506 s 72, 1980 c 78 s 25, & 1955 c 36 s 77.12.110; and

(57) RCW 77.21.060 and 1989 c 314 s 6, 1987 c 506 s 73, 1980 c 78 s 122, & 1955 c 36 s 77.32.260.

NEW SECTION. Sec. 125. RECODIFICATION. The following sections are recodified as new sections in the chapter created in section 128 of this act:

RCW 75.10.100

RCW 75.10.220

RCW 75.12.320

RCW 77.12.120

RCW 77.12.130

RCW 77.16.135

NEW SECTION. Sec. 126. SHORT TITLE. This chapter may be known and cited as the fish and wildlife enforcement code.

NEW SECTION. Sec. 127. CAPTIONS NOT LAW. Captions used in this chapter are not any part of the law.

NEW SECTION. Sec. 128. Sections 1 through 48, 50 through 66, 68, 69, 113, 126, and 127 of this act constitute a new chapter in Title 77 RCW.

NEW SECTION. Sec. 129. The enactment of chapter . . . , Laws of 1998 (this act) does not terminate, or in any way modify, any liability, civil or criminal, that was in existence on the effective date of this section."

On page 1, line 1 of the title, after "enforcement;" strike the remainder of the title and insert "amending RCW 75.12.320, 77.16.135, 75.08.011, 75.08.160, 75.08.274, 75.08.295, 75.08.300, 75.12.010, 75.12.015, 75.12.040, 75.12.132, 75.12.140, 75.12.210, 75.12.230, 75.12.390, 75.12.440, 75.12.650, 75.20.040, 75.20.060, 75.20.103, 75.20.110, 75.24.080, 75.24.100, 75.24.110, 75.28.010, 75.28.045, 75.28.095, 75.28.113, 75.28.125, 75.28.710, 75.28.740, 75.30.070, 75.30.140, 75.30.160, 75.30.210, 75.30.250, 75.30.280, 75.30.290, 75.30.350, 75.30.450, 75.58.010, 77.08.010, 77.12.055, 77.12.080, 77.12.090, 77.12.095, 77.12.120, 77.16.010, 77.16.020, 77.16.095, 77.16.170, 77.16.220, and 77.32.350; reenacting and amending RCW 75.20.100 and 75.30.130; adding a new chapter to Title 77 RCW; creating a new section; recodifying RCW 75.10.100, 75.10.220, 75.12.320, 77.12.120, 77.12.130, and 77.16.135; repealing RCW 75.10.010, 75.10.020, 75.10.030, 75.10.040, 75.10.050, 75.10.060, 75.10.080, 75.10.090, 75.10.110, 75.10.120, 75.10.130, 75.10.140, 75.10.170, 75.10.180, 75.10.190, 75.10.200, 75.10.210, 75.12.020, 75.12.031, 75.12.070, 75.12.090, 75.12.100, 75.12.115, 75.12.120, 75.12.125, 75.12.127, 75.12.400, 75.12.410, 75.12.420, 75.12.430, 75.24.050, 75.24.090, 75.25.150, 77.12.060, 77.12.070, 77.16.040, 77.16.050, 77.16.060, 77.16.080, 77.16.090, 77.16.100, 77.16.110, 77.16.120, 77.16.130, 77.16.150, 77.16.160, 77.16.180, 77.16.190, 77.16.250, 77.16.260, 77.16.310, 77.16.320, 77.16.330, 77.16.610, 77.21.010, 77.21.040, and 77.21.060; and prescribing penalties.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Oke, the Senate refuses to concur in the House amendments to Engrossed Substitute Senate Bill No. 6328 and asks the House to recede therefrom.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6550 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes chemical dependency professionals as discrete health professionals. Chemical dependency professional certification serves the public interest.

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

(1) "Certification" means a voluntary process recognizing an individual who qualifies by examination and meets established educational prerequisites, and which protects the title of practice.

(2) "Certified chemical dependency professional" means an individual certified in chemical dependency counseling, under this chapter.

(3) "Chemical dependency counseling" means employing the core competencies of chemical dependency counseling to assist or attempt to assist an alcohol or drug addicted person to develop and maintain abstinence from alcohol and other mood-altering drugs.

(4) "Committee" means the chemical dependency certification advisory committee established under this chapter.

(5) "Core competencies of chemical dependency counseling" means competency in the nationally recognized knowledge, skills, and attitudes of professional practice, including assessment and diagnosis of chemical dependency, chemical dependency treatment planning and

referral, patient and family education in the disease of chemical dependency, individual and group counseling with alcoholic and drug addicted individuals, relapse prevention counseling, and case management, all oriented to assist alcoholic and drug addicted patients to achieve and maintain abstinence from mood-altering substances and develop independent support systems.

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

(7) "Health profession" means a profession providing health services regulated under the laws of this state.

(8) "Secretary" means the secretary of health or the secretary's designee.

**NEW SECTION. Sec. 3.** No person may represent oneself as a certified chemical dependency professional or use any title or description of services of certified chemical dependency professional without applying for certification, meeting the required qualifications, and being certified by the department of health, unless otherwise exempted by this chapter.

**NEW SECTION. Sec. 4.** Nothing in this chapter shall be construed to authorize the use of the title "certified chemical dependency professional" when treating patients in settings other than programs approved under chapter 70.96A RCW.

**NEW SECTION. Sec. 5.** Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within the authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor.

**NEW SECTION. Sec. 6.** In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter, in consultation with the committee;

(2) Establish all certification, examination, and renewal fees in accordance with RCW 43.70.250;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Issue certificates to applicants who have met the education, training, and examination requirements for certification and to deny certification to applicants who do not meet the minimum qualifications, except that proceedings concerning the denial of certification based upon unprofessional conduct or impairment shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(5) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter, and hire individuals certified under this chapter to serve as examiners for any practical examinations;

(6) Determine minimum education requirements and evaluate and designate those educational programs that will be accepted as proof of eligibility to take a qualifying examination for applicants for certification;

(7) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for certification;

(8) Determine whether alternative methods of training are equivalent to formal education, and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take any qualifying examination;

(9) Determine which states have credentialing requirements equivalent to those of this state, and issue certificates to individuals credentialed in those states without examinations;

(10) Define and approve any experience requirement for certification;

(11) Implement and administer a program for consumer education;

(12) Adopt rules implementing a continuing competency program;

(13) Maintain the official department record of all applicants and certificated individuals;

(14) Establish by rule the procedures for an appeal of an examination failure; and

(15) Establish disclosure requirements.

**NEW SECTION. Sec. 7.** The secretary shall keep an official record of all proceedings. A part of the record shall consist of a register of all applicants for certification under this chapter and the results of each application.

**NEW SECTION. Sec. 8.** The secretary shall appoint a chemical dependency certification advisory committee to further the purposes of this chapter. The committee shall be composed of seven members, one member initially appointed for a term of one year, three for a term of two years, and three for a term of three years. Subsequent appointments shall be for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. Members of the committee shall be residents of this state. The committee shall be composed of four certified chemical dependency professionals; one chemical dependency treatment program director; one physician licensed under chapter 18.71 or 18.57 RCW who is certified in addiction medicine or a licensed or certified mental health practitioner; and one member of the public who has received chemical dependency counseling.

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

(3) The committee shall meet at the times and places designated by the secretary and shall hold meetings during the year as necessary to provide advice to the director. The committee may elect a chair and a vice-chair. A majority of the members currently serving shall constitute a quorum.

(4) Each member of the committee shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committee shall be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of the committee.

(5) The director of the department of social and health services division of alcohol and substance abuse or the director's designee, shall serve as an ex officio member of the committee.

(6) The secretary, members of the committee, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any certification or disciplinary proceedings or other official acts performed in the course of their duties.

**NEW SECTION. Sec. 9.** (1) The secretary shall issue a certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Completion of an educational program approved by the secretary or successful completion of alternate training that meets established criteria;

(b) Successful completion of an approved examination, based on core competencies of chemical dependency counseling; and

(c) Successful completion of an experience requirement that establishes fewer hours of experience for applicants with higher levels of relevant education. In meeting any experience requirement established under this subsection, the secretary may not require more than one thousand five hundred hours of experience in chemical dependency counseling for applicants who are licensed under chapter 18.83 RCW or under chapter 18.79 RCW as advanced registered nurse practitioners.

(2) The secretary shall establish by rule what constitutes adequate proof of meeting the criteria.

(3) Applicants are subject to the grounds for denial of a certificate or issuance of a conditional certificate under chapter 18.130 RCW.

(4) Certified chemical dependency professionals shall not be required to be registered under chapter 18.19 RCW.

**NEW SECTION. Sec. 10.** The secretary may establish by rule the standards and procedures for approval of educational programs and alternative training. The secretary may utilize or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations. The secretary shall establish by rule the standards and procedures for revocation of approval of education programs. The standards and procedures set shall apply equally to educational programs and training in the United States and in foreign jurisdictions. The secretary may establish a fee for educational program evaluations.

**NEW SECTION. Sec. 11.** (1) The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for certification shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the secretary has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the certification requirements.

**NEW SECTION. Sec. 12.** Applications for certification shall be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee shall accompany the application.

**NEW SECTION. Sec. 13.** (1) Within two years after the effective date of this section, the secretary shall waive the examination and certify a person who pays a fee and produces a valid chemical dependency counselor certificate of qualification from the department of social and health services.

(2) Within two years after the effective date of this section, the secretary shall waive the examination and certify applicants who are licensed under chapter 18.83 RCW or under chapter 18.79 RCW as advanced registered nurse practitioners who pay a fee, who document completion of courses substantially equivalent to those required of chemical dependency counselors working in programs approved under chapter

70.96A RCW on the effective date of this section, and who provide evidence of one thousand five hundred hours of experience in chemical dependency counseling.

(3) It is the intent of the legislature that the credentialing of chemical dependency professionals be established solely by the department.

**NEW SECTION. Sec. 14.** An applicant holding a credential in another state may be certified to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

**NEW SECTION. Sec. 15.** The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of certificates, unauthorized practice, and the discipline of persons certified under this chapter. The secretary shall be the disciplining authority under this chapter.

**Sec. 16.** RCW 18.130.040 and 1997 c 392 s 516, 1997 c 334 s 14, 1997 c 285 s 13, and 1997 c 275 s 2 are each reenacted and amended to read as follows:

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

(2)(a) The secretary has authority under this chapter in relation to the following professions:

- (i) Dispensing opticians licensed under chapter 18.34 RCW;
- (ii) Naturopaths licensed under chapter 18.36A RCW;
- (iii) Midwives licensed under chapter 18.50 RCW;
- (iv) Ocularists licensed under chapter 18.55 RCW;
- (v) Massage operators and businesses licensed under chapter 18.108 RCW;
- (vi) Dental hygienists licensed under chapter 18.29 RCW;
- (vii) Acupuncturists licensed under chapter 18.06 RCW;
- (viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;
- (ix) Respiratory care practitioners licensed under chapter 18.89 RCW;
- (x) Persons registered or certified under chapter 18.19 RCW;
- (xi) Persons registered as nursing pool operators under chapter 18.52C RCW;
- (xii) Nursing assistants registered or certified under chapter 18.88A RCW;
- (xiii) Health care assistants certified under chapter 18.135 RCW;
- (xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;
- (xv) Chemical dependency professionals certified under chapter 18.-- RCW (sections 1 through 15 of this act);
- ~~(xvi)~~ Sex offender treatment providers certified under chapter 18.155 RCW;
- ~~((xvii))~~ ~~(xvii)~~ Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;
- ~~((xviii))~~ ~~(xviii)~~ Persons registered as adult family home providers and resident managers under RCW 18.48.020;
- ~~((xviiii))~~ ~~(xix)~~ Denturists licensed under chapter 18.30 RCW; and
- ~~((xix))~~ ~~(xx)~~ Orthotists and prosthetists licensed under chapter 18.200 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

- (i) The podiatric medical board as established in chapter 18.22 RCW;
- (ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;
- (iii) The dental quality assurance commission as established in chapter 18.32 RCW;
- (iv) The board of hearing and speech as established in chapter 18.35 RCW;
- (v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;
- (vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
- (vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;
- (viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;
- (ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;
- (x) The board of physical therapy as established in chapter 18.74 RCW;
- (xi) The board of occupational therapy practice as established in chapter 18.59 RCW;
- (xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses issued under that chapter;
- (xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and
- (xiv) The veterinary board of governors as established in chapter 18.92 RCW.

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

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. **Sec. 17.** Sections 1 through 15 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 18.** This act takes effect July 1, 1998, except for sections 3, 9, 13, and 14 of this act, which take effect July 1, 1999."

Correct the title, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Deccio, the Senate concurred in the House amendment to Substitute Senate Bill No. 6550.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6550, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6550, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senators Brown, McAuliffe, Patterson and Thibaudeau - 4. Excused: Senator Rossi - 1. SUBSTITUTE SENATE BILL NO. 6550, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6562 with the following amendment(s):

On page 8, beginning on line 17, strike all of section 13 and section 14

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 9, after line 9, insert the following:

"NEW SECTION. **Sec. 18.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Schow moved that the Senate concur in the House amendments to Engrossed Second Substitute Senate Bill No. 6562.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Schow that the Senate concur in the House amendments to Engrossed Second Substitute Senate Bill No. 6562.

The motion by Senator Schow carried and the Senate concurred in the House amendments to Second Substitute Senate Bill No. 6562.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6562, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6562, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Rasmussen, Roach, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senators Fairley, Hargrove and Prentice - 3. Excused: Senator Rossi - 1. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6562, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Sellar was excused.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6565 with the following amendment(s):  
On page 2, line 22, after "another" insert "family or", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Hale moved that the Senate concur in the House amendment to Substitute Senate Bill No. 6565.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Hale that the Senate concur in the House amendment to Substitute Senate Bill No. 6565.

The motion by Senator Hale carried and the Senate concurred in the House amendment to Substitute Senate Bill No. 6565.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6565, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6565, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Prince - 1. Excused: Senators Rossi and Sellar - 2. SUBSTITUTE SENATE BILL NO. 6565, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Franklin, Senator Spanel was excused.

MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6600 with the following amendment(s):

On page 1, after line 6, strike the remaining sections of the amendment and insert the following:

**NEW SECTION. Sec. 1.** The legislature intends to provide for the operation of education programs for the department of corrections' juvenile inmates. School districts, educational service districts, or any combination thereof should be the primary providers of the education programs. However, the legislature does not intend to preclude community and technical colleges, four-year institutions of higher education, or other qualified entities from contracting to provide all or part of these education programs if no school district or educational service district is willing to operate all or part of the education programs.

The legislature finds that this chapter fully satisfies any constitutional duty to provide education programs for juvenile inmates in adult correctional facilities. The legislature further finds that biennial appropriations for education programs under this chapter amply provide for any constitutional duty to educate juvenile inmates in adult correctional facilities.

**NEW SECTION. Sec. 2.** Any school district or educational service district may operate all or any portion of an education program for juveniles in accordance with this chapter, notwithstanding the fact the services or benefits provided extend beyond the geographic boundaries of the school district or educational service district providing the service.

**NEW SECTION. Sec. 3.** The superintendent of public instruction shall solicit an education provider for the department of corrections' juvenile inmates within sixty days as follows:

(1) The superintendent of public instruction shall notify and solicit proposals from all interested and capable school districts, educational service districts, institutions of higher education, private contractors, or any combination thereof. The notice shall describe the proposed education program's requirements and the appropriated amount. The selection of an education provider shall be in the following order:

(a) The school district where there is an educational site for juveniles in an adult correctional facility maintained by the state department of corrections has first priority to operate an education program for inmates at that site. The district may elect to operate an education program by itself or with another school district, educational service district, institution of higher education, private contractor, or any combination thereof. If the school district elects not to exercise its priority, it shall notify the superintendent of public instruction within thirty calendar days of the day of solicitation.

(b) The educational service district where there is an educational site for juveniles in an adult correctional facility maintained by the state department of corrections has second priority to operate an education program for inmates at that site. The educational service district may elect to do so by itself or with a school district, another educational service district, institution of higher education, private contractor, or any combination thereof. If the educational service district elects not to exercise its priority, it shall notify the superintendent of public instruction within forty-five calendar days of the day of solicitation.

(c) If neither the school district nor the educational service district chooses to operate an education program for inmates as provided for in (a) and (b) of this subsection, the superintendent of public instruction may contract with an entity, including, but not limited to, school districts, educational service districts, institutions of higher education, private contractors, or any combination thereof, within sixty calendar days of the day of solicitation. The selected entity may operate an education program by itself or with another school district, educational service district, institution of higher education, or private contractor, or any combination thereof.

(2) If the superintendent of public instruction does not contract with an interested entity within sixty days of the day of solicitation, the educational service district where there is an educational site for juveniles in an adult correctional facility maintained by the state department of corrections shall begin operating the education program for inmates at the site within ninety days from the day of solicitation in subsection (1) of this section.

**NEW SECTION. Sec. 4.** Except as otherwise provided for by contract under section 7 of this act, the duties and authority of a school district, educational service district, institution of higher education, or private contractor to provide for education programs under this chapter are limited to the following:

(1) Employing, supervising, and controlling administrators, teachers, specialized personnel, and other persons necessary to conduct education programs, subject to security clearance by the department of corrections;

(2) Purchasing, leasing, or renting and providing textbooks, maps, audiovisual equipment, paper, writing instruments, physical education equipment, and other instructional equipment, materials, and supplies deemed necessary by the provider of the education programs;

(3) Conducting education programs for inmates under the age of eighteen in accordance with program standards established by the superintendent of public instruction. The education provider shall develop the curricula, instructional methods, and educational objectives of the education programs, subject to applicable requirements of state and federal law. The department of corrections shall establish behavior standards that govern inmate participation in education programs, subject to applicable requirements of state and federal law;

(4) Students age eighteen who have participated in an education program governed by this chapter may continue in the program with the permission of the department of corrections and the education provider, under the rules adopted by the superintendent of public instruction.



**NEW SECTION. Sec. 5.** School districts and educational service districts providing an education program to juvenile inmates in an adult corrections facility, notwithstanding that their geographical boundaries do not include the facility, may:

- (1) Award appropriate diplomas or certificates to inmates who successfully complete graduation requirements;
- (2) Spend only funds appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating education programs under this chapter, including direct and indirect costs of maintaining and operating the education programs, and funds from federal and private grants, bequests, and gifts made for that purpose. School districts may not expend excess tax levy proceeds authorized for school district purposes to pay costs incurred under this chapter.

**NEW SECTION. Sec. 6.** To support each education program under this chapter, the department of corrections and each superintendent or chief administrator of a correction facility shall:

- (1) Through construction, lease, or rental of space, provide necessary building and exercise spaces for the education program that is secure, separate, and apart from space occupied by nonstudent inmates;
- (2) Through construction, lease, or rental, provide vocational instruction machines; technology and supporting equipment; tools, building, and exercise facilities; and other equipment and fixtures deemed necessary by the department of corrections to conduct the education program;
- (3) Provide heat, lights, telephone, janitorial services, repair services, and other support services for the building and exercise spaces, equipment, and fixtures provided under this section;
- (4) Employ, supervise, and control security staff to safeguard agents of the education providers and inmates while engaged in educational and related activities conducted under this chapter;
- (5) Provide clinical and medical evaluation services necessary for a determination by the education provider of the educational needs of inmates; and
- (6) Provide such other support services and facilities as are reasonably necessary to conduct the education program.

**NEW SECTION. Sec. 7.** Each education provider under this chapter and the department of corrections shall negotiate and execute a written contract for each school year or such longer period as may be agreed to that delineates the manner in which their respective duties and authority will be cooperatively performed and exercised, and any disputes and grievances resolved through mediation, and if necessary, arbitration. Any such contract may provide for the performance of duties by an education provider in addition to those set forth in this chapter, including duties imposed upon the department of corrections and its agents under section 6 of this act if supplemental funding provided by the department of corrections is available to fully pay the direct and indirect costs of these additional duties.

**NEW SECTION. Sec. 8.** By April 15th of each school year, the department of corrections shall provide written notice to the superintendent of public instruction and education providers operating programs under this chapter of any reasonably foreseeable education site closures, reductions in the number of inmates or education services, or any other cause for a reduction in certificated or classified staff the next school year. In the event the department of corrections fails to provide notice as required by this section, the department is liable and responsible for the payment of the salary and employment-related costs for the next school year of each employee whose contract would or could have been nonrenewed but for the failure of the department to provide notice. Disputes arising under this section shall be resolved in accordance with the alternative dispute resolution method or methods specified in the contract required by section 7 of this act.

**NEW SECTION. Sec. 9.** The superintendent of public instruction shall:

- (1) Allocate money appropriated by the legislature to administer and provide education programs under this chapter to school districts, educational service districts, and other education providers selected under section 3 of this act that have assumed the primary responsibility to administer and provide education programs under this chapter. The allocation of moneys to any private contractor is contingent upon and must be in accordance with a contract between the private contractor and the department of corrections; and
- (2) Adopt rules in accordance with chapter 34.05 RCW that establish reporting, program compliance, audit, and such other accountability requirements as are reasonably necessary to implement this chapter and related provisions of the biennial operating act effectively.

**Sec. 10.** RCW 72.09.460 and 1997 c 338 s 43 are each amended to read as follows:

(1) The legislature intends that all inmates be required to participate in department-approved education programs, work programs, or both, unless exempted under subsection (4) of this section. Eligible inmates who refuse to participate in available education or work programs available at no charge to the inmates shall lose privileges according to the system established under RCW 72.09.130. Eligible inmates who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges. The legislature recognizes more inmates may agree to participate in education and work programs than are available. The department must make every effort to achieve maximum public benefit by placing inmates in available and appropriate education and work programs.

(2) The department shall provide access to a program of education to all offenders who are under the age of eighteen and who have not met high school graduation or general equivalency diploma requirements in accordance with chapter 28A.-- RCW (sections 1 through 9 of this act). The program of education established by the department and education provider under section 3 of this act for offenders under the age of eighteen must provide each offender a choice of curriculum that will assist the inmate in achieving a high school diploma or general equivalency diploma. The program of education may include but not be limited to basic education, prevocational training, work ethic skills, conflict

resolution counseling, substance abuse intervention, and anger management counseling. The curriculum may balance these and other rehabilitation, work, and training components.

(3) The department shall, to the extent possible and considering all available funds, prioritize its resources to meet the following goals for inmates in the order listed:

(a) Achievement of basic academic skills through obtaining a high school diploma or its equivalent and achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release;

(b) Additional work and education programs based on assessments and placements under subsection (5) of this section; and

(c) Other work and education programs as appropriate.

(4) The department shall establish, by rule, objective medical standards to determine when an inmate is physically or mentally unable to participate in available education or work programs. When the department determines an inmate is permanently unable to participate in any available education or work program due to a medical condition, the inmate is exempt from the requirement under subsection (1) of this section. When the department determines an inmate is temporarily unable to participate in an education or work program due to a medical condition, the inmate is exempt from the requirement of subsection (1) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all temporarily disabled inmates to ensure the earliest possible entry or reentry by inmates into available programming.

(5) The department shall establish, by rule, standards for participation in department-approved education and work programs. The standards shall address the following areas:

(a) Assessment. The department shall assess all inmates for their basic academic skill levels using a professionally accepted method of scoring reading, math, and language skills as grade level equivalents. The department shall determine an inmate's education history, work history, and vocational or work skills. The initial assessment shall be conducted, whenever possible, within the first thirty days of an inmate's entry into the correctional system, except that initial assessments are not required for inmates who are sentenced to life without the possibility of release, assigned to an intensive management unit within the first thirty days after entry into the correctional system, are returning to the correctional system within one year of a prior release, or whose physical or mental condition renders them unable to complete the assessment process. The department shall track and record changes in the basic academic skill levels of all inmates reflected in any testing or assessment performed as part of their education programming;

(b) Placement. The department shall follow the policies set forth in subsection (1) of this section in establishing criteria for placing inmates in education and work programs. The department shall, to the extent possible, place all inmates whose composite grade level score for basic academic skills is below the eighth grade level in a combined education and work program. The placement criteria shall include at least the following factors:

(i) An inmate's release date and custody level, except an inmate shall not be precluded from participating in an education or work program solely on the basis of his or her release date;

(ii) An inmate's education history and basic academic skills;

(iii) An inmate's work history and vocational or work skills;

(iv) An inmate's economic circumstances, including but not limited to an inmate's family support obligations; and

(v) Where applicable, an inmate's prior performance in department-approved education or work programs;

(c) Performance and goals. The department shall establish, and periodically review, inmate behavior standards and program goals for all education and work programs. Inmates shall be notified of applicable behavior standards and program goals prior to placement in an education or work program and shall be removed from the education or work program if they consistently fail to meet the standards or goals;

(d) Financial responsibility. (i) The department shall establish a formula by which inmates, based on their ability to pay, shall pay all or a portion of the costs or tuition of certain programs. Inmates shall, based on the formula, pay a portion of the costs or tuition of participation in:

(A) Second and subsequent vocational programs associated with an inmate's work programs; and

(B) An associate of arts or baccalaureate degree program when placement in a degree program is the result of a placement made under this subsection;

(ii) Inmates shall pay all costs and tuition for participation in:

(A) Any postsecondary academic degree program which is entered independently of a placement decision made under this subsection;

and

(B) Second and subsequent vocational programs not associated with an inmate's work program.

Enrollment in any program specified in (d)(ii) of this subsection shall only be allowed by correspondence or if there is an opening in an education or work program at the institution where an inmate is incarcerated and no other inmate who is placed in a program under this subsection will be displaced; and

(e) Notwithstanding any other provision in this section, an inmate sentenced to life without the possibility of release:

(i) Shall not be required to participate in education programming; and

(ii) May receive not more than one postsecondary academic degree in a program offered by the department or its contracted providers.

If an inmate sentenced to life without the possibility of release requires prevocational or vocational training for a work program, he or she may participate in the training subject to this section.

(6) The department shall coordinate education and work programs among its institutions, to the greatest extent possible, to facilitate continuity of programming among inmates transferred between institutions. Before transferring an inmate enrolled in a program, the department shall consider the effect the transfer will have on the inmate's ability to continue or complete a program. This subsection shall not be used to delay or prohibit a transfer necessary for legitimate safety or security concerns.

(7) Before construction of a new correctional institution or expansion of an existing correctional institution, the department shall adopt a plan demonstrating how cable, closed-circuit, and satellite television will be used for education and training purposes in the institution. The plan shall specify how the use of television in the education and training programs will improve inmates' preparedness for available work programs and job opportunities for which inmates may qualify upon release.

(8) The department shall adopt a plan to reduce the per-pupil cost of instruction by, among other methods, increasing the use of volunteer instructors and implementing technological efficiencies. The plan shall be adopted by December 1996 and shall be transmitted to the legislature upon adoption. The department shall, in adoption of the plan, consider distance learning, satellite instruction, video tape usage, computer-aided instruction, and flexible scheduling of offender instruction.

(9) Following completion of the review required by section 27(3), chapter 19, Laws of 1995 1st sp. sess. the department shall take all necessary steps to assure the vocation and education programs are relevant to work programs and skills necessary to enhance the employability of inmates upon release.

**Sec. 11.** RCW 41.59.080 and 1975 1st ASCE c 288 s 9 are each amended to read as follows:

The commission, upon proper application for certification as an exclusive bargaining representative or upon petition for change of unit definition by the employer or any employee organization within the time limits specified in RCW 41.59.070(3), and after hearing upon reasonable notice, shall determine the unit appropriate for the purpose of collective bargaining. In determining, modifying or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the educational employees; the history of collective bargaining; the extent of organization among the educational employees; and the desire of the educational employees; except that:

(1) A unit including nonsupervisory educational employees shall not be considered appropriate unless it includes all such nonsupervisory educational employees of the employer; and

(2) A unit that includes only supervisors may be considered appropriate if a majority of the employees in such category indicate by vote that they desire to be included in such a unit; and

(3) A unit that includes only principals and assistant principals may be considered appropriate if a majority of such employees indicate by vote that they desire to be included in such a unit; and

(4) A unit that includes both principals and assistant principals and other supervisory employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(5) A unit that includes supervisors and/or principals and assistant principals and nonsupervisory educational employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(6) A unit that includes only employees in vocational-technical institutes or occupational skill centers may be considered to constitute an appropriate bargaining unit if the history of bargaining in any such school district so justifies; and

(7) Notwithstanding the definition of collective bargaining, a unit that contains only supervisors and/or principals and assistant principals shall be limited in scope of bargaining to compensation, hours of work, and the number of days of work in the annual employment contracts; and

(8) The bargaining unit of certificated employees of school districts, educational service districts, or institutions of higher education that are education providers under chapter 28A.-- RCW (sections 1 through 9 of this act) must be limited to the employees working as education providers to juveniles in each adult correctional facility maintained by the department of corrections and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education.

**NEW SECTION. Sec. 12.** A new section is added to chapter 41.56 RCW to read as follows:

This chapter applies to the bargaining unit of classified employees of school districts, educational service districts, or institutions of higher education that are education providers under chapter 28A.-- RCW (sections 1 through 9 of this act). Such bargaining units must be limited to the employees working as education providers to juveniles in each adult correctional facility maintained by the department of corrections and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education.

**Sec. 13.** RCW 28A.310.300 and 1990 c 33 s 283 are each amended to read as follows:

In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Assist the school districts in preparation of their budgets as provided in chapter 28A.505 RCW.

(2) Enforce the provisions of the compulsory attendance law as provided in RCW 28A.225.010 through ~~((28A.225.150))~~ 28A.225.140, 28A.200.010, and 28A.200.020.

(3) Perform duties relating to capital fund aid by nonhigh districts as provided in chapter 28A.540 RCW.

(4) Carry out the duties and issue orders creating new school districts and transfers of territory as provided in chapter 28A.315 RCW.

(5) Perform the limited duties as provided in chapter 28A.-- RCW (sections 1 through 9 of this act).

(6) Perform all other duties prescribed by law and the educational service district board.

**Sec. 14.** RCW 28A.225.010 and 1996 c 134 s 1 are each amended to read as follows:

(1) All parents in this state of any child eight years of age and under eighteen years of age shall cause such child to attend the public school of the district in which the child resides and such child shall have the responsibility to and therefore shall attend for the full time when such school may be in session unless:

(a) The child is attending an approved private school for the same time or is enrolled in an extension program as provided in RCW 28A.195.010(4);

(b) The child is receiving home-based instruction as provided in subsection (4) of this section;

(c) The child is attending an education center as provided in chapter 28A.205 RCW;

(d) The school district superintendent of the district in which the child resides shall have excused such child from attendance because the child is physically or mentally unable to attend school, is attending a residential school operated by the department of social and health services, is incarcerated in an adult correctional facility, or has been temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and the parent: PROVIDED, That such excused absences shall not be permitted if deemed to cause a serious adverse effect upon the student's educational progress: PROVIDED FURTHER, That students excused for such temporary absences may be claimed as full time equivalent students to the extent they would otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260 and shall not affect school district compliance with the provisions of RCW 28A.150.220; or

(e) The child is sixteen years of age or older and:

(i) The child is regularly and lawfully employed and either the parent agrees that the child should not be required to attend school or the child is emancipated in accordance with chapter 13.64 RCW;

(ii) The child has already met graduation requirements in accordance with state board of education rules and regulations; or

(iii) The child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW 28A.305.190.

(2) A parent for the purpose of this chapter means a parent, guardian, or person having legal custody of a child.

(3) An approved private school for the purposes of this chapter and chapter 28A.200 RCW shall be one approved under regulations established by the state board of education pursuant to RCW 28A.305.130.

(4) For the purposes of this chapter and chapter 28A.200 RCW, instruction shall be home-based if it consists of planned and supervised instructional and related educational activities, including a curriculum and instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of an appreciation of art and music, provided for a number of hours equivalent to the total annual program hours per grade level established for approved private schools under RCW 28A.195.010 and 28A.195.040 and if such activities are:

(a) Provided by a parent who is instructing his or her child only and are supervised by a certificated person. A certificated person for purposes of this chapter and chapter 28A.200 RCW shall be a person certified under chapter 28A.410 RCW. For purposes of this section, "supervised by a certificated person" means: The planning by the certificated person and the parent of objectives consistent with this subsection; a minimum each month of an average of one contact hour per week with the child being supervised by the certificated person; and evaluation of such child's progress by the certificated person. The number of children supervised by the certificated person shall not exceed thirty for purposes of this subsection; or

(b) Provided by a parent who is instructing his or her child only and who has either earned forty-five college level quarter credit hours or its equivalent in semester hours or has completed a course in home-based instruction at a postsecondary institution or a vocational-technical institute; or

(c) Provided by a parent who is deemed sufficiently qualified to provide home-based instruction by the superintendent of the local school district in which the child resides.

(5) The legislature recognizes that home-based instruction is less structured and more experiential than the instruction normally provided in a classroom setting. Therefore, the provisions of subsection (4) of this section relating to the nature and quantity of instructional and related educational activities shall be liberally construed.

**NEW SECTION. Sec. 15.** A new section is added to chapter 28A.150 RCW to read as follows:

(1) The department of corrections and the superintendent of public instruction shall conduct a study to determine the educational needs of inmates under the age of twenty-one incarcerated in jail and prison, the impact of providing educational services and special educational services to those inmates on the security and penological interests of the correctional institutions that incarcerate those inmates, and the ability of local school districts, the community and technical colleges, private vendors, juvenile detention centers, and the correctional institutions to provide those educational and special services.

(2) The department and the superintendent of public instruction shall consult with the following groups:

(a) The Washington association of school administrators;

(b) The individual school districts and educational service districts in which the department or a county jail may operate a school for inmates under age twenty-one;

(c) The Washington association of counties;

(d) The state board for community and technical colleges;

(e) The higher education coordinating board;

(f) The United States department of education office of special education programs and the office for civil rights;

(g) The juvenile rehabilitation administration's residential school programs;

(h) The juvenile court administrators;

(i) The attorney general;

(j) Columbia legal services;

(k) The Washington association of prosecuting attorneys;

(l) The school districts that provide educational services to juvenile offenders incarcerated in state juvenile residential schools; and

(m) Any other person or association that in the opinion of the department or the superintendent of public instruction may assist in the study.

(3) No later than May 1, 1998, the department and the superintendent of public instruction shall provide to the committees on education in the house and senate, the criminal justice and corrections committee in the house, the human services and corrections committee in the senate, and the house and senate fiscal committees, a profile of all offenders under the age of twenty-one who are incarcerated in a department of corrections' facility. The profile shall identify the offenders individually by the following:

(a) Age;

(b) Offense or offenses of commitment;

(c) Criminal history;

(d) Anticipated length of stay;

(e) The number of serious infractions committed by the offender during incarceration and the number of times, if any, the offender has been placed in an intensive management unit;

(f) The offender's custody level;

(g) Whether the offender has a high school diploma or a general equivalency diploma;

(h) The last grade the offender completed;

(i) Whether the offender, in the educational placement prior to incarceration was identified as a child with a disability or had an individualized education program;

(j) Whether the offender would qualify for transition planning and services under 20 U.S.C. Sec. 1414(d)(6);

(k) Whether the department has security or penological interests that warrant modification of an existing individualized education program or placement as provided by 20 U.S.C. Sec. 1414(d)(6);

(l) Whether the offender has participated in any educational programs offered by the department; and

(m) Whether the offender may be in need of special education and related services. This subsection does not require the department or the superintendent to evaluate an offender to determine if the offender is a child with disabilities in need of special education and related services.

(4) No later than September 1, 1998, the department of corrections and the superintendent of public instruction shall provide to the committees identified in subsection (3) of this section a profile of inmates under the age of twenty-one confined in county jails between the effective date of this section and August 1, 1998. The profile shall identify the inmates' characteristics as listed in subsection (3) of this section and shall include all inmates detained in a county correctional facility whether arrested, charged, pending trial, or convicted. The department and the superintendent of public instruction shall assist the counties in gathering this information.

(5) No later than September 1, 1998, the department and the superintendent of public instruction shall make a preliminary report to the committees listed in subsection (3) of this section, identifying the educational needs of inmates under the age of twenty-one in adult correctional facilities, the impact of providing educational services to those inmates on the security and penological interests of the correctional institutions that incarcerate those inmates, and the ability of local school districts, the community and technical colleges, private vendors, juvenile detention centers, and the correctional institutions to provide those educational services. The department and the superintendent, in consultation with the office of financial management, shall estimate the various capital and operating costs of providing basic educational services or basic skills education to offenders under age twenty-one, and special education and related services to all inmates under age twenty-one or to just those inmates under age eighteen and between the ages of eighteen and twenty-one who were identified as a child with a disability or had an individualized education program in the educational placement prior to incarceration in an adult correctional facility. The department and the superintendent of public instruction shall inform the committees as to which educational entity or entities are able and willing to provide those educational services.

(6) No later than November 1, 1998, the department and the superintendent of public instruction shall make final recommendations to the committees.

**NEW SECTION. Sec. 16.** Sections 1 through 9 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 17. Sections 1 through 9 and 11 through 15 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 18. Section 10 of this act takes effect September 1, 1998.

NEW SECTION. Sec. 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.,and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Hochstatter, the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6600.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6600, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6600, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Schow, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Finkbeiner - 1. Excused: Senators Rossi, Sellar and Spanel - 3. ENGROSSED SUBSTITUTE SENATE BILL NO. 6600, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6655 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to provide the necessary access to quality upper division and graduate higher education opportunities for the citizens of Spokane. The legislature intends that the Spokane branch campus of Washington State University, offering upper-division and graduate programs, be located at the Riverpoint Higher Education Park and that Washington State University be the administrative and fiscal agent for the Riverpoint Higher Education Park. In addition, those programs offered by Eastern Washington University that meet the rules and guidelines established by the higher education coordinating board's program approval process may serve students at the Riverpoint Higher Education Park. The legislature intends to streamline the program planning and approval process in Spokane by eliminating the joint center for higher education; thereby treating the Spokane higher education community like other public higher education communities in Washington that receive program approval from the higher education coordinating board. However, the legislature encourages partnerships, collaboration, and avoidance of program duplication through regular communication among the presidents of Spokane's public and private institutions of higher education. The legislature further intends that the residential mission of Eastern Washington University in Cheney be strengthened and that Eastern Washington University focus on the excellence of its primary campus in Cheney.

In addition, the legislature finds that the Spokane intercollegiate research and technology institute is a vital and necessary element in the academic and economic future of eastern Washington. The legislature also finds that it is in the interest of the state of Washington to support and promote applied research and technology in areas of the state that, because of geographic or historic circumstances, have not developed fully balanced economies. It is the intent of the legislature that institutions of higher education and the department of community, trade, and economic development work cooperatively with the private sector in the development and implementation of a technology transfer and integration program to promote the economic development and enhance the quality of life in eastern Washington.

NEW SECTION. Sec. 2. (1) The higher education coordinating board shall manage an assessment that determines the current higher education resources of the greater Spokane area and the current and future capital and programmatic higher education needs of the Spokane area, including the balance among anticipated, unmet, and fully met higher education needs. This assessment shall be coordinated with an economic analysis of the greater Spokane area.

(2) The higher education coordinating board, in coordination with the office of financial management, the employment security department, and the department of community, trade, and economic development, shall oversee the administration of an economic assessment of the greater Spokane area. This assessment shall reference previous economic studies of the greater Spokane area and include:

(a) Input from Spokane area civic leaders as well as the higher education and business communities;

(b) An evaluation of the current economic situation in the greater Spokane area and potential sectors and subsectors for significant job expansion;

(c) An analysis of the possible transformation of the economic base toward high technology and opportunities for industries producing higher wages; and

(d) An evaluation of the basic and applied research resources and needs of the present and future economy of the area.

(3) The assessments in subsections (1) and (2) of this section shall be completed by July 1, 1998, and a final report submitted to the higher education and fiscal committees of the legislature by October 1, 1998.

(4) By December 1, 1998, based on the findings of the assessments in subsections (1) and (2) of this section, the higher education coordinating board shall evaluate and develop a plan for the disposition of the Eastern Washington University Spokane Center Building.

(5)(a) By December 1, 1998, based on the findings of the assessments in subsections (1) and (2) of this section, Washington State University shall develop and deliver to the higher education coordinating board for approval a plan for the management of the Riverpoint Higher Education Park, excluding the land and the Spokane Intercollegiate Research and Technology Institute, that includes:

(i) Capital facilities maintenance and development;

(ii) Coordination of upper-division course offerings; and

(iii) The coordination of graduate programs in Spokane.

(b) In developing the plan in (a) of this subsection, Washington State University shall:

(i) Assume that Eastern Washington University students enrolled in Eastern Washington University courses will pay Eastern Washington University tuition rates; and

(ii) Emphasize and implement a maximum level of collaboration and partnerships by Eastern Washington University, Washington State University, and private institutions of higher education at the Riverpoint Higher Education Park.

(c) Washington State University shall submit a preliminary higher education services plan for the Riverpoint Higher Education Park to the higher education coordinating board by September 1, 1998, and a final plan to the higher education coordinating board and the office of financial management by October 15, 1998. The plan shall incorporate, but not be limited to:

(i) Relocation of all Spokane-based upper-division and graduate course offerings and academic programs offered by public universities in the city of Spokane to the Riverpoint Higher Education Park, using existing and planned structures at the Riverpoint Higher Education Park, except that the nursing courses and programs located in the intercollegiate center for nursing education facility shall remain at that location; and

(ii) A plan to establish an intercollegiate health sciences consortium that would be modeled on the intercollegiate center for nursing education. The intercollegiate health sciences consortium shall include, but not be limited to, programs offered through the intercollegiate center for nursing education and public and private institutions of higher education. Programs offered by Eastern Washington University in physical therapy, communication disorders, nursing, and dental hygiene shall continue to be offered by Eastern Washington University in Spokane.

(6) Washington State University, in consultation with the higher education coordinating board, shall write a new mission statement and operations plan for its Spokane branch campus. The draft mission statement and plan shall be submitted to the higher education coordinating board by September 1, 1998, and a final mission statement and plan shall be submitted to the higher education coordinating board for approval by October 15, 1998. The academic mission and plan shall include, but not be limited to the following elements:

(a) Identifying those academic centers of excellence on which Washington State University Spokane branch campus should focus, build, and expand in order to enhance its upper-division and graduate enrollment;

(b) Reflecting that programs in physical therapy, communications disorders, nursing, and dental hygiene continue to be offered through Eastern Washington University in Spokane;

(c) Including a requirement that Washington State University identify and report to the higher education coordinating board programs that should be offered in Spokane because of documented demand, unique partnerships, demonstrated efficiency, and other considerations. The draft of the report shall be submitted to the higher education coordinating board by September 1, 1998, and the final report shall be submitted to the higher education coordinating board by October 15, 1998;

(d) Ensuring that undergraduate programs that are offered at Washington State University Spokane branch campus do not duplicate undergraduate programs offered by Eastern Washington University at Cheney;

(e) Describing and targeting Washington State University Spokane branch campus's primary student audience;

(f) Ensuring that Washington State University Spokane branch campus's admission standards complement the primary student audience;

(g) Describing circumstances under which it is appropriate for Washington State University Spokane branch campus programs to serve nonprimary students;

(h) Establishing projected enrollment levels for Washington State University Spokane branch campus that reflect the needs of an upper-division and graduate level branch campus and that account for the demographic qualities and growth patterns associated with the areas from which the branch campus draws its students;

(i) Describing how Washington State University Spokane branch campus's enrollment levels will be consistent with state enrollment levels;

(j) Developing financial projections for serving these projected enrollment levels; and

(k) Analyzing and reviewing all capital and capacity information regarding the Washington State University Spokane branch campus, with particular attention to the current state of the existing physical plant and to the realistic enrollment capacity of the campus.

(7) Eastern Washington University, in consultation with the higher education coordinating board, shall write a new mission statement and operations plan for Eastern Washington University as a comprehensive, Cheney-based public institution of higher education. The draft mission statement and plan shall be submitted to the higher education coordinating board by September 1, 1998, and a final mission statement and plan shall be submitted to the higher education coordinating board for approval by October 15, 1998. The academic mission and plan shall include, but not be limited to the following elements:

(a) Identifying those academic centers of excellence on which Eastern Washington University should focus, build, and expand in order to enhance its enrollment and reaffirm its reputation for academic excellence;

(b) Reflecting that programs in physical therapy, communications disorders, nursing, and dental hygiene continue to be offered through Eastern Washington University in Spokane;

(c) Including a requirement that Eastern Washington University identify and report to the higher education coordinating board program offerings in Spokane that should be returned to the Cheney campus, discontinued, or continued to be offered in Spokane because of documented demand, unique partnerships, demonstrated efficiency, and other considerations. The draft of the report shall be submitted to the higher education coordinating board by September 1, 1998, and the final report shall be submitted to the higher education coordinating board by October 15, 1998;

(d) Ensuring that every effort is made to protect the academic interests of and minimize adverse impacts on Eastern Washington University students;

(e) Describing and targeting Eastern Washington University's primary student audience;

(f) Ensuring that Eastern Washington University's admission standards complement the primary student audience;

(g) Describing circumstances under which it is appropriate for Eastern Washington University programs to serve nonprimary students;

(h) Establishing projected enrollment levels for Eastern Washington University that reflect the needs of a comprehensive university and that account for the demographic qualities and growth patterns associated with the areas from which Eastern Washington University draws its students;

(i) Describing how Eastern Washington University's enrollment levels will be consistent with state enrollment levels;

(j) Developing financial projections for serving these reconfigured enrollment levels; and

(k) Analyzing and reviewing all capital and capacity information regarding the Eastern Washington University Cheney campus, with particular attention to the current state of the existing physical plant and to the realistic enrollment capacity of the campus.

(8) By December 1, 1998, the higher education coordinating board shall evaluate the mission statements and operations plans required in this section and submit a report to the higher education and fiscal committees of the legislature.

**NEW SECTION. Sec. 3.** (1) On July 1, 1998, title to or all interest in real estate and other assets, including but not limited to assignable contracts, cash, equipment, buildings, facilities, and appurtenances related to Riverpoint park, except for the area of real property defined as the approximate two and one-half acres bounded by the Spokane river, Trent Avenue, and Riverpoint Boulevard that is reserved for the Spokane intercollegiate research and technology institute and its expansion, shall be transferred from the joint center for higher education to Washington State University.

(2) All interest in real estate and other assets, including but not limited to assignable contracts, cash, equipment, buildings, facilities, and appurtenances related to the Spokane intercollegiate research and technology institute held as of July 1, 1998, shall vest in the Spokane intercollegiate institute of technology. The area of the real property related to the Spokane intercollegiate institute of technology is defined as the approximate two and one-half acres bounded by the Spokane river, Trent Avenue, and Riverpoint Boulevard.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28B.35 RCW to read as follows:

Housing or a housing allowance may only be provided for the president of a public four-year institution of higher education who resides in the location where the institution is designated under RCW 28B.20.010, 28B.30.010, 28B.35.010, and 28B.40.010.

**Sec. 5.** RCW 28B.10.029 and 1996 c 110 s 5 are each amended to read as follows:

(1) An institution of higher education may exercise independently those powers otherwise granted to the director of general administration in chapter 43.19 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education. Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of general administration. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and RCW 43.19.1901,



43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937, 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.550 through 43.19.637. The community and technical colleges shall comply with RCW 43.19.450. Except for the University of Washington, institutions of higher education shall comply with RCW 43.19.1935, 43.19.19363, and 43.19.19368. If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685; 43.19.534; and 43.19.637. Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of general administration. Thereafter the director of general administration shall not be required to provide those services for that institution for the duration of the general administration contract term for that commodity or group of commodities.

(2) An institution of higher education may exercise independently those powers otherwise granted to the public printer in chapter 43.78 RCW in connection with the production or purchase of any printing and binding needed by the respective institution of higher education. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapter 39.19 RCW. Any institution of higher education that chooses to exercise independent printing production or purchasing authority shall notify the public printer. Thereafter the public printer shall not be required to provide those services for that institution.

~~((3) For the purposes of this section, an "institution of higher education" shall include the joint center for higher education created in chapter 28B.25 RCW when the joint center for higher education is contracting with another institution of higher education that is acting as the sole agent for purchasing and disposing of material, supplies, services, and equipment, and for procuring printing or binding services.))~~

**Sec. 6.** RCW 28B.45.050 and 1991 c 205 s 11 are each amended to read as follows:

Washington State University ~~((and Eastern Washington University are))~~ is responsible for ~~((providing))~~ ensuring the expansion of upper-division and graduate level higher education programs to the citizens of ~~((the))~~ Spokane ~~((area)),~~ under rules or guidelines adopted by the ~~((joint center for higher education. However, before any degree is authorized under this section it shall be subject to the review and approval of the))~~ higher education coordinating board. The rules adopted by the higher education coordinating board shall: (1) Avoid program duplication; and (2) encourage collaboration between Washington State University and Eastern Washington University on the delivery of graduate level programs in Spokane. Washington State University shall meet ~~((its))~~ that responsibility through the operation of a branch campus in ~~((the))~~ Spokane ~~((area. Eastern Washington University shall meet its responsibility through the operation of programs and facilities in Spokane)).~~

**Sec. 7.** RCW 28B.130.020 and 1997 c 273 s 2 are each amended to read as follows:

(1) The governing board of an institution of higher education as defined in RCW 28B.10.016 may impose either a voluntary or a mandatory transportation fee on employees and on students at the institution. The board of ~~((the joint center for higher education under chapter 28B.25 RCW))~~ regents of Washington State University may impose either a voluntary or a mandatory transportation fee on faculty and staff working at the Riverpoint higher education park and on students attending classes there. The transportation fee shall be used solely to fund transportation demand management programs that reduce the demand for campus and neighborhood parking, and promote alternatives to single-occupant vehicle driving. If the board charges a mandatory transportation fee to students, it shall charge a mandatory transportation fee to employees. The transportation fee for employees may exceed, but shall not be lower than the transportation fee charged to students. The transportation fee for employees may be deducted from the employees' paychecks. The transportation fee for students may be imposed annually, or each academic term. For students attending community colleges and technical colleges, the mandatory transportation fee shall not exceed sixty percent of the maximum rate permitted for services and activities fees at community colleges, unless, through a vote, a majority of students consent to increase the transportation fee. For students attending four-year institutions of higher education or classes at the Riverpoint higher education park, the mandatory transportation fee shall not exceed thirty-five percent of the maximum rate permitted for services and activities fees at the institution where the student is enrolled unless, through a vote, a majority of students consents to increase the transportation fee. The board may make a limited number of exceptions to the fee based on a policy adopted by the board.

(2) The board of ~~((the joint center for higher education under chapter 28B.25 RCW))~~ regents of Washington State University shall not impose a transportation fee on any student who is already paying a transportation fee to the institution of higher education in which the student is enrolled.

**Sec. 8.** RCW 43.01.236 and 1997 c 273 s 3 are each amended to read as follows:

All institutions of higher education as defined under RCW 28B.10.016 ~~((and the joint center for higher education under chapter 28B.25 RCW))~~ are exempt from the requirements under RCW 43.01.240.

**NEW SECTION. Sec. 9.** SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE. (1) The Spokane intercollegiate research and technology institute is created.

(2) The institute shall be operated and administered as a multi-institutional education and research center, housing appropriate programs conducted in Spokane under the authority of institutions of higher education as defined in RCW 28B.10.016. Washington independent and private institutions of higher education may participate as full partners in any academic and research activities of the institute.

(3) The institute shall house education and research programs specifically designed to meet the needs of eastern Washington.

(4) The establishment of any education program at the institute and the lease, purchase, or construction of any site or facility for the institute is subject to the approval of the higher education coordinating board under RCW 28B.80.340.

(5) The institute shall be headquartered in Spokane.

(6) The mission of the institute is to perform and commercialize research that benefits the intermediate and long-term economic vitality of eastern Washington and to develop and strengthen university-industry relationships through the conduct of research that is primarily of interest to eastern Washington-based companies or state economic development programs. The institute shall:

(a) Perform and facilitate research supportive of state science and technology objectives, particularly as they relate to eastern Washington industries;

(b) Provide leading edge collaborative research and technology transfer opportunities primarily to eastern Washington industries;

(c) Provide substantial opportunities for training undergraduate and graduate students through direct involvement in research and industry interactions;

(d) Emphasize and develop nonstate support of the institute's research activities; and

(e) Provide a forum for effective interaction between the state's technology-based industries and its academic institutions through promotion of faculty collaboration with industry, particularly within eastern Washington.

**NEW SECTION. Sec. 10. ADMINISTRATION--BOARD OF DIRECTORS.** (1) The institute shall be administered by the board of directors.

(2) The board shall consist of the following members:

(a) Nine members of the general public. Of the general public membership, at least six shall be individuals who are associated with or employed by technology-based or manufacturing-based industries and have broad business experience and an understanding of high technology;

(b) The executive director of the Washington technology center or the director's designee;

(c) The provost of Washington State University or the provost's designee;

(d) The provost of Eastern Washington University or the provost's designee;

(e) The provost of Central Washington University or the provost's designee;

(f) The provost of the University of Washington or the provost's designee;

(g) An academic representative from the Spokane community colleges;

(h) One member from Gonzaga University; and

(i) One member from Whitworth College.

(3) The term of office for each board member, excluding the executive director of the Washington technology center, the provosts of Washington State University, Eastern Washington University, Central Washington University, and the University of Washington, shall be three years. The executive director of the institute shall be an ex officio, nonvoting member of the board. Board members shall be appointed by the governor. Initial appointments shall be for staggered terms to ensure the long-term continuity of the board. The board shall meet at least quarterly.

(4) The duties of the board include:

(a) Developing the general operating policies for the institute;

(b) Appointing the executive director of the institute;

(c) Approving the annual operating budget of the institute;

(d) Establishing priorities for the selection and funding of research projects that guarantee the greatest potential return on the state's investment;

(e) Approving and allocating funding for research projects conducted by the institute;

(f) In cooperation with the department of community, trade, and economic development, developing a biennial work plan and five-year strategic plan for the institute that are consistent with the state-wide technology development and commercialization goals;

(g) Coordinating with public, independent, and private institutions of higher education, and other participating institutions of higher education in the development of training, research, and development programs to be conducted at the institute that are targeted to meet industrial needs;

(h) Assisting the department of community, trade, and economic development in the department's efforts to develop state science and technology public policies and coordinate publicly funded programs;

(i) Reviewing annual progress reports on funded research projects;

(j) Providing an annual report to the governor and the legislature detailing the activities and performance of the institute; and

(k) Submitting annually to the department of community, trade, and economic development an updated strategic plan and a statement of performance measured against the mission, roles, and contractual obligations of the institute.

(5) The board may enter into contracts to fulfill its responsibilities and purposes under this chapter.

**NEW SECTION. Sec. 11. SUPPORT FROM PARTICIPATING INSTITUTIONS.** Staff support for programs will be provided from among the cooperating institutions through cooperative agreements. Cooperating institutions are Washington State University as the senior research partner, Eastern Washington University, Central Washington University, the University of Washington, Gonzaga University, Whitworth College, and other participating institutions of higher education.

**NEW SECTION. Sec. 12. OPERATING STAFF.** The director of the Spokane intercollegiate research and technology institute may hire staff as necessary to operate the institution. The director may enter into cooperative agreements for programs and research with public and

private organizations including state and nonstate funding agencies consistent with policies of the Spokane intercollegiate research and technology institute.

**NEW SECTION. Sec. 13. ROLE OF DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT.** The department of community, trade, and economic development shall contract with the institute for the expenditure of state-appropriated funds for the operation of the institute. The department of community, trade, and economic development shall provide guidance to the institute regarding expenditure of state-appropriated funds and the development of the institute's strategic plan. The director of the department of community, trade, and economic development shall not withhold funds appropriated for the institute if the institute complies with the provisions of its contract with the department of community, trade, and economic development. The department is responsible to the legislature for the contractual performance of the institute.

**NEW SECTION. Sec. 14. AVAILABILITY OF FACILITIES TO OTHER INSTITUTIONS.** The facilities of the institute shall be made available to other institutions of higher education within the state when this would benefit specific program needs.

**NEW SECTION. Sec. 15. AUTHORITY TO RECEIVE AND EXPEND FEDERAL FUNDS.** The board may receive and expend federal funds and any private gifts or grants to further the purpose of the institute. The funds are to be expended in accordance with federal and state law and any conditions contingent in the grant of those funds.

**NEW SECTION. Sec. 16. CAPTIONS NOT LAW.** Captions used in this chapter are not any part of the law.

**NEW SECTION. Sec. 17.** The following acts or parts of acts are each repealed:

- (1) RCW 28B.25.010 and 1991 c 205 s 2 & 1985 c 370 s 97;
- (2) RCW 28B.25.020 and 1996 c 110 s 1, 1991 c 205 s 3, 1989 1st ASCE c 7 s 11, & 1985 c 370 s 98;
- (3) RCW 28B.25.030 and 1996 c 110 s 2, 1991 c 205 s 4, & 1985 c 370 s 99;
- (4) RCW 28B.25.033 and 1996 c 110 s 6 & 1991 c 205 s 5;
- (5) RCW 28B.15.037 and 1991 c 205 s 6;
- (6) RCW 28B.25.040 and 1991 c 205 s 7 & 1985 c 370 s 100;
- (7) RCW 28B.25.050 and 1991 c 205 s 8 & 1985 c 370 s 101;
- (8) RCW 28B.25.070 and 1991 c 205 s 9;
- (9) RCW 28B.25.075 and 1997 c 273 s 1;
- (10) RCW 28B.25.090 and 1996 c 110 s 3;
- (11) RCW 28B.25.100 and 1996 c 110 s 4;
- (12) RCW 28B.25.900 and 1991 c 205 s 13; and
- (13) RCW 28B.10.060 and 1991 c 205 s 1 & 1989 1st ASCE c 7 s 10.

**NEW SECTION. Sec. 18.** Sections 9 through 16 of this act constitute a new chapter in Title 28B RCW.

**NEW SECTION. Sec. 19.** Section 6 of this act takes effect January 1, 1999.

**NEW SECTION. Sec. 20.** Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Wood moved that the Senate concur in the House amendment to Substitute Senate Bill No. 6655.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Wood that the Senate concur in the House amendment to Substitute Senate Bill No. 6655.

The motion by Senator Wood carried and the Senate concurred in the House amendment to Substitute Senate Bill No. 6655.

#### MOTION

On motion of Senator Franklin, Senator Heavey was excused.

Further debate ensued.

#### POINT OF INQUIRY

Senator Thibaudeau: "Senator Brown, what effect will this have on the ongoing development of Eastern Washington and particularly for those students, most of whom--I understand--live in Spokane?"

Senator Brown: "Senator Thibaudeau, it would be hard to explain--hard to answer that question in just a few words--and there would be different opinions on the matter, but let me say that Eastern students currently--over sixty percent of them--live in Spokane. Although the bill calls Eastern a Cheney-based residential campus, no matter how many laws we pass that say that, the fact will still remain that Eastern draws a good deal of its student-base from place-bound students who live in Spokane--who live with their parents, because they cannot afford to go to a residential campus or who live with their families, because they are nontraditional students. So, regardless of what the underlying bill says, it will still be the case that a large percentage of Eastern students will continue to be Spokane-based students."

Senator Thibaudeau: "Thank you, Senator Brown."

#### DEMAND FOR PREVIOUS QUESTION

Senators West, Johnson and Wood demanded the previous question and the demand was sustained.

The President declared the question before the Senate to be shall the previous question be put.

The motion for the previous question carried.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6655, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6655, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 27. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 21. Excused: Senator Heavey - 1. SUBSTITUTE SENATE BILL NO. 6655, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Jacobsen, Senator Thibaudeau was excused.

#### MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6603 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 88.02.030 and 1997 c 83 s 1 are each amended to read as follows:

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

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

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

(3) Vessels either (a) registered or numbered under the laws of a country other than the United States; or (b) having a valid United States customs service cruising license issued pursuant to 19 C.F.R. Sec. 4.94. On or before the sixty-first day of use in the state, any vessel in the state under this subsection shall obtain an identification document from the department of licensing, its agents, or subagents indicating when the vessel first came into the state. At the time of any issuance of an identification document, a twenty-five dollar identification document fee shall be paid by the vessel owner to the department of licensing for the cost of providing the identification document by the department of licensing. Any moneys remaining from the fee after payment of costs shall be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045. The department of licensing shall adopt rules to implement its duties under this subsection, including issuing and displaying the identification document and collecting the twenty-five dollar fee;

(4) Vessels that have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation. However, a vessel that is validly registered in another state but that is removed to this state for principal use is subject to registration

under this chapter. The issuing authority for this state shall recognize the validity of the numbers previously issued for a period of sixty days after arrival in this state;

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

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

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

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

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

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

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

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

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

(11) On and after January 1, 1998, vessels owned by a nonresident individual brought into the state for his or her use or enjoyment while temporarily within the state for not more than six months in any continuous twelve-month period, unless the vessel is used in conducting a nontransitory business activity within the state. However, the vessel must ~~((a) be registered or numbered under the laws of a country other than the United States, (b) have a valid United States customs service cruising license issued under 19 C.F.R. Sec. 4.94, or (c))~~ have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation. On or before the sixty-first day of use in the state, any vessel temporarily in the state under this subsection shall obtain an identification document from the department of licensing, its agents, or subagents indicating when the vessel first came into the state. An identification document shall be valid for a period of two months. At the time of any issuance of an identification document, a twenty-five dollar identification document fee shall be paid by the vessel owner to the department of licensing for the cost of providing the identification document by the department of licensing. Any moneys remaining from the fee after payment of costs shall be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045. The department of licensing shall adopt rules to implement its duties under this subsection, including issuing and displaying the identification document and collecting the twenty-five dollar fee.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Horn, the Senate concurred in the House amendment to Substitute Senate Bill No. 6603.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6603, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6603, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 47.

Excused: Senators Heavey and Thibaudeau - 2. SUBSTITUTE SENATE BILL NO. 6603, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6729 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the availability of safe and affordable housing is vital to low-income senior citizens and persons with disabilities. The legislature further finds that the availability of low-cost financing is necessary for the development or preservation of housing for seniors and persons with disabilities. The legislature further finds that many existing housing developments for seniors and persons with disabilities are in need of renovation. The legislature further finds that there is a need to explore alternative financing techniques to cover the cost of development or renovation of housing for seniors and persons with disabilities. It is the intent of the legislature to create the task force on financing housing for seniors and persons with disabilities to explore alternative financing techniques for the development and renovation of housing developments in Washington for low-income seniors and persons with disabilities.

NEW SECTION. Sec. 2. (1) There is created the task force on financing senior housing and housing for persons with disabilities to consist of thirteen members. The task force consists of the following members:

(a) The director of the department of community, trade, and economic development or the director's designee, who serves as an ex officio member and as chair;

(b) The executive director of the Washington state housing finance commission or the director's designee, who serves as an ex officio member;

(c) The secretary of the department of social and health services or the secretary's designee, who serves as an ex officio member;

(d) Three representatives from organizations involved in the management of senior housing developments, one of which must be from an organization involved in the ownership of senior housing developments;

(e) Two representatives from financial institutions involved in financing senior housing developments, one of which must be from an investment and banking firm involved in financing federally insured senior housing developments;

(f) One representative from a mobile home owners association that represents seniors;

(g) One representative from a mobile home park owners association;

(h) Two representatives from state-wide organizations that represent persons with disabilities; and

(i) One representative from a public housing authority.

(2) The director of the department of community, trade, and economic development shall appoint all nonex officio members to the task force on financing senior housing and housing for persons with disabilities. The vice-chair of the task force is selected by majority vote of the task force members. The members of the task force on financing senior housing and housing for persons with disabilities serve without compensation.

(3) The department of community, trade, and economic development, the department of social and health services, and the Washington state housing finance commission shall supply such information and assistance as is necessary for the task force on financing senior housing and housing for persons with disabilities to carry out its duties under section 3 of this act.

(4) The department of community, trade, and economic development, the department of social and health services, and the Washington state housing finance commission shall provide administrative and clerical assistance to the task force on financing senior housing and housing for persons with disabilities.

NEW SECTION. Sec. 3. The task force on financing senior housing and housing for persons with disabilities shall by December 15, 1998, prepare and submit to the house of representatives committee on trade and economic development and the senate committee on financial institutions, insurance and housing a progress report on the findings and recommendations required under chapter 383, Laws of 1997. The task force may also make additional recommendations on financial and regulatory techniques designed to assist in the construction of new facilities or renovation of existing housing facilities for seniors and persons with disabilities.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 5. This act expires February 1, 1999."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Winsley, the Senate concurred in the House amendment to Senate Bill No. 6729.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6729, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6729, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Sellar - 1. Excused: Senator Heavey - 1. SENATE BILL NO. 6729, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6560 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) Electricity is a basic and fundamental need of all residents; and  
(b) Currently Washington's consumer-owned and investor-owned utilities offer consumers a high degree of reliability and service quality while providing some of the lowest rates in the country.

(2) The legislature intends to:

- (a) Preserve the benefits of consumer and environmental protection, system reliability, high service quality, and low-cost rates;
- (b) Ensure that all retail electrical customers have the same level of rights and protections; and
- (c) Require the adequate disclosure of the rights afforded to retail electric customers.

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

(1) "Commission" means the utilities and transportation commission.  
(2) "Conservation" means an increase in efficiency in the use of energy use that yields a decrease in energy consumption while providing the same or higher levels of service. Conservation includes low-income weatherization programs.

(3) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(4) "Department" means the department of community, trade, and economic development.

(5) "Electric meters in service" means those meters that record in at least nine of twelve calendar months in any calendar year not less than two hundred fifty kilowatt hours per month.

(6) "Electric utility" means a consumer-owned or investor-owned utility as defined in this section.

(7) "Electricity" means electric energy measured in kilowatt hours, or electric capacity measured in kilowatts, or both.

(8) "Governing body" means the council of a city or town, the commissioners of an irrigation district, municipal electric utility, or public utility district, or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

(9) "Investor-owned utility" means a company owned by investors that meets the definition of RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(10) "Proprietary customer information" means: (a) Information that relates to the source and amount of electricity used by a retail electric customer, a retail electric customer's payment history, and household data that is made available by the customer solely by virtue of the utility-customer relationship; and (b) information contained in a retail electric customer's bill.

(11) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(12) "Resale" means the purchase and subsequent sale of electricity for profit, but does not include the purchase and the subsequent sale of electricity at the same rate at which the electricity was purchased.

(13) "Retail electric customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(14) "Small utility" means any consumer-owned utility with twenty-five thousand or fewer electric meters in service, or that has an average of seven or fewer customers per mile of distribution line.

(15) "State" means the state of Washington.

**NEW SECTION. Sec. 3.** Except as otherwise provided in section 6 of this act, each electric utility must provide its retail electric customers with the following disclosures in accordance with section 4 of this act:

(1) An explanation of any applicable credit and deposit requirements, including the means by which credit may be established, the conditions under which a deposit may be required, the amount of any deposit, interest paid on the deposit, and the circumstances under which the deposit will be returned or forfeited.

(2) A complete, itemized listing of all rates and charges for which the customer is responsible, including charges, if any, to terminate service, the identity of the entity responsible for setting rates, and an explanation of how to receive notice of public hearings where changes in rates will be considered or approved.

(3) An explanation of the metering or measurement policies and procedures, including the process for verifying the reliability of the meters or measurements and adjusting bills upon discovery of errors in the meters or measurements.

(4) An explanation of bill payment policies and procedures, including due dates, applicable late fees, and the interest rate charged, if any, on unpaid balances.

(5) An explanation of the payment arrangement options available to customers, including budget payment plans and the availability of home heating assistance from government and private sector organizations.

(6) An explanation of the method by which customers must give notice of their intent to discontinue service, the circumstances under which service may be discontinued by the utility, the conditions that must be met by the utility prior to discontinuing service, and how to avoid disconnection.

(7) An explanation of the utility's policies governing the confidentiality of proprietary customer information, including the circumstances under which the information may be disclosed and ways in which customers can control access to the information.

(8) An explanation of the methods by which customers may make inquiries to and file complaints with the utility, and the utility's procedures for responding to and resolving complaints and disputes, including a customer's right to complain about an investor-owned utility to the commission and appeal a decision by a consumer-owned utility to the governing body of the consumer-owned utility.

(9) An annual report containing the following information for the previous calendar year:

(a) A general description of the electric utility's customers, including the number of residential, commercial, and industrial customers served by the electric utility, and the amount of electricity consumed by each customer class in which there are at least three customers, stated as a percentage of the total utility load;

(b) A summary of the average electricity rates for each customer class in which there are at least three customers, stated in cents per kilowatt hour, the date of the electric utility's last general rate increase or decrease, the identity of the entity responsible for setting rates, and an explanation of how to receive notice of public hearings where changes in rates will be considered or approved;

(c) An explanation of the amount invested by the electric utility in conservation, nonhydrorenewable resources, and low-income energy assistance programs, and the source of funding for the investments; and

(d) An explanation of the amount of federal, state, and local taxes collected and paid by the electric utility, including the amounts collected by the electric utility but paid directly by retail electric customers.

**NEW SECTION. Sec. 4.** Except as otherwise provided in section 6 of this act, an electric utility shall:

(1) Provide notice to all of its retail electric customers that the disclosures required in section 3 of this act are available without charge upon request. Such notice shall be provided at the time service is established and either included as a prominent part of each customer's bill or in a written notice mailed to each customer at least once a year thereafter. Required disclosures shall be provided without charge, in writing using plain language that is understandable to an ordinary customer, and presented in a form that is clear and conspicuous.

(2) Disclose the following information in a prominent manner on all billing statements sent to retail electric customers, or by a separate written notice mailed to all retail electric customers at least quarterly and at the same time as a billing statement: "YOUR BILL INCLUDES CHARGES FOR ELECTRICITY, DELIVERY SERVICES, GENERAL ADMINISTRATION AND OVERHEAD, METERING, TAXES, CONSERVATION EXPENSES, AND OTHER ITEMS."

**NEW SECTION. Sec. 5.** (1) The utilities and transportation commission and the department of community, trade, and economic development shall jointly study the following issues:

(a) Variations in retail electricity rates within the state and in comparison with national averages, trends affecting the electric service costs for all customers in the state, and strategies available to minimize those costs in the future;

(b) Demographics of retail electric customers in the state to include the distribution of customers by size of load;

(c) The potential for cost-shifting among customer classes and among customers within the same class, and strategies available to minimize inappropriate cost shifts;

(d) The consumer protection policies and procedures of electric utilities, including areas of consistency and inconsistency among the utilities in those policies and procedures;



(e) The status, number, and primary characteristics of service territory agreements between electric utilities;  
(f) The current level of service quality and reliability as measured by available statistics, trends affecting quality of service and the integrity and reliability of the distribution system, and ways to ensure high service quality and reliability in the future; and  
(g) Current levels of investment in conservation, nonhydrorenewable resources, and low-income energy assistance programs, trends affecting such investment, and ways to fairly, efficiently, and effectively foster future achievement of the purposes of such investment.

(2) The utilities and transportation commission and the department of community, trade, and economic development shall consult with the chair and ranking minority member of the senate and house of representatives energy and utilities committees, electric utilities, retail electric customers, and other interested parties throughout the course of the study and shall report the results of this study to the legislature and the governor no later than December 31, 1998.

(3) Except as otherwise provided in section 6 of this act, each electric utility shall cooperate with the commission and the department in the preparation of the study and report required by this section, and shall provide all information requested by the commission or the department in a timely manner so that the study and report will be as thorough as possible and completed on schedule. The commission and department shall coordinate and cooperate with each other in preparing the study and report, particularly in requesting information from, or the assistance of, electric utilities, to minimize the potential for redundant requests.

**NEW SECTION. Sec. 6.** The provisions of sections 3 through 5 of this act do not apply to a small utility. However, nothing in this section prohibits the governing body of a small utility from determining the utility should comply with any or all of the provisions of sections 3 through 5 of this act, which governing bodies are encouraged to do.

**NEW SECTION. Sec. 7.** Nothing in chapter . . . , Laws of 1998 (this act) shall be construed as conferring on any state agency jurisdiction, supervision, or control over any consumer-owned utility.

**Sec. 8.** RCW 74.38.070 and 1990 c 164 s 1 are each amended to read as follows:

(1) Notwithstanding any other provision of law, any county, city, town, municipal corporation, or quasi municipal corporation providing utility services may provide such services at reduced rates for low income senior citizens or ~~other~~ low-income ~~((disabled))~~ citizens: PROVIDED, That, for the purposes of this section, "low-income senior citizen" or "~~other~~ low-income ~~((disabled))~~ citizen" shall be defined by appropriate ordinance or resolution adopted by the governing body of the county, city, town, municipal corporation, or quasi municipal corporation providing the utility services except as provided in subsection (2) of this section. Any reduction in rates granted in whatever manner to low-income senior citizens or ~~other~~ low-income ~~((disabled))~~ citizens in one part of a service area shall be uniformly extended to low-income senior citizens or ~~other~~ low-income ~~((disabled))~~ citizens in all other parts of the service area.

(2) For purposes of implementing this section by any public utility district, (a) "low-income senior citizen" means a person who is sixty-two years of age or older and whose total income, including that of his or her spouse or cotenant, does not exceed the amount specified in RCW 84.36.381(5)(b), as now or hereafter amended and (b) "~~other~~ low-income ~~((disabled))~~ citizen" means ~~((+++))~~ a person ~~((qualifying for special parking privileges under RCW 46.16.381(1) (a) through (f), (ii) a blind person as defined in RCW 74.18.020, or (iii) a disabled, handicapped, or incapacitated person as defined under any other existing state or federal program and))~~ whose household income~~((,- including that of his or her spouse or cotenant,))~~ does not exceed the amount specified in RCW 70.164.020(4).

**NEW SECTION. Sec. 9.** If specific funding for the purposes of section 5 of this act, referencing section 5 of this act by bill or chapter number and section number, is not provided by June 30, 1998, in the omnibus appropriations act, section 5 of this act is null and void.

**NEW SECTION. Sec. 10.** Sections 1 through 4, 6, and 7 of this act constitute a new chapter in Title 19 RCW.

**NEW SECTION. Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

## MOTION

Senator Finkbeiner moved that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6560.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Finkbeiner that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6560.

The motion by Senator Finkbeiner carried and the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6560.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6560, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6560, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Prince - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6560, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5094 with the following amendment(s):

On page 3, after line 9, insert the following:

**"NEW SECTION. Sec. 3.** The department of corrections shall conduct a special study of sex offenders who have committed sex offenses against children.

(1) The study shall include any person:

(a) Convicted of any of the following offenses:

(i) Rape of a child in the first degree (RCW 9A.44.073), second degree (RCW 9A.44.076), or third degree (RCW 9A.44.079);

(ii) Child molestation in the first degree (RCW 9A.44.083), second degree (RCW 9A.44.086), or third degree (RCW 9A.44.089);

(iii) Sexual misconduct with a minor in the first degree (RCW 9A.44.093) or second degree (RCW 9A.44.096); or

(iv) Any equivalent or substantially similar offense committed against a child for which the person was convicted in another jurisdiction;

(b) Who resides within one mile of any of the following locations within the state of Washington:

(i) Any public school as defined in RCW 28A.150.010;

(ii) Any common school as defined in RCW 28A.150.020;

(iii) Any private school as defined in RCW 28A.195.010; or

(iv) Any child day-care center as defined in RCW 74.15.020; and

(c) Who is currently serving a term of community supervision, community placement, community service, or other similar conditional release as authorized by the laws of another jurisdiction, or who has been released from a sentence of total confinement for any offense identified in (a) of this subsection within the past five years.

(2) The department of corrections shall report the findings of the study to the legislature, which report shall contain at least the following minimum information:

(a) The number of offenders identified in subsection (1) of this section;

(b) The proximity of each of the offenders identified in (a) of this subsection to any location described in subsection (1)(b) of this section, for example, "across the street," "two blocks," and similar phrases;

(c) The most recent offense identified in subsection (1)(a) of this section for which each offender was convicted and whether such offense was a first offense. If the offense was not a first offense, any other sex offenses set out in chapter 9A.44 RCW for which the offender has been convicted, and when each such an offense was committed; and

(d) The names of the county, municipality, and school or day care center within one mile of which any offender required to be identified by this study resides.

(3) The department of corrections shall conduct this study with existing department funds.

(4) The department of corrections shall report the results of this study by December 31, 1998.

**NEW SECTION. Sec. 4.** The department of corrections shall conduct a special study of sex offenders.

(1) The subject of the study shall be the posting on the internet of information related to offenders who have committed sex offenses as set out in chapter 9A.44 RCW.

(2) The department of corrections shall report the findings of the study to the legislature, which report shall contain at least the following minimum information:

(a) Which other states, if any, maintain information related to sex offenders on the internet, what particular information is maintained by any such state, and the cost and effectiveness of any such program of another state in keeping the public informed with regard to sex offenders;

(b) The resources required and costs that would be incurred in implementing such a program in Washington; and

(c) An estimated time frame that would be required for implementation of such a program in Washington state.

(3) The department of corrections shall conduct this study with existing department funds.

(4) The department of corrections shall report the results of this study by December 31, 1998."

On page 2, line 32, replace "conviction" with ~~((conviction))~~ remand to custody"

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Long, the Senate refuses to concur in the House amendments to Senate Bill No. 5094 and requests of the House a conference thereon.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Senate Bill No. 5094 and the House amendment(s) thereto: Senators Long, Franklin and Roach.

#### MOTION

On motion of Senator Snyder, the Conference Committee appointments were confirmed.

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6119 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.13A.010 and 1971 AS c 95 s 1 are each amended to read as follows:

Whenever used in this chapter, the following words shall have the following meanings:

(1) The words "district," "water district," and "sewer district" shall mean a ~~((water district or sewer district as indicated by the context of the section in which used))~~ "water-sewer district" as that term is used in Title 57 RCW.

(2) The word "city" shall mean a city or town of any class and shall also include any code city as defined in chapter 35A.01 RCW.

(3) ~~((The words "included with" shall mean the inclusion of all or part of the territory of a district, as indicated by the context, within the corporate limits of a city either by incorporation of a city, annexation to a city, consolidation of cities or any combination thereof.~~

(4)) The word "indebtedness" shall include general obligation, revenue, and special indebtedness and temporary, emergency, and interim loans.

**Sec. 2.** RCW 35.13A.020 and 1971 AS c 95 s 2 are each amended to read as follows:

(1) Whenever all of the territory of a water ~~((district or))~~-sewer district is included within the corporate boundaries of a city, ~~((and))~~ the city legislative body ~~((has elected by))~~ may adopt a resolution or ordinance to assume jurisdiction ~~((thereof))~~ over all of the district.

(2) Upon the assumption, all real and personal property, franchises, rights, assets, taxes levied but not collected for the district for other than indebtedness, water ~~((and))~~, sewer ~~((lines))~~, and drainage facilities, and all other facilities and equipment of the district shall become the property of ~~((such))~~ the city subject to all financial, statutory, or contractual obligations of the district for the security or performance of which ~~((such))~~ the property may have been pledged. ~~((Such))~~ The city, in addition to its other powers, shall have the power to manage, control, maintain, and operate ~~((such))~~ the property, facilities and equipment and to fix and collect service and other charges from owners and occupants of properties so served by the city, subject, however, to any outstanding indebtedness, bonded or otherwise, of the district payable from taxes, assessments, or revenues of any kind or nature and to any other contractual obligations of the district.

~~((Such))~~ (3) The city may by resolution or ordinance of its legislative body, assume the obligation of paying such district indebtedness and of levying and of collecting or causing to be collected ~~((such))~~ the district taxes, assessments, and utility rates and charges of any kind or nature to pay and secure the payment of ~~((such))~~ the indebtedness, according to all of the terms, conditions and covenants incident to ~~((such))~~ the indebtedness, and shall assume and perform all other outstanding contractual obligation of the district in accordance with all of ~~((its))~~ their terms, conditions, and covenants. ~~((No such))~~ An assumption shall not be deemed to impair the obligation of any indebtedness or other contractual obligation ~~((entered into after August 9, 1971))~~. During the period until the outstanding indebtedness of the district has been discharged, the territory of the district and the owners and occupants of property therein, shall continue to be liable for its and their proportionate share of ~~((such))~~ the indebtedness, including any outstanding assessments levied within any local improvement district or utility local improvement district thereof. The city shall assume the obligation of causing the payment of ~~((such))~~ the district's indebtedness, collecting ~~((such))~~ the district's taxes, assessments, and charges, and observing and performing the other district contractual obligations. The legislative body of the city shall act as the officers of the district for the purpose of certifying the amount of any property tax to be levied and collected therein, and causing service and other charges and assessments to be collected from ~~((such))~~ the property or owners or occupants thereof, enforcing ~~((such))~~ the collection and performing all other acts necessary to ~~((insure))~~ ensure performance of the district's contractual obligations in the same manner and by the same means as if the territory of the district had not been included within the boundaries of a city.

When a city assumes the obligation of paying the outstanding indebtedness, and if property taxes or assessments have been levied and service and other charges have accrued for ~~((such))~~ this purpose but have not been collected by the district prior to ~~((such election))~~ the assumption, the same when collected shall belong and be paid to the city and be used by ~~((such))~~ the city so far as necessary for payment of the indebtedness of the district existing and unpaid on the date ~~((such))~~ the city ~~((elects to))~~ assumes the indebtedness. Any funds received by the city which have been collected for the purpose of paying any bonded or other indebtedness of the district, shall be used for the purpose for which they were collected and for no other purpose. Any outstanding indebtedness shall be paid as provided in the ~~((bond))~~ terms, conditions, and covenants of the indebtedness. All funds of the district on deposit with the county treasurer at the time of title transfer shall be used by the city solely for the benefit of the assumed utility and shall not be transferred to or used for the benefit of the city's general fund.

NEW SECTION. Sec. 3. During the period commencing with the effective date of this act and running through July 1, 1999, a city may not assume jurisdiction of all or a portion of a water-sewer district under RCW 35.13A.030 or 35.13A.040, unless voters of the entire water-sewer district approve a ballot proposition authorizing the assumption, and during the same period a water-sewer district may not:

- (1) Merge or consolidate with another water-sewer district; or
- (2) Take any action that would establish different contractual obligations, requirements for retiring indebtedness, authority to issue debt in parity with the district's existing outstanding indebtedness, rates of compensation, or terms of employment contracts, if a city assumes jurisdiction of all or a portion of the district.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 2 of the title, after "district;" strike the remainder of the title and insert "amending RCW 35.13A.010 and 35.13A.020; creating a new section; and declaring an emergency.", and the same are herewith transmitted.

TIMOTHY A. MARTIN

#### MOTION

Senator Schow moved that the Senate refuse to concur in the House amendments to Substitute Senate Bill No. 6119 and requests of the House a conference thereon.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Schow that the Senate refuse to concur in the House amendments to Substitute Senate Bill No. 6119 and request of the House a conference thereon.

The motion by Senator Schow carried and the Senate refuses to concur in the House amendments to Substitute Senate Bill No. 6119 and requests of the House a conference thereon.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 6119 and the House amendment(s) thereto: Senators Horn, Patterson and Schow.

#### MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6515 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that the federal telecommunications act of 1996 has provided the opportunity to expand the uses of publicly owned rights of way to allow for the provision of enhanced telecommunications services. Presently, providers of these services are confronted with differing development regulations and franchise requirements across this state's two hundred seventy-seven cities and thirty-nine counties. The legislature finds the array of varying regulations and requirements to be a significant barrier to enhancing the telecommunications services to the citizens of the state, and desires more uniformity and reasonableness in the application of these regulations. However, states that have recently enacted laws relating to the use of public rights of way for telecommunications services have been challenged in court. Court decisions and relevant federal communications commission rulings will be issued after the legislature adjourns. Therefore, the most prudent course of action requires further work and cooperation between public policymakers, government administrators, and the telecommunications industry to effectuate the policy of this state.

(2) The legislature hereby declares it the policy of the state of Washington to: Promote policies that encourage competition in telecommunications and results in new entrants into the industry; encourage the development of telecommunications infrastructure without violating the letter or spirit of Article VIII, sections 5 and 7 of the state Constitution; reduce regulatory obstacles that inhibit investment in the state's telecommunications system; maintain safe public roads, highways, and streets; and provide responsible stewardship of the public's investment in its rights of ways.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, the definitions in this section apply throughout chapter . . . , Laws of 1998 (this act).

(1) "Authorized facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver telecommunications services and cable television services, including but not limited to poles with crossarms, poles without crossarms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of telecommunications services and cable television services.

(2) "Authorized user" means every corporation, company, association, joint stock association, partnership, and person; their lessees, trustees, or receivers appointed by any court whatsoever; and every city or town owning, operating, or managing any facilities used to provide telecommunications for hire, sale, or resale to the general public within this state.

(3) "Cable television service" means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(4) "Limited access highways" means those public rights of way designated as limited access under authority of the laws of the state of Washington.

(5) "Public right of way" means public roads, streets, and highways, and does not include:

- (a) Limited access highways;
- (b) Land dedicated for roads, streets, and highways not opened or improved for motor vehicle use;
- (c) Structures located within the right of way;
- (d) Federally granted trust lands and the forest board trust lands;
- (e) Private property or easement rights on private property; and
- (f) Federally granted railroad rights of way acquired under 43 U.S.C. Sec. 912 and related provisions of federal law.

(6) "Telecommunications service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for the general public. For the purpose of chapter . . . , Laws of 1998 (this act), telecommunications services excludes the over-the-air transmission of broadcast television or radio signals. For the purpose of this subsection, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

**NEW SECTION. Sec. 3.** (1) The state, counties, cities, or towns shall not unreasonably deny the use of public right of way for the purposes of locating authorized facilities for telecommunications services or cable television services, provided:

- (a) The authorized facilities comply with applicable land use and construction codes, regulations, standards, and lease and franchise requirements adopted by the state, counties, cities, and towns not inconsistent with state law;
- (b) The authorized facilities are installed and maintained within public rights of way in such manner and at such points so as not to inconvenience the public use of the rights of way;
- (c) The authorized users obtain all permits required for the installation of authorized facilities as required by the state, counties, cities, and towns;
- (d) The authorized facilities are installed, constructed, maintained, and operated at the expense and liability of the authorized user;

(e) The use of the public right of way by authorized facilities does not create, expand, or extend liability of the state, counties, cities, or towns to a third party user of authorized facilities;

(f) The use of a facility or structure in the public right of way, or attachment to it, or the use of public property that is not public right of way has received the explicit approval of, and is under such conditions as may be agreed to by, the owner of the facility, structure, or property.

(2) The reasons for a denial of the use of the right of way where the request complies with subsection (1)(a) through (f) of this section shall be clearly stated in writing.

(3) Nothing in this section creates, modifies, or diminishes the priority of use for authorized facilities over other users of the right of way for other purposes.

**NEW SECTION. Sec. 4.** (1) Counties, cities, and towns may not adopt or enforce land use and construction codes, regulations, standards, or lease and franchise requirements that:

(a) Conflict with or duplicate the jurisdiction or requirements of the Washington utilities and transportation commission for approval to offer telecommunications services;

(b) Conflict with federal or state laws, rules, and regulations that specifically apply to the design, construction, and operation of authorized facilities or with federal or state worker safety or public safety laws, rules, and regulations;

(c) Regulate services of authorized users based upon the content or type of signals that are carried or are capable of being carried over the telecommunications facilities, except where specifically authorized in state or federal law.

(2) Nothing in this section limits the authority of the counties, cities, and towns to regulate the placement of authorized facilities through local zoning authority as long as:

(a) The regulations do not prohibit the placement of authorized facilities within the county, city, or town nor have the effect of a barrier to entry;

(b) The regulations do not unreasonably discriminate or have the effect of unreasonably discriminating between similarly situated authorized users or authorized facilities.

**NEW SECTION. Sec. 5.** (1) Except as provided in subsection (2) of this section, a county, city, or town shall not place a moratorium on the acceptance and processing of applications, permitting, construction, maintenance, repair, replacement, extension, operation, or use of any personal wireless communication facility after the effective date of this section. An existing moratorium that expires after the effective date of this section shall not be extended in whole or in part.

(2)(a) A city or town incorporated after the effective date of this section shall be permitted to impose one moratorium that shall not exceed one hundred eighty days and shall not be extendable.

(b) Upon the expiration of the moratorium authorized by (a) of this subsection, the authorizing city or town is subject to subsection (1) of this section.

(3) Counties, cities, and towns are encouraged to work together with industry, using the experience of the industry and those counties, cities, and towns that have adopted wireless regulations, to develop policies and provisions for the siting of wireless telecommunications facilities.

(4) Subsections (1) and (2) of this section apply to moratoriums one hundred twenty days after the adoption of a model ordinance or on April 1, 1999, whichever occurs first.

(5) This section expires October 1, 2003.

**NEW SECTION. Sec. 6.** (1) The state, counties, cities, and towns shall adopt procedures that enable each of these jurisdictions to issue permits for authorized facilities within one hundred twenty days from an applicant's filing of a complete application for a permit until issuance of the permit, except:

(a) Where required by specific procedures to assure cooperation of work within the right of way that provides reasonable opportunities for scheduling of work, including advance notice of planned work, and that do not impose unreasonable barriers to entry;

(b) With the agreement of the applicant;

(c) Where permits require the approval of another unit of government that cannot be obtained within the one hundred twenty-day period;

(d) Where franchises are required that require the approval of the legislative body of the jurisdiction, if procedures allow the interim installation of authorized facilities where the timeline to complete such a franchise agreement is expected to exceed one hundred twenty days;

(e) That issuance and renewals of franchises and related permits for cable television service are governed by federal law.

(2) For purposes of this section, the state, counties, cities, and towns shall adopt by rule or ordinance the specific requirements necessary to deem an application for a permit full and complete, and shall provide a copy of the requirements to all applicants.

**NEW SECTION. Sec. 7.** (1) Unless the legislative authority of a county, city, or town has taken legislative action prior to January 1, 1998, a county, city, or town shall not begin installation, or cause to be installed, equipment, facilities, or other infrastructure, including but not limited to conduit, for the purpose of allowing a county, city, or town to provide for-profit telecommunications or cable television services to the general public.

(2) This section expires October 1, 2003.

**NEW SECTION. Sec. 8.** Except as provided in section 7 of this act, chapter . . ., Laws of 1998 (this act) does not amend, limit, repeal, or otherwise modify the authority of cities or counties to regulate cable television services as provided under federal law.

**Sec. 9.** RCW 35.21.860 and 1983 2nd ASCE c 3 s 39 are each amended to read as follows:

(1) No city or town may impose a franchise fee or any other fee ~~((or)), charge, or compensation~~ of whatever nature or description upon the light and power, or gas distribution businesses, as defined in RCW 82.16.010, or ~~((telephone business, as defined in RCW 82.04.065))~~ an authorized user for the use of public right of way, except that (a) a tax authorized by RCW 35.21.865 may be imposed and (b) ~~((a fee))~~ fees and other requirements may be ~~((charged to))~~ imposed on such businesses that, except for authorized users of a public right of way, recovers actual administrative expenses incurred by a city or town that are directly related to receiving and approving a permit, license, and franchise, to inspecting plans and construction, or to the preparation of a detailed statement pursuant to chapter 43.21C RCW. A city or town may impose fees on authorized users for the use of a public right of way to recover costs as set forth under section 11 of this act.

(2) Subsection (1) of this section does not prohibit franchise fees imposed on an electrical energy, natural gas, or telephone business, by contract existing on April 20, 1982, with a city or town, for the duration of the contract, but the franchise fees shall be considered taxes for the purposes of the limitations established in RCW 35.21.865 and 35.21.870 to the extent the fees exceed the costs allowable under subsection (1) of this section.

**Sec. 10.** RCW 36.55.010 and 1963 c 4 s 36.55.010 are each amended to read as follows:

Any board of county commissioners may grant franchises to persons or private or municipal corporations to use the right of way of county roads in their respective counties for the construction and maintenance of waterworks, gas pipes, ~~((telephone, telegraph))~~ authorized facilities as defined in section 1 of this act, and electric light lines, sewers, and any other such facilities, except that no franchise fee or any other fee or charge or compensation of whatever nature or description may be imposed for the use of the public right of way for authorized facilities except as provided in section 11 of this act.

**NEW SECTION. Sec. 11.** (1) Counties, cities, and towns may impose fees to recover:

(a) The direct administrative expenses actually incurred by the county, city, or town in receiving and approving a construction or development permit, inspecting plans and construction, and development and maintenance of record systems and excavation authorizations systems;

(b) Costs of ongoing maintenance, repair, or restoration of the right of way reasonably related to the impact of the installation, maintenance, and use of the authorized facility; and

(c) Preparing a detailed statement pursuant to chapter 43.21C RCW.

(2) Nothing in this section or in RCW 35.21.860 and 36.55.010 limits or otherwise restricts counties, cities, or towns from collecting franchise fees, charges, or other compensation under terms mutually agreeable between a county, city, or town and an authorized user.

**NEW SECTION. Sec. 12.** (1) There is hereby created a telecommunications right of way advisory committee. The advisory committee shall develop policies and provisions for the state relating to franchises, fees, and compensation for use of the rights of way by providers of telecommunications services. The committee shall ensure that recommended policies allow all authorized users an opportunity to access the rights of way, and that any compensation for access to the rights of way are limited to amounts that are fair, just, reasonable, and sufficient.

(2) The advisory committee shall be comprised of:

(a) Two members of the house of representatives transportation policy and budget committee, one from each political party, as appointed by the speaker of the house of representatives. The speaker shall also designate two alternate members to serve if the appointed members are unavailable;

(b) Two members of the senate transportation committee, one from each political party, as appointed by the president of the senate. The president shall also designate two alternate members to serve if the appointed members are unavailable;

(c) One member of the house of representatives appropriations committee, as appointed by the speaker of the house of representatives. The speaker shall also designate an alternate member to serve if the appointed member is unavailable;

(d) One member of the senate ways and means committee, as appointed by the president of the senate. The president shall also designate an alternate member to serve if the appointed member is unavailable;

(e) Two representatives of the governor;

(f) The secretary of the department of transportation or a designee; and

(g) The director of the department of information services or a designee.

(3) The advisory committee shall make its recommendations to the legislative transportation committee by December 1, 1998.

**NEW SECTION. Sec. 13.** 1997 c 457 s 512 (uncodified) is repealed.

**NEW SECTION. Sec. 14.** Sections 9 through 11 of this act expire June 30, 1999.

**NEW SECTION. Sec. 15.** Sections 1 through 8 of this act constitute a new chapter in Title 47 RCW.

**NEW SECTION. Sec. 16.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title., and the same are herewith transmitted.

MOTION

On motion of Senator Finkbeiner, the Senate refuses to concur in the House amendment to Engrossed Substitute Senate Bill No. 6515 and requests of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 6515 and the House amendment(s) thereto: Senators Strannigan, Brown and Finkbeiner.

MOTION

On motion of Senator Goings, the Conference Committee appointments were confirmed.

MOTION

On motion of Senator Hale, Senators Prince, Rossi and Strannigan were excused.

MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6330 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 75.25.080 and 1993 sp.s. c 17 s 5, 1993 sp.s. c 2 s 42, and 1993 c 201 s 1 are each reenacted and amended to read as follows:

(1) The commission shall authorize the director to issue designated harvester cards to persons of disability. The commission shall adopt rules governing the conduct of persons of disability who fish and harvest shellfish and their designated harvesters.

(2) It is lawful to fish for, take, or possess the personal-use daily bag limit of shellfish, game fish, or food fish for a disabled person if the harvester is licensed and has a designated harvester card, and if the disabled person is ~~((licensed and))~~ present on site and in possession of a ~~((physical disability permit issued by the director))~~ combination fishing license issued under section 19 of this act.

~~((2) An application for a physical disability permit))~~ (3) A designated harvester card will be issued to such a licensee upon written application to the director. The application must be submitted on a department official form and must be accompanied by a licensed medical doctor's certification of disability.

~~((3) A person with a physical disability permit))~~ (4) A person with a combination fishing license issued under section 19 of this act is not required to be present at the location where ~~((another person is digging razor clams))~~ the designated harvester is harvesting shellfish for the disabled person. The ~~((physical disability permittee))~~ licensee is required to be in the direct line of sight of the ~~((person digging razor clams))~~ designated harvester who is harvesting shellfish for him or her, unless it is not possible to be in a direct line of sight because of a physical obstruction or other barrier. If such a barrier or obstruction exists, the ~~((physical disability permittee))~~ licensee is required to be within one-quarter mile of the ~~((person who is digging razor clams))~~ designated harvester who is harvesting shellfish for him or her.

(5) Except as provided in subsection (4) of this section, the disabled person needs to be present and participating in the fishing activity.

**Sec. 2.** RCW 75.25.092 and 1994 c 255 s 4 are each amended to read as follows:

(1) A personal use shellfish and seaweed license is required for all persons other than residents or nonresidents under fifteen years of age to fish for, take, dig for, or possess seaweed or shellfish ~~((except crawfish (Pacifastacus sp.)))~~ for personal use from state waters or offshore waters including national park beaches.

(2) The fees for annual personal use shellfish and seaweed licenses are:

(a) For a resident fifteen years of age or older ~~((and under seventy years of age)),~~ ((five)) seven dollars;

(b) For a ~~((resident seventy years of age or older))~~ nonresident fifteen years of age or older, ~~((three))~~ twenty dollars; and

(c) For a ~~((nonresident, twenty dollars.~~

~~((3) The fee for a three consecutive day personal use shellfish and seaweed license is))~~ senior, five dollars.

**Sec. 3.** RCW 75.25.120 and 1994 c 255 s 6 are each amended to read as follows:



In concurrent waters of the Columbia river and in Washington coastal territorial waters from the Oregon-Washington boundary to a point five nautical miles north, an Oregon angling license comparable to the Washington personal use (~~food fish license or three consecutive-day personal use food fish~~) fishing license is valid if Oregon recognizes as valid the Washington personal use (~~food fish license or three consecutive-day personal use food fish~~) fishing license in comparable Oregon waters.

If Oregon recognizes as valid the Washington personal use (~~food fish license or three consecutive-day personal use food fish~~) fishing license southward to Cape Falcon in the coastal territorial waters from the Washington-Oregon boundary and in concurrent waters of the Columbia river then Washington shall recognize a valid Oregon license comparable to the Washington personal use (~~food fish license or three consecutive-day personal use food fish~~) fishing license northward to Leadbetter Point.

Oregon licenses are not valid for the taking of food fish or game fish when angling in concurrent waters of the Columbia river from the Washington shore.

**Sec. 4.** RCW 75.25.140 and 1993 sp.s. c 17 s 8 are each amended to read as follows:

(1) Recreational licenses are not transferable. Upon request of a (~~fisheries patrol~~) fish and wildlife officer, ex officio (~~fisheries patrol~~) fish and wildlife officer, or authorized (~~fisheries~~) fish and wildlife employee, a person digging for, fishing for, or possessing shellfish, (~~for~~) or seaweed or fishing for or possessing food fish or game fish for personal use shall exhibit the required recreational license and write his or her signature for comparison with the signature on the license. Failure to comply with the request is prima facie evidence that the person does not have a license or is not the person named on the license.

(2) The personal use shellfish and seaweed license shall be visible on the licensee while harvesting shellfish or seaweed.

**Sec. 5.** RCW 75.25.190 and 1989 c 305 s 10 are each amended to read as follows:

Catch record cards necessary for proper management of the state's food fish and game fish species and shellfish resources shall be administered under rules adopted by the (~~director~~) commission and issued at no charge.

**Sec. 6.** RCW 77.32.005 and 1989 c 305 s 17 are each amended to read as follows:

(~~For the purposes of~~) The definitions in this section apply throughout this chapter(=) unless the context clearly requires otherwise.

(A) (1) "Resident" means a person who has maintained a permanent place of abode within this state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within this state, and who is not licensed to hunt or fish as a resident in another state.

(A) (2) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

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

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

(5) "Food fish" has the same meaning as found in RCW 75.08.011.

(6) "Shellfish" has the same meaning as found in RCW 75.08.011.

(7) "Seaweed" has the same meaning as found in RCW 75.08.011.

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

March 31st.

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

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

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

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

**Sec. 7.** RCW 77.32.010 and 1987 c 506 s 76 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, a license issued by the director is required to:

(a) Hunt for wild animals, except bullfrogs, or wild birds (~~or~~), fish (~~for game fish~~) or harvest shellfish and seaweed, except smelt, albacore, carp, and crawfish;

(b) Practice taxidermy for profit;

(c) Deal in raw furs for profit;

(d) Act as a fishing guide;

(e) Operate a game farm;

(f) Purchase or sell anadromous game fish; or

(g) Use department-managed lands or facilities as provided by rules adopted pursuant to this title.

(2) A permit issued by the director is required to:

(a) Conduct, hold, or sponsor hunting or fishing contests or competitive field trials using live wildlife;

(b) Collect wild animals, wild birds, game fish, food fish, shellfish, or protected wildlife for research or display; or

(c) Stock game fish.

(3) Aquaculture as defined in RCW 15.85.020 is exempt from the requirements of this section, except when being stocked in public waters under contract with the department.

**Sec. 8.** RCW 77.32.014 and 1997 c 58 s 881 are each amended to read as follows:

(1) Licenses, tags, and stamps issued pursuant to this chapter shall be invalid for any period in which a person is certified by the department of social and health services or a court of competent jurisdiction as a person in noncompliance with a support order (~~(or residential or visitation order)~~). Fish and wildlife ((agents)) officers and ex officio fish and wildlife ((agents)) officers shall enforce this section through checks of the department of licensing's computer data base. A listing on the department of licensing's data base that an individual's license is currently suspended pursuant to RCW 46.20.291(7) shall be prima facie evidence that the individual is in noncompliance with a support order (~~(or residential or visitation order)~~). Presentation of a written release issued by the department of social and health services stating that the person is in compliance with an order shall serve as prima facie proof of compliance with a support order(~~(, residential order, or visitation order)~~).

(2) It is unlawful to purchase, obtain, or possess a license required by this chapter during any period in which a license is suspended.

**Sec. 9.** RCW 77.32.025 and 1996 c 20 s 2 are each amended to read as follows:

Notwithstanding RCW 77.32.010, the commission may adopt rules designating times and places for the purposes of family fishing days when licenses and catch record cards are not required to fish (~~(for game fish, including steelhead trout)~~) or to harvest shellfish.

**Sec. 10.** RCW 77.32.050 and 1996 c 101 s 8 are each amended to read as follows:

All recreational licenses, permits, tags, and stamps required by this chapter and raffle tickets authorized under chapter 77.12 RCW shall be issued under the authority of the commission. ((The director may authorize department personnel, county auditors, or other reputable citizens to issue licenses, permits, tags, stamps, and raffle tickets, and collect the appropriate fees. The authorized persons shall pay on demand or before the tenth day of the following month the fees collected and shall make reports as required by the director.)) The ((director may)) commission shall adopt rules for ((issuing)) the issuance of recreational licenses, permits, tags, stamps, and raffle tickets, ((collecting and paying fees, and making reports)) and for the collection, payment, and handling of license fees, terms and conditions to govern dealers, and dealers' fees. Fees retained by dealers shall be uniform throughout the state.

**Sec. 11.** RCW 77.32.070 and 1995 c 116 s 3 are each amended to read as follows:

Applicants for a license, permit, tag, or stamp shall furnish the information required by the director. The ((director)) commission may adopt rules requiring licensees or permittees to keep records and make reports concerning the taking of fish, shellfish, and wildlife.

**Sec. 12.** RCW 77.32.090 and 1996 c 101 s 10 are each amended to read as follows:

The ((director)) commission may adopt rules pertaining to the form, period of validity, use, possession, and display of licenses, permits, tags, and stamps required by this chapter and raffle tickets authorized under chapter 77.12 RCW.

**NEW SECTION. Sec. 13.** (1) The commission shall adopt rules to continue funding current enhancement programs at levels equal to the participation of licensees in each of the individual enhancement programs. All enhancement funding will continue to be deposited directly into the individual accounts created for each enhancement.

(2) In implementing subsection (1) of this section with regard to warm water game fish, the department shall initially deposit in the warm water game fish account 6.512 percent of the funds received from the sale of each freshwater license and each freshwater, saltwater, and shellfish combination license. The percentage initially established in this subsection shall be adjusted annually to reflect the actual numbers of license holders fishing for warm water game fish based on an annual survey of licensed anglers conducted by the department beginning with the April 1, 2000, to March 31, 2001, license year. The legislature expects that implementing this subsection will result in annual deposits of at least one million two hundred fifty thousand dollars into the warm water game fish account.

**NEW SECTION. Sec. 14.** (1) A big game hunting license is required to hunt for big game. A big game license allows the holder to hunt for forest grouse and the individual species identified within a specific big game combination license package. Each big game license includes one transport tag for each species purchased in that package. A hunter may not purchase more than one license for each big game species except as authorized by rule of the commission. The fees for annual big game combination packages are as follows:

(a) Big game number 1: Deer, elk, bear, and cougar. The fee for this license is sixty-six dollars for residents, six hundred sixty dollars for nonresidents, and thirty-three dollars for youth.

(b) Big game number 2: Deer and elk. The fee for this license is fifty-six dollars for residents, five hundred sixty dollars for nonresidents, and twenty-eight dollars for youth.

(c) Big game number 3: Deer or elk, bear, and cougar. At the time of purchase, the holder must identify either deer or elk. The fee for this license is forty-six dollars for residents, four hundred sixty dollars for nonresidents, and twenty-three dollars for youth.

(d) Big game number 4: Deer or elk. At the time of purchase, the holder must identify either deer or elk. The fee for this license is thirty-six dollars for residents, three hundred sixty dollars for nonresidents, and eighteen dollars for youth.

(e) Big game number 5: Bear and cougar. The fee for this license is twenty dollars for residents, two hundred dollars for nonresidents, and ten dollars for youth.

(2) In the event that the commission authorizes a two animal big game limit, the fees for the second animal are as follows:

(a) Elk: The fee is twenty dollars for residents, two hundred dollars for nonresidents, and ten dollars for youth.

(b) Deer: The fee is twenty dollars for residents, two hundred dollars for nonresidents, and ten dollars for youth.

- (c) Bear: The fee is ten dollars for residents, one hundred dollars for nonresidents, and five dollars for youth.
- (d) Cougar: The fee is ten dollars for residents, one hundred dollars for nonresidents, and five dollars for youth.
- (3) In the event that the commission authorizes a special permit hunt for goat, sheep, or moose, the permit fees are as follows:
  - (a) Mountain goat: The fee is one hundred dollars for residents, one thousand dollars for nonresidents, and fifty dollars for youth.
  - (b) Sheep: The fee is one hundred dollars for residents, one thousand dollars for nonresidents, and fifty dollars for youth.
  - (c) Moose: The fee is one hundred dollars for residents, one thousand dollars for nonresidents, and fifty dollars for youth.

Authorization to hunt the species set out under subsection (3)(a) through (c) of this section is by special permit identified under RCW 77.32.370.

(4) The commission may adopt rules to reduce the price of a license or eliminate the transportation tag requirements concerning bear or cougar when necessary to meet harvest objectives.

**NEW SECTION. Sec. 15.** (1) A small game hunting license is required to hunt for all wild animals and wild birds, except big game. The small game license includes one transport tag for turkey.

- (a) The fee for this license is thirty dollars for residents, one hundred fifty dollars for nonresidents, and fifteen dollars for youth.
- (b) The fee for this license if purchased in conjunction with a big game combination license package is sixteen dollars for residents, eighty dollars for nonresidents, and eight dollars for youth.
- (c) The fee for a three-consecutive-day small game license is fifty dollars for nonresidents.

(2) The fee for each additional turkey tag is eighteen dollars for residents, sixty dollars for nonresidents, and nine dollars for youth.

**NEW SECTION. Sec. 16.** (1) A personal use saltwater, freshwater, combination, temporary, or family fishing weekend license is required for all persons fifteen years of age or older to fish for or possess fish taken for personal use from state waters or offshore waters.

(2) The fees for annual personal use saltwater, freshwater, or combination licenses are as follows:

(a) A combination license allows the holder to fish for or possess fish, shellfish, and seaweed from state waters or offshore waters. The fee for this license is thirty-six dollars for residents, seventy-two dollars for nonresidents, and five dollars for youth.

(b) A saltwater license allows the holder to fish for or possess fish taken from saltwater areas. The fee for this license is eighteen dollars for residents, thirty-six dollars for nonresidents, and five dollars for resident seniors.

(c) A freshwater license allows the holder to fish for, take, or possess food fish or game fish species in all freshwater areas. The fee for this license is twenty dollars for residents, forty dollars for nonresidents, and five dollars for resident seniors.

(3) A temporary fishing license is valid for two consecutive days and allows the holder to fish for or possess fish taken from state waters or offshore waters. The fee for this temporary fishing license is six dollars for both residents and nonresidents. This license is not valid on game fish species for an eight-consecutive-day period beginning on the opening day of the lowland lake fishing season.

(4) A family fishing weekend license allows for a maximum of six anglers: One resident and five youth; two residents and four youth; or one resident, one nonresident, and four youth. This license allows the holders to fish for or possess fish taken from state waters or offshore waters. The fee for this license is twenty dollars. This license is only valid during periods as specified by rule of the department.

(5) The commission may adopt rules to create and sell combination licenses for all hunting and fishing activities at or below a fee equal to the total cost of the individual license contained within any combination.

**Sec. 17.** RCW 77.32.155 and 1993 c 85 s 1 are each amended to read as follows:

When purchasing ((a)) any hunting license, persons under the age of eighteen shall present certification of completion of a course of instruction of at least ten hours in the safe handling of firearms, safety, conservation, and sportsmanship. Beginning January 1, 1995, all persons purchasing ((a)) any hunting license for the first time, if born after January 1, 1972, shall present such certification.

The director may establish a program for training persons in the safe handling of firearms, conservation, and sportsmanship and may cooperate with the National Rifle Association, organized sportsmen's groups, or other public or private organizations.

The director shall prescribe the type of instruction and the qualifications of the instructors.

Upon successful completion of the course, a trainee shall receive a hunter education certificate signed by an authorized instructor. The certificate is evidence of compliance with this section.

The director may accept certificates from other states that persons have successfully completed firearm safety, hunter education, or similar courses as evidence of compliance with this section.

**NEW SECTION. Sec. 18.** All hunting licenses shall, upon written application, be issued at the reduced rate of a youth hunting license fee for the following individuals:

(1) A resident sixty-five years old or older who is an honorably discharged veteran of the United States armed forces having a service-connected disability;

(2) Residents who are honorably discharged veterans of the United States armed forces with a thirty percent or more service-connected disability; and

(3) An honorably discharged veteran of the United States armed forces who is a resident and is confined to a wheelchair.

**NEW SECTION. Sec. 19.** A combination fishing license shall, upon written application, be issued at the reduced rate of five dollars to the following individuals:

- (1) Residents who are honorably discharged veterans of the United States armed forces with a thirty percent or more service-connected disability;
- (2) A person who is blind;
- (3) A person with a developmental disability as defined in RCW 71A.10.020 with documentation of the disability certified by a physician licensed to practice in this state; and
- (4) A person who is physically disabled and confined to a wheelchair.

**Sec. 20.** RCW 77.32.235 and 1990 c 35 s 4 are each amended to read as follows:

Physically or mentally (~~handicapped~~) disabled persons, mentally ill persons, hospital patients, and senior citizens who are in the care of a state-licensed or state-operated care facility may fish (~~for game fish~~) and harvest shellfish during open season without individual licenses or the payment of individual license fees if such fishing activity is occasional, is conducted in a group supervised by staff of (~~a state-licensed or state-operated~~) the care facility, and the facility holds a group fishing permit issued by the director. The director shall issue such a permit upon application by care facility staff.

**Sec. 21.** RCW 77.32.240 and 1991 sp.s. c 7 s 6 are each amended to read as follows:

A scientific permit allows the holder to collect for research or display food fish, game fish, shellfish, and wildlife (~~or their~~), including avian nests and eggs as required in RCW 77.32.010, under conditions prescribed by the director. Before a permit is issued, the applicant shall demonstrate to the director their qualifications and establish the need for the permit. The director may require a bond of up to one thousand dollars to (~~insure~~) ensure compliance with the permit. Permits are valid for the time specified, unless sooner revoked.

Holders of permits may exchange specimens with the approval of the director.

A permit holder who violates this section shall forfeit the permit and bond and shall not receive a similar permit for one year. The fee for a scientific permit is twelve dollars.

**Sec. 22.** RCW 77.32.250 and 1996 c 101 s 12 are each amended to read as follows:

Licenses, permits, tags, and stamps required by this chapter and raffle tickets authorized under chapter 77.12 RCW shall not be transferred (~~and, unless otherwise provided in this chapter, are void on January 1st following the year for which the license, permit, tag, stamp, or raffle ticket was issued~~).

Upon request of a fish and wildlife (~~agent~~) officer or ex officio fish and wildlife (~~agent~~) officer, persons licensed, operating under a permit, or possessing wildlife under the authority of this chapter shall produce required licenses, permits, tags, stamps, or raffle tickets for inspection and write their signatures for comparison and in addition display their wildlife. Failure to comply with the request is prima facie evidence that the person has no license or is not the person named.

**Sec. 23.** RCW 77.32.320 and 1997 c 114 s 1 are each amended to read as follows:

(1) (~~In addition to a basic hunting license, a separate transport tag is~~) The correct licenses and tags are required to hunt deer, elk, black bear, cougar, sheep, mountain goat, moose, or wild turkey (~~However, a transport tag may not be required to hunt black bear or cougar when, under conditions set out under RCW 77.32.340, the commission determines that for the purposes of achieving harvest management goals for black bear or cougar, that transport tags shall be available at no cost~~) except as provided in section 14 of this act.

(2) (~~A transport tag may only be obtained subsequent to the purchase of a valid hunting license and must have permanently affixed to it the hunting license number.~~

(~~3~~) Persons who kill deer, elk, bear, cougar, mountain goat, sheep, moose, or wild turkey shall immediately validate and attach their own transport tag to the carcass as provided by rule of the director.

(~~4~~) Transport tags required by this section expire on March 31st following the date of issuance.

**Sec. 24.** RCW 77.32.350 and 1992 c 41 s 1 are each amended to read as follows:

In addition to a basic hunting license, a supplemental license, permit, or stamp is required to hunt for quail, partridge, pheasant, or migratory waterfowl, to hunt with a raptor, or to hunt wild animals with a dog.

(1) A hound permit is required to hunt wild animals, except rabbits and hares, with a dog. The fee for this permit is twelve dollars.

(2) An eastern Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in eastern Washington. The fee for this permit is ten dollars.

(3) A western Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in western Washington. The fee for this permit is thirty-five dollars. Western Washington upland game bird permits must contain numbered spaces for recording the location and date of harvest of each western Washington pheasant. It is unlawful to harvest a western Washington pheasant without immediately recording this information on the permit.

(4) Effective January 1, 1993, the permit shall be available as a season option, a juvenile full season option, or a two-day option. The fee for this permit is:

(a) For the full season option, thirty-five dollars;

(b) For the juvenile full season or the two-day option, twenty dollars.

For the purposes of this subsection a juvenile is defined as a person under fifteen years of age upon the opening date of the western Washington pheasant season.

(5) Western Washington upland game permits are valid for the following number of pheasants and harvesting pheasants in excess of these numbers requires another permit:

- (a) A full season permit is valid for no more than ten pheasants;
- (b) A juvenile full season permit is valid for no more than six pheasants;
- (c) A two-day permit is valid for no more than four pheasants.

(6) A falconry license is required to possess or hunt with a raptor, including seasons established exclusively for hunting in that manner. The fee for this license is thirty-six dollars.

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

(8) The migratory ~~((waterfowl))~~ bird stamp shall be validated by the signature of the licensee written across the face of the stamp.

(9) The migratory ~~((waterfowl))~~ bird stamps required by this section expire on March 31st following the date of issuance.

**Sec. 25.** RCW 77.32.350 and 1998 c ... s 24 (section 24 of this act) are each amended to read as follows:

In addition to a ~~((basic))~~ small game hunting license, a supplemental ~~((license,))~~ permit~~((s,))~~ or stamp is required to hunt for ~~((quail, partridge,))~~ western Washington pheasant~~((s,))~~ or migratory ~~((waterfowl, to hunt with a raptor, or to hunt wild animals with a dog))~~ birds.

(1) ~~((A hound permit is required to hunt wild animals, except rabbits and hares, with a dog. The fee for this permit is twelve dollars.~~

~~((2) An eastern Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in eastern Washington. The fee for this permit is ten dollars.~~

~~((3))~~ A western Washington ~~((upland game bird))~~ pheasant permit is required to hunt for ~~((quail, partridge, and))~~ pheasant in western Washington. ~~((The fee for this permit is thirty-five dollars.))~~ Western Washington ~~((upland game bird))~~ pheasant permits must contain numbered spaces for recording the location and date of harvest of each western Washington pheasant. It is unlawful to harvest a western Washington pheasant without immediately recording this information on the permit.

~~((4))~~ ~~((Effective January 1, 1993,))~~ (2) The permit shall be available as a season option, a ~~((juvenile))~~ youth full season option, or a ~~((two-day))~~ three-day option. The fee for this permit is:

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

(b) For the ~~((juvenile))~~ youth full season ~~((or the two-day))~~ option, ~~((twenty))~~ eighteen dollars;

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

~~((For the purposes of this subsection a juvenile is defined as a person under fifteen years of age upon the opening date of the western Washington pheasant season.~~

(5) Western Washington upland game permits are valid for the following number of pheasants and harvesting pheasants in excess of these numbers requires another permit:

- (a) A full season permit is valid for no more than ten pheasants;
- (b) A juvenile full season permit is valid for no more than six pheasants;
- (c) A two-day permit is valid for no more than four pheasants.

(6) A falconry license is required to possess or hunt with a raptor, including seasons established exclusively for hunting in that manner. The fee for this license is thirty-six dollars.

~~((7))~~ (3) A migratory bird stamp affixed to a hunting license designated by rule of the commission is required for all persons sixteen years of age or older to hunt migratory birds. The fee for the stamp for hunters is six dollars for residents and nonresidents. The fee for the stamp for collectors is six dollars.

~~((8))~~ (4) The migratory bird stamp shall be validated by the signature of the licensee written across the face of the stamp.

~~((9))~~ ~~((The migratory bird stamps required by this section expire on March 31st following the date of issuance.))~~

**Sec. 26.** RCW 77.32.370 and 1991 sp.s. c 7 s 11 are each amended to read as follows:

(1) A special hunting season permit is required to hunt in each special season established under chapter 77.12 RCW.

(2) Persons may apply for special hunting season permits as provided by rule of the ~~((director))~~ commission.

(3) The application fee to ~~((participate in))~~ enter the drawing for a special hunting ~~((season))~~ permit is ~~((three))~~ five dollars for residents, fifty dollars for nonresidents, and three dollars for youth.

**Sec. 27.** RCW 75.50.100 and 1995 1st sp.s. c 2 s 39 are each amended to read as follows:

The dedicated regional fisheries enhancement group account is created in the custody of the state treasurer. Only the commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

A ~~((surcharge of one dollar shall be collected on each recreational personal use food fish license sold in the state))~~ portion of each recreational fishing license fee shall be used as provided in section 13 of this act. A surcharge of one hundred dollars shall be collected on each commercial salmon fishery license, each salmon delivery license, and each salmon charter license sold in the state. The department shall study methods for collecting and making available, an annual list, including names and addresses, of all persons who obtain recreational and

commercial salmon fishing licenses. This list may be used to assist formation of the regional fisheries enhancement groups and allow the broadest participation of license holders in enhancement efforts. The results of the study shall be reported to the house of representatives fisheries and wildlife committee and the senate environment and natural resources committee by October 1, 1990. All receipts shall be placed in the regional fisheries enhancement group account and shall be used exclusively for regional fisheries enhancement group projects for the purposes of RCW 75.50.110. Funds from the regional fisheries enhancement group account shall not serve as replacement funding for department operated salmon projects that exist on January 1, 1991.

All revenue from the department's sale of salmon carcasses and eggs that return to group facilities shall be deposited in the regional fisheries enhancement group account for use by the regional fisheries enhancement group that produced the surplus. The commission shall adopt rules to implement this section pursuant to chapter 34.05 RCW.

**Sec. 28.** RCW 75.54.140 and 1997 c 197 s 1 are each amended to read as follows:

~~((Beginning January 1, 1994, persons who recreationally fish for salmon or marine bottomfish in marine area codes 5 through 13 and Lake Washington and have an annual food fish license shall be assessed an annual recreational surcharge of ten dollars, in addition to other licensing requirements. Persons who recreationally fish for salmon or marine bottomfish in marine area codes 5 through 13 and Lake Washington with a three consecutive day personal use food fish license shall be assessed an annual recreational surcharge of five dollars. Funds from the surcharge))~~ As provided in section 13 of this act, a portion of each saltwater and combination fishing license fee shall be deposited in the recreational fisheries enhancement account created in RCW 75.54.150~~((, except that the first five hundred thousand dollars shall be deposited in the general fund before June 30, 1995, to repay the appropriation made by section 104, chapter 2, Laws of 1993 sp. sess)).~~

**Sec. 29.** RCW 77.44.030 and 1996 c 222 s 3 are each amended to read as follows:

~~(1) ((A warm water game fish surcharge allows a person to fish throughout the state for))~~ As provided in section 13 of this act, a portion of each freshwater and combination fishing license fee shall be deposited into the warm water game fish account.

~~(2) ((The annual fee for a game fish surcharge is five dollars and the surcharge is required in addition to an annual game fishing license, except for those persons under fifteen years of age for which there is no charge. Holders of three-day resident fishing licenses, three-day nonresident fishing licenses, and nonresident annual fishing licenses shall pay a five-dollar surcharge to fish for warm water fish.~~

~~(3))~~ The department shall use the most cost-effective format in designing and administering the warm water game fish surcharge.

~~((4))~~ (3) A warm water game fish ((surcharge)) account shall ((only)) be ((required to fish)) used for(;) enhancement of largemouth bass, smallmouth bass, walleye, black crappie, white crappie, channel catfish, and tiger musky.

**Sec. 30.** RCW 77.12.810 and 1997 c 422 s 4 are each amended to read as follows:

~~((Beginning September 1, 1997, a person who hunts for pheasant in eastern Washington must pay an annual surcharge of ten dollars, in addition to other licensing requirements. Funds from the surcharge must be))~~ As provided in section 13 of this act, a portion of each small game hunting license fee shall be deposited in the eastern Washington pheasant enhancement account created in RCW 77.12.820.

**Sec. 31.** RCW 77.08.045 and 1987 c 506 s 12 are each amended to read as follows:

As used in this title or rules adopted pursuant to this title:

(1) "Migratory waterfowl" means members of the family Anatidae, including brants, ducks, geese, and swans;

(2) "Migratory bird" means migratory waterfowl and coots, snipe, doves, and band-tailed pigeon;

(3) "Migratory ~~((waterfowl))~~ bird stamp" means the stamp that is required by RCW 77.32.350 to be in the possession of all persons ~~((over sixteen years of age))~~ to hunt migratory ~~((waterfowl))~~ birds;

~~((3))~~ (4) "Prints and artwork" means replicas of the original stamp design that are sold to the general public. Prints and artwork are not to be construed to be the migratory ~~((waterfowl))~~ bird stamp that is required by RCW 77.32.350. Artwork may be any facsimile of the original stamp design, including color renditions, metal duplications, or any other kind of design; and

~~((4))~~ (5) "Migratory waterfowl art committee" means the committee created by RCW 77.12.680. The committee's primary function is to select the annual migratory ~~((waterfowl))~~ bird stamp design.

**Sec. 32.** RCW 77.12.670 and 1987 c 506 s 53 are each amended to read as follows:

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

(2) All revenue derived from the sale of the stamps by the department to any person hunting waterfowl or to any stamp collector shall be deposited in the state wildlife fund and shall be used only for that portion of the cost of printing and production of the stamps for migratory waterfowl hunters as determined by subsection (4) of this section, and for those migratory waterfowl projects specified by the director of the department for the acquisition and development of migratory waterfowl habitat in the state and for the enhancement, protection, and propagation of migratory waterfowl in the state.

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

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

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

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

**Sec. 33.** RCW 77.12.690 and 1987 c 506 s 55 are each amended to read as follows:

The migratory waterfowl art committee is responsible for the selection of the annual migratory (~~(waterfowl)~~) bird stamp design and shall provide the design to the department. If the committee does not perform this duty within the time frame necessary to achieve proper and timely distribution of the stamps to license dealers, the director shall initiate the art work selection for that year. The committee shall create collector art prints and related artwork, utilizing the same design as provided to the department. The administration, sale, distribution, and other matters relating to the prints and sales of stamps with prints and related artwork shall be the responsibility of the migratory waterfowl art committee.

The total amount brought in from the sale of prints and related artwork shall be deposited in the state wildlife fund. The costs of producing and marketing of prints and related artwork, including administrative expenses mutually agreed upon by the committee and the director, shall be paid out of the total amount brought in from sales of those same items. Net funds derived from the sale of prints and related artwork shall be used by the director to contract with one or more appropriate individuals or nonprofit organizations for the development of waterfowl propagation projects within Washington which specifically provide waterfowl for the Pacific flyway. The department shall not contract with any individual or organization that obtains compensation for allowing waterfowl hunting except if the individual or organization does not permit hunting for compensation on the subject property.

The migratory waterfowl art committee shall have an annual audit of its finances conducted by the state auditor and shall furnish a copy of the audit to the commission and to the natural resources committees of the house and senate.

**Sec. 34.** RCW 77.16.310 and 1981 c 310 s 4 are each amended to read as follows:

It is unlawful to purchase, obtain, or possess or to attempt to purchase or obtain a license, permit, stamp, or tag required by this title:

- (1) By using false information; or
- (2) After notice of the revocation or forfeiture of an existing license, permit, or tag, except that a person may purchase a license that does not grant the privilege that was revoked; or
- (3) In excess of one license, permit, tag, stamp, or punchcard for a license year except as authorized by RCW 77.32.256, section 14 of this act, or other law or rule of the commission.

**Sec. 35.** RCW 77.21.020 and 1987 c 506 s 70 are each amended to read as follows:

In addition to other penalties provided by law, the director shall revoke (~~(the)~~) all hunting licenses of a person who is convicted of a violation of RCW 77.16.020 involving big game or RCW 77.16.050. Forfeiture of bail twice during a five-year period for these violations constitutes the basis for a revocation under this section.

(A) No hunting license (~~(shall not)~~) may be issued to the person for two years from the revocation.

A person who has had a license revoked or has been denied issuance pursuant to this section or RCW 77.21.030, may appeal the decision as provided in chapter 34.05 RCW.

**Sec. 36.** RCW 77.21.030 and 1987 c 506 s 71 are each amended to read as follows:

The director shall revoke (~~(the)~~) all hunting licenses of a person who shoots another person or domestic livestock while hunting. A hunting license shall not be issued to that person unless the director authorizes the issuance of a license, and damages caused by the wrongful shooting have been paid.

**Sec. 37.** RCW 77.16.330 and 1987 c 506 s 104 are each amended to read as follows:

It is unlawful for any person (~~(sixteen years of age or older)~~) to hunt any migratory (~~(waterfowl)~~) bird without first obtaining a migratory (~~(waterfowl)~~) bird stamp as required by RCW 77.32.350.

**Sec. 38.** RCW 77.12.170 and 1996 c 101 s 7 are each amended to read as follows:

- (1) There is established in the state treasury the state wildlife fund which consists of moneys received from:
- (a) Rentals or concessions of the department;
  - (b) The sale of real or personal property held for department purposes;
  - (c) The sale of licenses, permits, tags, stamps, and punchcards required by this title, except annual resident adult saltwater and all shellfish licenses, which shall be deposited into the state general fund;
  - (d) Fees for informational materials published by the department;
  - (e) Fees for personalized vehicle license plates as provided in chapter 46.16 RCW;
  - (f) Articles or wildlife sold by the director under this title;
  - (g) Compensation for wildlife losses or gifts or grants received under RCW 77.12.320;
  - (h) Excise tax on anadromous game fish collected under chapter 82.27 RCW;
  - (i) The sale of personal property seized by the department for wildlife violations; and
  - (j) The department's share of revenues from auctions and raffles authorized by the commission.
- (2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the state wildlife fund.

**Sec. 39.** RCW 77.44.010 and 1996 c 222 s 1 are each amended to read as follows:

A warm water game fish enhancement program is created in the department (~~to be funded from the sale of a warm water game fish surcharge~~). The enhancement program shall be designed to increase the opportunities to fish for and catch warm water game fish including: Largemouth black bass, smallmouth black bass, channel catfish, black crappie, white crappie, walleye, and tiger musky. The program shall be designed to use a practical applied approach to increasing warm water fishing. The department shall use the funds available efficiently to assure the greatest increase in the fishing for warm water fish at the lowest cost. This approach shall involve the minimization of overhead and administrative costs and the maximization of productive in-the-field activities.

**NEW SECTION. Sec. 40.** The department of fish and wildlife has the authority to sell fifteen-month prorated shellfish, fish, and small game licenses to accommodate the change in license year, as defined in RCW 77.32.005. This authority only applies to the period beginning January 1, 1999, and ending April 1, 2000.

**NEW SECTION. Sec. 41.** In order to simplify fishing license requirements in transition areas between saltwater and freshwater, the commission may adopt rules designating specific waters where either a freshwater or a saltwater license is valid.

**NEW SECTION. Sec. 42.** RCW 75.25.080, 75.25.120, 75.25.140, and 75.25.190 are each recodified as new sections in chapter 77.32 RCW.

**NEW SECTION. Sec. 43.** As provided in RCW 77.12.170(1)(c), all recreational license fees deposited into the general fund shall be appropriated for the management, enhancement, research, and enforcement of shellfish and saltwater programs of the department.

**NEW SECTION. Sec. 44.** The following acts or parts of acts are each repealed:

- (1) RCW 75.25.005 and 1993 sp.s. c 17 s 4, 1993 sp.s. c 2 s 41, & 1989 c 305 s 1;
- (2) RCW 75.25.091 and 1994 c 255 s 3 & 1993 sp.s. c 17 s 2;
- (3) RCW 75.25.095 and 1996 c 20 s 1, 1995 1st sp.s. c 2 s 31, & 1990 c 34 s 2;
- (4) RCW 75.25.110 and 1994 c 255 s 5, 1993 sp.s. c 17 s 6, 1989 c 305 s 8, 1987 c 87 s 3, 1983 1st ASCE c 46 s 95, & 1977 ASCE c 327 s 13;
- (5) RCW 75.25.130 and 1989 c 305 s 11, 1987 c 87 s 6, 1984 c 80 s 7, 1983 1st ASCE c 46 s 97, & 1977 ASCE c 327 s 12;
- (6) RCW 75.25.150 and 1994 c 255 s 7, 1993 sp.s. c 17 s 9, 1989 c 305 s 13, 1984 c 80 s 9, & 1983 1st ASCE c 46 s 99;
- (7) RCW 75.25.170 and 1993 sp.s. c 2 s 43, 1989 c 305 s 16, & 1987 c 87 s 9;
- (8) RCW 75.25.180 and 1994 c 255 s 8;
- (9) RCW 75.25.200 and 1990 c 35 s 2;
- (10) RCW 77.32.092 and 1994 c 255 s 1;
- (11) RCW 77.32.101 and 1997 c 395 s 1, 1994 c 255 s 11, 1991 sp.s. c 7 s 1, 1985 c 464 s 2, 1981 c 310 s 20, 1980 c 78 s 110, & 1975 1st ASCE c 15 s 20;
- (12) RCW 77.32.161 and 1994 c 255 s 10, 1991 sp.s. c 7 s 2, 1985 c 464 s 3, 1981 c 310 s 22, 1980 c 78 s 112, & 1975 1st ASCE c 15 s 27;
- (13) RCW 77.32.230 and 1996 c 101 s 11, 1994 c 255 s 12, 1991 sp.s. c 7 s 5, 1988 c 176 s 914, 1987 c 506 s 85, 1985 c 464 s 6, 1985 c 182 s 2, 1983 c 280 s 1, 1981 c 310 s 27, 1980 c 78 s 117, 1973 1st ASCE c 58 s 1, 1961 c 94 s 2, 1959 c 245 s 2, & 1955 c 36 s 77.32.230;
- (14) RCW 77.32.340 and 1997 c 114 s 2, 1991 sp.s. c 7 s 8, 1990 c 84 s 5, 1985 c 464 s 8, 1984 c 240 s 5, & 1981 c 310 s 11;
- (15) RCW 77.32.352 and 1995 c 59 s 1;
- (16) RCW 77.32.360 and 1996 c 234 s 1, 1995 c 116 s 7, 1991 sp.s. c 7 s 10, 1990 c 84 s 7, 1987 c 506 s 88, 1985 c 464 s 10, & 1981 c 310 s 13; and
- (17) RCW 77.32.390 and 1989 c 153 s 1.



NEW SECTION. **Sec. 45.** RCW 77.32.060 and 1996 c 101 s 9, 1995 c 116 s 2, 1987 c 506 s 78, 1985 c 464 s 1, 1981 c 310 s 17, 1980 c 78 s 107, 1979 AScE c 3 s 3, 1970 AScE c 29 s 2, 1957 c 176 s 2, & 1955 c 36 s 77.32.060 are each repealed.

NEW SECTION. **Sec. 46.** The following acts or parts of acts are each repealed effective April 1, 1999:

(1) RCW 75.08.274 and 1995 1st sp.s. c 2 s 15, 1983 1st AScE c 46 s 28, 1971 c 35 s 1, & 1955 c 12 s 75.16.010; and

(2) RCW 75.25.012 and 1997 c 58 s 880.

NEW SECTION. **Sec. 47.** Sections 13 through 16, 18, 19, and 43 of this act are each added to chapter 77.32 RCW.

NEW SECTION. **Sec. 48.** Sections 1 through 9, 11 through 23, 25 through 30, 34 through 36, 38 through 42, and 44 of this act take effect January 1, 1999.

NEW SECTION. **Sec. 49.** Sections 10, 24, 31 through 33, 37, 43, and 45 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec. 50.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "licenses;" strike the remainder of the title and insert "amending RCW 75.25.092, 75.25.120, 75.25.140, 75.25.190, 77.32.005, 77.32.010, 77.32.014, 77.32.025, 77.32.050, 77.32.070, 77.32.090, 77.32.155, 77.32.235, 77.32.240, 77.32.250, 77.32.320, 77.32.350, 77.32.350, 77.32.370, 75.50.100, 75.54.140, 77.44.030, 77.12.810, 77.08.045, 77.12.670, 77.12.690, 77.16.310, 77.21.020, 77.21.030, 77.16.330, 77.12.170, and 77.44.010; reenacting and amending RCW 75.25.080; adding new sections to chapter 77.32 RCW; creating new sections; recodifying RCW 75.25.080, 75.25.120, 75.25.140, and 75.25.190; repealing RCW 75.25.005, 75.25.091, 75.25.095, 75.25.110, 75.25.130, 75.25.150, 75.25.170, 75.25.180, 75.25.200, 77.32.092, 77.32.101, 77.32.161, 77.32.230, 77.32.340, 77.32.352, 77.32.360, 77.32.390, 77.32.060, 75.08.274, and 75.25.012; prescribing penalties; providing an effective date; and declaring an emergency.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Oke moved that the Senate concur in the House amendments to Second Substitute Senate Bill No. 6330.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Oke that the Senate concur in the House amendments to Second Substitute Senate Bill No. 6330.

The motion by Senator Oke carried and the Senate concurred in the House amendments to Second Substitute Senate Bill No. 6330.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6330, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6330, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 1; Excused, 3.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Finkbeiner, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Rasmussen, Roach, Schow, Sellar, Sheldon, B., Spanel, Stevens, Swecker, Winsley, Wood and Zarelli - 34. Voting nay: Senators Anderson, Fairley, Franklin, Fraser, Heavey, McCaslin, Prentice, Sheldon, T., Snyder, Thibaudeau and Wojahn - 11. Absent: Senator West - 1.

Excused: Senators Prince, Rossi, Strannigan - 3. SECOND SUBSTITUTE SENATE BILL NO. 6330, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTIONS

On motion of Senator Franklin, Senators McAuliffe and Snyder were excused.

On motion of Senator Hale, Senator Anderson was excused.

#### MESSAGE FROM THE HOUSE

MR. PRESIDENT:

March 3, 1998

The House has passed SUBSTITUTE SENATE BILL NO. 6439 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds and declares that a contracting procedure that facilitates construction of transportation facilities in a more timely manner may occasionally be needed to ensure that construction can proceed simultaneously with the design of the facility.

**NEW SECTION. Sec. 2.** The department of transportation shall develop, by January 1, 1999, a process for awarding competitively bid highway construction contracts for projects over ten million dollars that may be constructed using a design-build procedure. As used in this section, "design-build procedure" means a method of contracting under which the department of transportation contracts with another party for such party to both design and build the structures, facilities, and other items specified in the contract.

The process developed by the department shall, at a minimum, include the scope of services required under the design-build procedure, contractor prequalification requirements, criteria for evaluating technical information and project costs, contractor selection criteria, and an issue resolution procedure. If a request for proposal will be used, the requirements of RCW 39.10.050 (4), (5), and (6) apply.

**NEW SECTION. Sec. 3.** RCW 39.10.080, 39.10.090, and 39.10.100 and the notice requirements of RCW 39.10.030 (2), (3), and (4) apply to this act.

**NEW SECTION. Sec. 4.** The department may use the design-build procedure for public works projects over ten million dollars where:

(1) The construction activities are highly specialized and a design-build approach, as defined in section 2 of this act, is critical in developing the construction methodology; or

(2) The projects selected provide opportunity for greater innovation and efficiencies between the designer and the builder; or

(3) Significant savings in project delivery time would be realized.

**NEW SECTION. Sec. 5.** Sureties are not responsible for damages, including corrective work, attributable to the design aspect of a design-build project.

**NEW SECTION. Sec. 6.** A demonstration program consisting of two projects must be implemented using the design-build method of contracting, as prescribed under a process developed by the department of transportation under section 2 of this act. The department shall select projects valued over ten million dollars for the demonstration program.

The department shall present progress reports on the demonstration projects to the legislative transportation committee and the alternative public works oversight committee during the course of the performance of the demonstration projects. The department shall present a final detailed report to the legislative transportation committee within one year of completion of the demonstration projects. The report must detail the advantages and disadvantages of the design-build construction process and make recommendations for possible changes in law, and in how the process may be used for future department projects.

**NEW SECTION. Sec. 7.** This act expires April 30, 2001, unless extended by the legislature."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Wood, the Senate concurred in the House amendment to Substitute Senate Bill No. 6439.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6439, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6439, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 14; Absent, 2; Excused, 4.

Voting yea: Senators Bauer, Benton, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Kline, Kohl, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, Winsley, Wood and Zarelli - 29. Voting nay: Senators Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Heavey, Johnson, Loveland, Roach, Sheldon, B., Spanel, Thibaudeau and Wojahn - 14. Absent: Senators Deccio and West - 2. Excused: Senators Anderson, McAuliffe, Rossi and Snyder - 4. SUBSTITUTE SENATE BILL NO. 6439, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6698 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.03.310 and 1995 c 3 s 2 are each amended to read as follows:

(1) The citizens' commission on salaries for elected officials shall study the relationship of salaries to the duties of members of the legislature, all elected officials of the executive branch of state government, and all judges of the supreme court, court of appeals, superior courts, and district courts, and shall fix the salary for each respective position.

(2) Except as provided otherwise in RCW 43.03.305 and this section, the commission shall be solely responsible for its own organization, operation, and action and shall enjoy the fullest cooperation of all state officials, departments, and agencies.

(3) Members of the commission shall receive no compensation for their services, but shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(4) The members of the commission shall elect a chair from among their number. The commission shall set a schedule of salaries by an affirmative vote of not less than nine members of the commission.

(5) The commission shall file its initial schedule of salaries for the elected officials with the secretary of state no later than the first Monday in June, 1987, and shall file a schedule biennially thereafter. Each such schedule shall be filed in legislative bill form, shall be assigned a chapter number and published with the session laws of the legislature, and shall be codified by the statute law committee. The signature of the chair of the commission shall be affixed to each schedule submitted to the secretary of state. The chair shall certify that the schedule has been adopted in accordance with the provisions of state law and with the rules, if any, of the commission. Such schedules shall become effective ninety days after the filing thereof, except as provided in Article XXVIII, section 1 of the state Constitution. State laws regarding referendum petitions shall apply to such schedules to the extent consistent with Article XXVIII, section 1 of the state Constitution.

(6) ~~((Prior to))~~ Before the filing of any salary schedule, the commission shall first develop a proposed salary schedule and then hold no fewer than four ~~((public hearings thereon))~~ regular meetings as defined by chapter 42.30 RCW to take public testimony on the proposed schedule within the four months immediately preceding the filing. At the last public hearing that is held as a regular meeting on the proposed schedule, the commission shall adopt the salary schedule as originally proposed or as amended at that meeting that will be filed with the secretary of state.

(7) All meetings, actions, hearings, and business of the commission shall be subject in full to the open public meetings act, chapter 42.30 RCW.

(8) Salaries of the officials referred to in subsection (1) of this section that are in effect on January 12, 1987, shall continue until modified by the commission under this section.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator McCaslin moved that the Senate concur in the House amendment to Senate Bill No. 6698.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator McCaslin that the Senate concur in the House amendment to Senate Bill No. 6698.

The motion by Senator McCaslin carried and the Senate concurred in the House amendment to Senate Bill No. 6698.

#### MOTION

On motion of Senator Bauer, Senator Prentice was excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6698, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6698, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 4; Excused, 3.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 42. Absent: Senators Loveland, Prince, Roach and West - 4. Excused:

Senators Anderson, McAuliffe and Prentice - 3. SENATE BILL NO. 6698, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6544 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that many residents of long-term care facilities and recipients of in-home personal care services are exceptionally vulnerable and their health and well-being are heavily dependent on their caregivers. The legislature further finds that the quality of staff in long-term care facilities is often the key to good care. The need for well-trained staff and well-managed facilities is growing as the state's population ages and the acuity of the health care problems of residents increases. In order to better protect and care for residents, the legislature directs that the minimum training standards be reviewed for management and caregiving staff, including those serving residents with special needs, such as mental illness, dementia, or a developmental disability, that management and caregiving staff receive appropriate training, and that the training delivery system be improved.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.20 RCW to read as follows:

(1) The department of social and health services shall review, in coordination with the department of health, the nursing care quality assurance commission, adult family home providers, boarding home providers, in-home personal care providers, and long-term care consumers and advocates, training standards for administrators and resident caregiving staff. The departments and the commission shall submit to the appropriate committees of the house of representatives and the senate by December 1, 1998, specific recommendations on training standards and the delivery system, including necessary statutory changes and funding requirements. Any proposed enhancements shall be consistent with this section, shall take into account and not duplicate other training requirements applicable to boarding homes and staff, and shall be developed with the input of boarding home and resident representatives, health care professionals, and other vested interest groups. Training standards and the delivery system shall be relevant to the needs of residents served by the boarding home and recipients of long-term in-home personal care services and shall be sufficient to ensure that administrators and caregiving staff have the skills and knowledge necessary to provide high quality, appropriate care.

(2) The recommendations on training standards and the delivery system developed under subsection (1) of this section shall be based on a review and consideration of the following: Quality of care; availability of training; affordability, including the training costs incurred by the department of social and health services and private providers; portability of existing training requirements; competency testing; practical and clinical course work; methods of delivery of training; standards for management and caregiving staff training; and necessary enhancements for special needs populations and resident rights training. Residents with special needs include, but are not limited to, residents with a diagnosis of mental illness, dementia, or developmental disability.

(3) The department of social and health services shall report to the appropriate committees of the house of representatives and the senate by December 1, 1998, on the cost of implementing the proposed training standards for state-funded residents, and on the extent to which that cost is covered by existing state payment rates.

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.128 RCW to read as follows:

(1) The department of social and health services shall review, in coordination with the department of health, the nursing care quality assurance commission, adult family home providers, boarding home providers, in-home personal care providers, and long-term care consumers and advocates, training standards for providers, resident managers, and resident caregiving staff. The departments and the commission shall submit to the appropriate committees of the house of representatives and the senate by December 1, 1998, specific recommendations on training standards and the delivery system, including necessary statutory changes and funding requirements. Any proposed enhancements shall be consistent with this section, shall take into account and not duplicate other training requirements applicable to adult family homes and staff, and shall be developed with the input of adult family home and resident representatives, health care professionals, and other vested interest groups. Training standards and the delivery system shall be relevant to the needs of residents served by the adult family home and recipients of long-term in-home personal care services and shall be sufficient to ensure that providers, resident managers, and caregiving staff have the skills and knowledge necessary to provide high quality, appropriate care.

(2) The recommendations on training standards and the delivery system developed under subsection (1) of this section shall be based on a review and consideration of the following: Quality of care; availability of training; affordability, including the training costs incurred by the department of social and health services and private providers; portability of existing training requirements; competency testing; practical and clinical course work; methods of delivery of training; standards for management; uniform caregiving staff training; necessary enhancements for special needs populations; and resident rights training. Residents with special needs include, but are not limited to, residents with a diagnosis of mental illness, dementia, or developmental disability. Development of training recommendations for developmental disabilities services shall be coordinated with the study requirements in section 5 of this act.

(3) The department of social and health services shall report to the appropriate committees of the house of representatives and the senate by December 1, 1998, on the cost of implementing the proposed training standards for state-funded residents, and on the extent to which that cost is covered by existing state payment rates.

**Sec. 4.** RCW 70.128.070 and 1995 1st sp.s. c 18 s 22 are each amended to read as follows:

~~(1) (A license shall be valid for one year.~~

~~(2) At least sixty days prior to expiration of the license, the provider shall submit an application for renewal of a license. The department shall send the provider an application for renewal prior to this time. The department shall have the authority to investigate any information included in the application for renewal of a license.~~

~~(3)) A license shall remain valid unless voluntarily surrendered, suspended, or revoked in accordance with this chapter.~~

~~(2)(a) Homes applying for a license shall be inspected at the time of licensure.~~

~~(b) Homes licensed by the department shall be inspected at least every eighteen months, subject to available funds.~~

~~(c) The department may make an unannounced inspection of a licensed home at any time to assure that the home and provider are in compliance with this chapter and the rules adopted under this chapter.~~

~~((4)) (3) If the department finds that the home is not in compliance with this chapter, it shall require the home to correct any violations as provided in this chapter. ((If the department finds that the home is in compliance with this chapter and the rules adopted under this chapter, the department shall renew the license of the home.))~~

**Sec. 5.** RCW 70.129.030 and 1997 c 386 s 31 are each amended to read as follows:

(1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. The notification must be made prior to or upon admission. Receipt of the information must be acknowledged in writing.

(2) The resident or his or her legal representative has the right:

(a) Upon an oral or written request, to access all records pertaining to himself or herself including clinical records within twenty-four hours; and

(b) After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard photocopies of the records or portions of them upon request and two working days' advance notice to the facility.

(3) The facility shall only admit or retain individuals whose needs it can safely and appropriately serve in the facility with appropriate available staff and through the provision of reasonable accommodations required by state or federal law. Except in cases of genuine emergency, the facility shall not admit an individual before obtaining a thorough assessment of the resident's needs and preferences. The assessment shall contain, unless unavailable despite the best efforts of the facility, the resident applicant, and other interested parties, the following minimum information: Recent medical history; necessary and contraindicated medications; a licensed medical or other health professional's diagnosis, unless the individual objects for religious reasons; significant known behaviors or symptoms that may cause concern or require special care; mental illness, except where protected by confidentiality laws; level of personal care needs; activities and service preferences; and preferences regarding other issues important to the resident applicant, such as food and daily routine.

(4) The facility must inform each resident in writing in a language the resident or his or her representative understands before (–or at the time of) admission, and at least once every twenty-four months thereafter of: (a) Services, items, and activities customarily available in the facility or arranged for by the facility as permitted by the facility's license; (b) charges for those services, items, and activities including charges for services, items, and activities not covered by the facility's per diem rate or applicable public benefit programs; and (c) the rules of facility operations required under RCW 70.129.140(2). Each resident and his or her representative must be informed in writing in advance of changes in the availability or the charges for services, items, or activities, or of changes in the facility's rules. Except in emergencies, thirty days' advance notice must be given prior to the change. However, for facilities licensed for six or fewer residents, if there has been a substantial and continuing change in the resident's condition necessitating substantially greater or lesser services, items, or activities, then the charges for those services, items, or activities may be changed upon fourteen days' advance written notice.

~~((4)) (5) The facility must furnish a written description of residents rights that includes:~~

~~(a) A description of the manner of protecting personal funds, under RCW 70.129.040;~~

~~(b) A posting of names, addresses, and telephone numbers of the state survey and certification agency, the state licensure office, the state ombudsmen program, and the protection and advocacy systems; and~~

~~(c) A statement that the resident may file a complaint with the appropriate state licensing agency concerning alleged resident abuse, neglect, and misappropriation of resident property in the facility.~~

~~((5)) (6) Notification of changes.~~

~~(a) A facility must immediately consult with the resident's physician, and if known, make reasonable efforts to notify the resident's legal representative or an interested family member when there is:~~

~~(i) An accident involving the resident which requires or has the potential for requiring physician intervention;~~

~~(ii) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications).~~

(b) The facility must promptly notify the resident or the resident's representative shall make reasonable efforts to notify an interested family member, if known, when there is:

- (i) A change in room or roommate assignment; or
- (ii) A decision to transfer or discharge the resident from the facility.

(c) The facility must record and update the address and phone number of the resident's representative or interested family member, upon receipt of notice from them.

**NEW SECTION. Sec. 6.** The division of developmental disabilities in the department of social and health services, in coordination with advocacy, self-advocacy, and provider organizations, shall review administrator and resident caregiver staff training standards for agency contracted supported living services, including intensive tenant support, tenant support, supportive living, and in-home personal care services for children. The division and the advocates shall coordinate specialty training recommendations with the larger study group referenced in sections 2(1) and 3(1) of this act and submit specific recommendations on training standards, including necessary statutory changes and funding requirements to the appropriate committees of the house of representatives and the senate by December 1, 1998.

**Sec. 7.** RCW 70.128.060 and 1995 c 260 s 4 are each amended to read as follows:

(1) An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires.

(2) The department shall issue a license to an adult family home if the department finds that the applicant and the home are in compliance with this chapter and the rules adopted under this chapter, unless (a) the applicant has prior violations of this chapter relating to the adult family home subject to the application or any other adult family home, or of any other law regulating residential care facilities within the past five years that resulted in revocation or nonrenewal of a license; or (b) the applicant has a history of significant noncompliance with federal, state, or local laws, rules, or regulations relating to the provision of care or services to vulnerable adults or to children.

(3) The license fee shall be submitted with the application.

(4) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of his or her application for a license as provided in chapter 34.05 RCW by requesting a hearing in writing within twenty-eight days after receipt of the notice of denial.

(5) The department shall not issue a license to a provider if the department finds that the provider or any partner, officer, director, managerial employee, or owner of five percent or more if the provider has a history of significant noncompliance with federal or state regulations, rules, or laws in providing care or services to vulnerable adults or to children.

(6) The department shall license an adult family home for the maximum level of care that the adult family home may provide. The department shall define, in rule, license levels based upon the education, training, and caregiving experience of the licensed provider or staff.

(7) The department shall establish, by rule, standards used to license nonresident providers and multiple facility operators.

(8) The department shall establish, by rule, for multiple facility operators educational standards substantially equivalent to recognized national certification standards for residential care administrators.

(9) The license fee shall be set at fifty dollars per year for each home. The licensing fee is due each year within thirty days of the anniversary date of the license. A fifty dollar processing fee shall also be charged each home when the home is initially licensed.

**NEW SECTION. Sec. 8.** A new section is added to chapter 18.48 RCW to read as follows:

Adult family homes have developed rapidly in response to the health and social needs of the aging population in community settings, especially as the aging population has increased in proportion to the general population. The growing demand for elder care with a new focus on issues affecting senior citizens, including persons with developmental disabilities, mental illness, or dementia, has prompted a growing professionalization of adult family home providers to address quality care and quality of life issues consistent with standards of accountability and regulatory safeguards for the health and safety of the residents. The establishment of an advisory committee to the department of health and the department of social and health services under section 9 of this act formalizes a stable process for discussing and considering these issues among residents and their advocates, regulatory officials, and adult family home providers. The dialogue among all stakeholders interested in maintaining a healthy option for the aging population in community settings assures the highest regard for the well-being of these residents within a benign and functional regulatory environment.

**NEW SECTION. Sec. 9.** A new section is added to chapter 18.48 RCW to read as follows:

(1) The secretary, in consultation with the secretary of social and health services, shall appoint an advisory committee on matters relating to the regulation, administrative rules, enforcement process, staffing, and training requirements of adult family homes. The advisory committee shall be composed of six members, of which two members shall be resident advocates, three members shall represent adult family home providers, and one member shall represent the public and serve as

chair. The members shall generally represent the interests of aging residents, residents with dementia, residents with mental illness, and residents with developmental disabilities respectively. Members representing adult family home providers must have at least two years' experience as

licensees. The membership must generally reflect urban and rural areas and western and eastern parts of the state. A member may not serve more than two consecutive terms.

(2) The secretary may remove a member of the advisory committee for cause as specified by rule adopted by the department. If there is a vacancy, the secretary shall appoint a member to serve for the remainder of the unexpired term.

(3) The advisory committee shall meet at the times and places designated by the secretary and shall hold meetings during the year as necessary to provide advice to the secretary on matters relating to the regulation of adult family homes. A majority of the members may request a meeting of the committee for any express purpose directly related to the regulation of adult family homes. A majority of members currently serving shall constitute a quorum.

(4) Establishment of the advisory committee shall not prohibit the department of health from utilizing other advisory activities that the department of health deems necessary for program development.

(5) Each member of the advisory committee shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.060.

(6) The secretary, members of the advisory committee, or individuals acting on their behalf are immune from civil liability for official acts performed in the course of their duties.

NEW SECTION. Sec. 10. A new section is added to chapter 70.128 RCW to read as follows:

Adult family homes have developed rapidly in response to the health and social needs of the aging population in community settings, especially as the aging population has increased in proportion to the general population. The growing demand for elder care with a new focus on issues affecting senior citizens, including persons with developmental disabilities, mental illness, or dementia, has prompted a growing professionalization of adult family home providers to address quality care and quality of life issues consistent with standards of accountability and regulatory safeguards for the health and safety of the residents. The establishment of an advisory committee to the department of health and the department of social and health services under section 9 of this act formalizes a stable process for discussing and considering these issues among residents and their advocates, regulatory officials, and adult family home providers. The dialogue among all stakeholders interested in maintaining a healthy option for the aging population in community settings assures the highest regard for the well-being of these residents within a benign and functional regulatory environment. The secretary shall be advised by an advisory committee on adult family homes established under section 9 of this act.

Establishment of the advisory committee shall not prohibit the department of social and health services from utilizing other advisory activities that the department of social and health services deems necessary for program development.

NEW SECTION. Sec. 11. Section 5 of this act takes effect July 1, 1998."

On page 1, line 1 of the title, after "care;" strike the remainder of the title and insert "amending RCW 70.128.070, 70.129.030, and 70.128.060; adding a new section to chapter 18.20 RCW; adding new sections to chapter 70.128 RCW; adding new sections to chapter 18.48 RCW; creating new sections; and providing an effective date.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Johnson, the Senate refuses to concur in the House amendments to Second Substitute Senate Bill No. 6544 and requests of the House a conference thereon.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Second Substitute Senate Bill No. 6544 and the House amendment(s) thereto: Senators Deccio, Wojahn and Wood.

#### MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6746 with the following amendment(s):  
Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Any person, firm, partnership, corporation, or association promising, in exchange for dues, assessments, or periodic or lump-sum payments, to furnish members or subscribers with assistance in matters relating to trip cancellation, bail bond service or any accident, sickness, or death insurance benefit program must:

(a) Have a certificate of authority, issued by the insurance commissioner, authorizing the person, firm, partnership, corporation, or association to sell that coverage in this state; or

(b) Purchase the service or insurance from a company that holds a certificate of authority, issued by the insurance commissioner, authorizing the company to sell that coverage in this state. If coverage cannot be procured from an authorized insurer holding a certificate of authority issued by the insurance commissioner, insurance may be procured from an unauthorized insurer subject to chapter 48.15 RCW.

(2) Travel or automobile related products or assistance including but not limited to community traffic safety service, travel and touring service, theft or reward service, map service, towing service, emergency road service, lockout or lost key service, reimbursement of emergency expenses due to a vehicle disabling accident, or legal fee reimbursement service in the defense of traffic offenses shall not be considered to be insurance for the purposes of Title 48 RCW.

(3) Violation of this section is subject to the enforcement provisions of RCW 48.02.080 and to the hearing and appeal provisions of chapter 48.04 RCW.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Winsley moved that the Senate concur in the House amendment to Substitute Senate Bill No. 6746.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Winsley that the Senate concur in the House amendment to Substitute Senate Bill No. 6746.

The motion by Senator Winsley carried and the Senate concurred in the House amendment to Substitute Senate Bill No. 6746.

#### MOTION

On motion of Senator Hale, Senator Wood was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6746, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6746, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 46. Excused: Senators Anderson, McAuliffe and Wood - 3. SUBSTITUTE SENATE BILL NO. 6746, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PARLIAMENTARY INQUIRY

Senator Heavey: "A point of parliamentary inquiry, Mr. President. Don't the Senate Rules, Reed's Rules, Robert's Rules, all provide that flowers can be no longer than eighteen inches on a member's desk?"

#### REPLY BY THE PRESIDENT

President Owen: "Not at this time, Senator Heavey. However, it is seriously under consideration."

#### PERSONAL PRIVILEGE

Senator McCaslin: "A point of personal privilege, Mr. President. Senator Heavey, this is only about twelve inches."



MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6293 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are each reenacted and amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year(~~Thirty days of the imprisonment~~) and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year(~~Forty-five days of the imprisonment~~) and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection

breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of nine hundred days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year(~~(Ninety days of the imprisonment)~~) and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year(~~(One hundred twenty days of the imprisonment)~~) and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding (~~(two))~~ five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include

nonrepetition, installation of an ignition interlock or other biological or technical device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8) For purposes of this section:

(a) "Electronic home monitoring" shall not be considered confinement as defined in RCW 9.94A.030:

(b) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of ~~((b))~~ (b)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522~~(-)~~; and

~~((b))~~ (c) "Within five years" means that the arrest for a prior offense occurred within five years of the arrest for the current offense.

**Sec. 2.** RCW 46.65.070 and 1990 c 250 s 62 are each amended to read as follows:

No license to operate motor vehicles in Washington shall be issued to an habitual offender (1) for a period of ~~((five))~~ seven years from the date of the license revocation except as provided in RCW 46.65.080, and (2) until the privilege of such person to operate a motor vehicle in this state has been restored by the department of licensing as provided in this chapter.

**Sec. 3.** RCW 46.65.080 and 1979 c 158 s 181 are each amended to read as follows:

At the end of ~~((two))~~ four years, the habitual offender may petition the department of licensing for the return of his operator's license and upon good and sufficient showing, the department of licensing may, wholly or conditionally, reinstate the privilege of such person to operate a motor vehicle in this state.

**Sec. 4.** RCW 46.65.100 and 1979 c 158 s 182 are each amended to read as follows:

At the expiration of ~~((five))~~ seven years from the date of any final order finding a person to be an habitual offender and directing him not to operate a motor vehicle in this state, such person may petition the department of licensing for restoration of his privilege to operate a motor vehicle in this state. Upon receipt of such petition, and for good cause shown, the department of licensing shall restore to such person the privilege to operate a motor vehicle in this state upon such terms and conditions as the department of licensing may prescribe, subject to the provisions of chapter 46.29 RCW and such other provisions of law relating to the issuance or revocation of operators' licenses.

**NEW SECTION. Sec. 5.** A new section is added to chapter 46.61 RCW to read as follows:

(1) A defendant who is arrested for an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, shall be required to appear in person before a magistrate within one judicial day after the arrest if the defendant is served with a citation or complaint at the time of the arrest.

(2) A defendant who is charged by citation, complaint, or information with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, and who is not arrested, shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3) At the time of an appearance required by this section, the court shall determine the necessity of imposing conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment.

(4) Appearances required by this section are mandatory and may not be waived.

NEW SECTION. Sec. 6. This act takes effect January 1, 1999."  
Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Benton moved that the Senate concur in the House amendment to Engrossed Second Substitute Senate Bill No. 6293.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Benton that the Senate concur in the House amendment to Engrossed Second Substitute Senate Bill No. 6293.

The motion by Senator Benton carried and the Senate concurred in the House amendment to Engrossed Second Substitute Senate Bill No. 6293.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6293, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6293, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 45. Absent: Senators Deccio and McDonald - 2. Excused: Senators Anderson and Wood - 2.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6293, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6420 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the shift by the employment security department from in-person written initial applications for unemployment insurance benefits to a call center approach creates opportunities for improved service but also raises serious concerns. Eliminating face-to-face contact may increase the potential for fraud and reduce the probability that claimants will utilize existing reemployment resources. Therefore, it is the intent of the legislature that if the written application process is to be eliminated, the employment security department must ensure that unemployment insurance claimants remain actively involved in reemployment activities and that an independent evaluation be conducted of the call center approach to unemployment insurance.

Sec. 2. RCW 50.20.140 and 1951 c 215 s 4 are each amended to read as follows:

An application for initial determination, a claim for waiting period, or a claim for benefits shall be filed in accordance with such ~~((regulations))~~ rules as the commissioner may prescribe. An application for an initial determination may be made by any individual whether unemployed or not. Each employer shall post and maintain printed statements of such ~~((regulations))~~ rules in places readily accessible to individuals in his or her employment and shall make available to each such individual at the time he or she becomes unemployed, a printed statement of such ~~((regulations))~~ rules and such notices, instructions, and other material as the commissioner may by ~~((regulation))~~ rule prescribe. Such printed material shall be supplied by the commissioner to each employer without cost to ~~((him))~~ the employer.

The term "application for initial determination" shall mean a request in writing, or by other means as determined by the commissioner, for an initial determination. The term "claim for waiting period" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for waiting period have been met. The term "claim for benefits" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for receipt of benefits have been met.

A representative designated by the commissioner shall take the application for initial determination and for the claim for waiting period credits or for benefits. When an application for initial determination has been made, the employment security department shall promptly make an initial determination which shall be a statement of the applicant's base year wages, his or her weekly benefit amount, his or her

maximum amount of benefits potentially payable, and his or her benefit year. Such determination shall fix the general conditions under which waiting period credit shall be granted and under which benefits shall be paid during any period of unemployment occurring within the benefit year fixed by such determination.

**NEW SECTION. Sec. 3.** A new section is added to chapter 50.20 RCW to read as follows:

The employment security department will ensure that within a reasonably short period of time after the initiation of benefits, all unemployment insurance claimants, except those with employer attachment, union referral, in commissioner approved training, or the subject of antiharassment orders, register for job search in an electronic labor exchange system that supports direct employer access for the purpose of selecting job applicants.

**NEW SECTION. Sec. 4.** A new section is added to chapter 50.20 RCW to read as follows:

To ensure that following the initial application for benefits, an individual is actively engaged in searching for work, effective July 1, 1999, the employment security department shall implement a job search monitoring program. Except for those individuals with employer attachment or union referral, and individuals in commissioner-approved training, an individual who has received five or more weeks of benefits under this title must provide evidence of seeking work, as directed by the commissioner or commissioner's agents, for each week beyond five in which a claim is filed. The evidence must demonstrate contacts with at least three employers per week or documented in-person job search activity at the local reemployment center. In developing the requirements for the job search monitoring program, the commissioner or the commissioner's agents shall utilize an existing advisory committee having equal representation of employers and workers.

**NEW SECTION. Sec. 5.** (1) The joint legislative audit and review committee, in consultation with members of the senate and house of representatives commerce and labor committees and the unemployment insurance advisory committee, shall conduct an evaluation of the new call center approach to unemployment insurance. The evaluation shall review the performance of the call center system, including, but not limited to, the: (a) Promptness of payments; (b) number and types of errors; (c) amount and types of fraud; and (d) level of overpayments and underpayments, compared with the current system.

(2) The joint legislative audit and review committee is directed to contract with a private entity consistent with the provisions of chapter 39.29 RCW. The committee shall consult with the unemployment insurance advisory committee in the design of the request for proposals from potential contractors and shall use the advisory committee to evaluate the responses. The joint legislative audit and review committee shall provide a report on its findings and recommendations to the appropriate standing committee of the senate and house of representatives by September 1, 2001.

**NEW SECTION. Sec. 6.** The employment security department is authorized to expend funds provided under RCW 50.24.014(1)(b) for the purposes of the evaluation provided for in section 5 of this act.

**Sec. 7.** RCW 50.24.014 and 1994 c 187 s 3 are each amended to read as follows:

(1)(a) A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, at a basic rate of two one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

(b) For the first calendar quarter of 1994 only, the basic two one-hundredths of one percent contribution payable under (a) of this subsection shall be increased by one-hundredth of one percent to a total rate of three one-hundredths of one percent. The proceeds of this incremental one-hundredth of one percent shall be used solely for the purposes described in section 22, chapter 483, Laws of 1993, and for the purposes ~~((described in RCW 50.40.060))~~ of conducting an evaluation of the call center approach to unemployment insurance under section 5 of this act. Any surplus from contributions payable under this subsection (b) will be deposited in the unemployment compensation trust fund.

(2)(a) Contributions under this section shall become due and be paid by each employer under rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

(b) In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) If the commissioner determines that federal funding has been increased to provide financing for the services specified in chapter 50.62 RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Schow moved that the Senate concur in the House amendment to Substitute Senate Bill No. 6420.  
Debate ensued.

The President declared the question before the Senate to be the motion by Senator Schow that the Senate concur in the House amendment to Substitute Senate Bill No. 6420.

The motion by Senator Schow carried and the Senate concurred in the House amendment to Substitute Senate Bill No. 6420

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6420, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6420, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senators Kline and West - 2. Excused: Senator Anderson - 1. SUBSTITUTE SENATE BILL NO. 6420, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Wood, Senator Sellar was excused.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5636 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.118.030 and 1977 AS c 133 s 3 are each amended to read as follows:

(1) Local boards of health shall identify failing septic tank drainfield systems in the normal manner and will use reasonable effort to determine new failures. The local health officer, environmental health director, or equivalent officer may apply for an administrative search warrant to a court official authorized to issue a criminal search warrant. The warrant may only be applied for after the local health officer or the health officer's designee has requested inspection of the person's property under the specific administrative plan required in this section, and the person has refused the health officer or the health officer's designee access to the person's property. Timely notice must be given to any affected person that a warrant is being requested and that the person may be present at any court proceeding to consider the requested search warrant. The court official may issue the warrant upon probable cause. A request for a search warrant must show the inspection, examination, test, or sampling is in response to pollution in commercial or recreational shellfish harvesting areas or pollution in fresh water. A specific administrative plan must be developed expressly in response to the pollution. The local health officer, environmental health director, or equivalent officer shall submit the plan to the court as part of the justification for the warrant, along with specific evidence showing that it is reasonable to believe pollution is coming from the septic system on the property to be accessed for inspection. The plan must include each of the following elements:

(a) The overall goal of the inspection;

(b) The location and identification by address of the properties being authorized for inspection;

(c) Requirements for giving the person owning the property and the person occupying the property if it is someone other than the owner, notice of the plan, its provisions, and times of any inspections;

(d) The survey procedures to be used in the inspection;

(e) The criteria that would be used to define an on-site sewage system failure; and

(f) The follow-up actions that would be pursued once an on-site sewage system failure has been identified and confirmed.

(2) Discretionary judgment will be made in implementing corrections by specifying nonwater-carried sewage disposal devices or other alternative methods of treatment and effluent disposal as a measure of ameliorating existing substandard conditions. Local regulations shall be consistent with the intent and purposes stated (~~herein~~) in this section.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Oke, the Senate concurred in the House amendment to Substitute Senate Bill No. 5636.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5636, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5636, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 2; Absent, 4; Excused, 2.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Sheldon, B., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 41. Voting nay: Senators Heavey and Sheldon, T. - 2. Absent: Senators McDonald, Prince, Schow and West - 4. Excused: Senators Anderson and Sellar - 2. SUBSTITUTE SENATE BILL NO. 5636, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6208 with the following amendment(s):  
Strike everything after the enacting clause and insert the following:

#### **"PART I - CRISIS RESIDENTIAL CENTERS AND STAFF-SECURE TREATMENT CENTERS**

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

Any county or group of counties may make application to the department of social and health services in the manner and form prescribed by the department to administer and provide the services established under RCW 13.32A.197. Any such application must include a plan or plans for providing such services to at-risk youth.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW to read as follows:

No county may receive any state funds provided by section 1 of this act until its application and plan are received by the department.

(1) The distribution of funds to a county or a group of counties shall be based on criteria including but not limited to the county's per capita income, regional or county at-risk populations, rates of poverty, and the presence of existing programs serving at-risk children.

(2) The secretary of social and health services shall reimburse a county upon presentation and approval of a valid claim pursuant to this chapter based on actual performance in meeting the terms and conditions of the approved plan and contract. Funds received by participating counties under this chapter shall not be used to replace local funds for existing programs.

(3) Funds available for county-operated staff-secure facilities and services under RCW 13.32A.197 shall not exceed the appropriation for these services specified in the biennial operating budget.

**Sec. 3.** RCW 74.13.031 and 1997 c 386 s 32 and 1997 c 272 s 1 are each reenacted and amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of homeless, runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of alleged neglect, abuse, or abandonment of children, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime may have been committed, the department shall notify the appropriate law enforcement agency.

- (4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.
- (5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.
- (6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.
- (7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.
- (8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.
- (9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.
- (10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.
- (11) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

(12) Provide funding for counties to operate treatment facilities and provide treatment services to children who have been ordered placed in a staff secure facility under RCW 13.32A.197.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, or counties under subsection (12) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

**Sec. 4.** RCW 74.13.032 and 1995 c 312 s 60 are each amended to read as follows:

- (1) The department shall establish, by contracts with private or public vendors, regional crisis residential centers with semi-secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department and shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children.
- (2) Within available funds appropriated for this purpose, the department shall establish, by contracts with private or public vendors, regional crisis residential centers with secure facilities. These facilities shall be facilities licensed under rules adopted by the department. These centers may also include semi-secure facilities and to such extent shall be subject to subsection (1) of this section.
- (3) The department shall, in addition to the facilities established under subsections (1) and (2) of this section, establish additional crisis residential centers pursuant to contract with licensed private group care facilities.
- (4) The staff at the facilities established under this section shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles that recognize the need for support and the varying circumstances that cause children to leave their families, and carry out the responsibilities stated in RCW 13.32A.090. The responsibilities stated in RCW 13.32A.090 may, in any of the centers, be carried out by the department.
- (5) The secure facilities located within crisis residential centers shall be operated to conform with the definition in RCW 13.32A.030. The facilities shall have an average of no ~~((more))~~ less than ~~((three))~~ one adult staff member(s) to every ~~((eight))~~ ten children. The staffing ratio shall continue to ensure the safety of the children.

~~(6) ((A center with secure facilities created under this section may not be located within, or on the same grounds as, other secure structures including jails, juvenile detention facilities operated by the state, or units of local government. However, the secretary may, following consultation with the appropriate county legislative authority, make a written finding that location of a center with secure facilities on the same grounds as another secure structure is the only practical location for a secure facility. Upon the written finding a secure facility may be located on the same grounds as the secure structure. Where)) If a secure crisis residential center is located in or adjacent to a secure juvenile detention facility, the center shall be operated in a manner that prevents in-person contact between the residents of the center and the persons held in such facility.~~

NEW SECTION. **Sec. 5.** A new section is added to chapter 74.13 RCW to read as follows:



(1) A county or group of counties operating a staff-secure facility under sections 1 and 2 of this act shall establish, by contracts with private or public vendors, treatment centers with staff secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department.

(2) The staff at the facilities established under RCW 13.32A.197 shall be trained so that they may effectively counsel, supervise, provide treatment for behavioral difficulties or needs, and provide structure to the juveniles admitted to treatment facilities. The treatment, supervision, and counseling must recognize the need for support and the varying circumstances that cause children to leave their families.

(3) Juveniles shall be admitted to the facilities based on a court order for placement at a staff secure facility to receive treatment under RCW 13.32A.197. Juveniles shall not be denied admission based on their county of residence.

## **PART II - MENTAL HEALTH AND CHEMICAL DEPENDENCY TREATMENT**

**NEW SECTION. Sec. 6.** The legislature finds it is often necessary for parents to obtain mental health or chemical dependency treatment for their minor children prior to the time the child's condition presents a likelihood of serious harm or the child becomes gravely disabled. The legislature finds that treatment of such conditions is not the equivalent of incarceration or detention, but is a legitimate act of parental discretion, when supported by decisions of credentialed professionals. The legislature finds that, consistent with *Parham v. J.R.*, 442 U.S. 584 (1979), state action is not involved in the determination of a parent and professional person to admit a minor child to treatment and finds this act provides sufficient independent review by the department of social and health services, as a neutral fact-finder, to protect the interests of all parties. The legislature intends and recognizes that children affected by the provisions of this act are not children whose mental or substance abuse problems are adequately addressed by chapters 70.96A and 71.34 RCW. Therefore, the legislature finds it is necessary to provide parents a statutory process, other than the petition process provided in chapters 70.96A and 71.34 RCW, to obtain treatment for their minor children without the consent of the children.

The legislature finds that differing standards of admission and review in parent-initiated mental health and chemical dependency treatment for their minor children are necessary and the admission standards and procedures under state involuntary treatment procedures are not adequate to provide safeguards for the safety and well-being of all children. The legislature finds the timeline for admission and reviews under existing law do not provide sufficient opportunities for assessment of the mental health and chemically dependent status of every minor child and that additional time and different standards will facilitate the likelihood of successful treatment of children who are in need of assistance but unwilling to obtain it voluntarily. The legislature finds there are children whose behavior presents a clear need of medical treatment but is not so extreme as to require immediate state intervention under the state involuntary treatment procedures.

## **PART II-A - MENTAL HEALTH**

**Sec. 7.** RCW 71.34.010 and 1992 c 205 s 302 are each amended to read as follows:

It is the purpose of this chapter to ~~((ensure))~~ assure that minors in need of mental health care and treatment receive an appropriate continuum of culturally relevant care and treatment, ~~((from))~~ including prevention and early intervention ~~((to)), self-directed care, parent-directed care, and~~ involuntary treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the department that provide mental health services to minors shall jointly plan and deliver those services.

It is also the purpose of this chapter to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment. The mental health care and treatment providers shall encourage the use of voluntary services and, whenever clinically appropriate, the providers shall offer less restrictive alternatives to inpatient treatment. Additionally, all mental health care and treatment providers shall ~~((ensure))~~ assure that minors' parents are given an opportunity to participate in the treatment decisions for their minor children. The mental health care and treatment providers shall, to the extent possible, offer services that involve minors' parents or family.

It is also the purpose of this chapter to assure the ability of parents to exercise reasonable, compassionate care and control of their minor children when there is a medical necessity for treatment and without the requirement of filing a petition under this chapter.

**Sec. 8.** RCW 71.34.020 and 1985 c 354 s 2 are each amended to read as follows:

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

(1) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(2) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(3) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(4) "County-designated mental health professional" means a mental health professional designated by one or more counties to perform the functions of a county-designated mental health professional described in this chapter.

(5) "Department" means the department of social and health services.

(6) "Evaluation and treatment facility" means a public or private facility or unit that is certified by the department to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the department or federal agency does not require certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(7) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(8) "Gravely disabled minor" means a minor who, as a result of a mental disorder, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(9) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, or residential treatment facility certified by the department as an evaluation and treatment facility for minors.

(10) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(11) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(12) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder; or (b) prevent the worsening of mental conditions that endanger life or cause suffering and pain, or result in illness or infirmity or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(13) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or mental retardation alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

~~((13))~~ (14) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under this chapter.

~~((14))~~ (15) "Minor" means any person under the age of eighteen years.

~~((15))~~ (16) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed services providers as identified by RCW 71.24.025(3).

~~((16))~~ (17) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

~~((17))~~ (18) "Professional person in charge" or "professional person" means a physician or other mental health professional empowered by an evaluation and treatment facility with authority to make admission and discharge decisions on behalf of that facility.

~~((18))~~ (19) "Psychiatric nurse" means a registered nurse who has a bachelor's degree from an accredited college or university, and who has had, in addition, at least two years' experience in the direct treatment of mentally ill or emotionally disturbed persons, such experience gained under the supervision of a mental health professional. "Psychiatric nurse" shall also mean any other registered nurse who has three years of such experience.

~~((19))~~ (20) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

~~((20))~~ (21) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

~~((21))~~ (22) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

~~((22))~~ (23) "Secretary" means the secretary of the department or secretary's designee.

~~((23))~~ (24) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

**Sec. 9.** RCW 71.34.025 and 1995 c 312 s 56 are each amended to read as follows:

~~(1) ((The admission of any child under RCW 71.34.030 may be reviewed by the county-designated mental health professional between fifteen and thirty days following admission. The county-designated mental health professional may undertake the review on his or her own initiative and may seek reimbursement from the parents, their insurance, or medicaid for the expense of the review.~~

~~(2)) The department shall ((ensure)) assure that, for any minor admitted to inpatient treatment under section 17 of this act, a review is conducted ((no later than sixty days)) by a physician or other mental health professional who is employed by the department, or an agency under contract with the department, and who neither has a financial interest in continued inpatient treatment of the minor nor is affiliated with the facility providing the treatment. The physician or other mental health professional shall conduct the review not less than seven nor more than fourteen days following ((admission)) the date the minor was brought to the facility under section 17 of this act to determine whether it is ((medically appropriate)) a medical necessity to continue the ((child's)) minor's treatment on an inpatient basis. ((The department may, subject to available funds, contract with a county for the conduct of the review conducted under this subsection and may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.~~

~~If the county-designated mental health professional determines that continued inpatient treatment of the child is no longer medically appropriate, the professional shall notify the facility, the child, the child's parents, and the department of the finding within twenty-four hours of the determination.~~

~~(3) For purposes of eligibility for medical assistance under chapter 74.09 RCW, children in inpatient mental health or chemical dependency treatment shall be considered to be part of their parent's or legal guardian's household, unless the child has been assessed by the department of social and health services or its designee as likely to require such treatment for at least ninety consecutive days, or is in out-of-home care in accordance with chapter 13.34 RCW, or the child's parents are found to not be exercising responsibility for care and control of the child. Payment for such care by the department of social and health services shall be made only in accordance with rules, guidelines, and clinical criteria applicable to inpatient treatment of minors established by the department.)~~

~~(2) In making a determination under subsection (1) of this section, the department shall consider the opinion of the treatment provider, the safety of the minor, and the likelihood the minor's mental health will deteriorate if released from inpatient treatment. The department shall consult with the parent in advance of making its determination.~~

~~(3) If, after any review conducted by the department under this section, the department determines it is no longer a medical necessity for a minor to receive inpatient treatment, the department shall immediately notify the parents and the facility. The facility shall release the minor to the parents within twenty-four hours of receiving notice. If the professional person in charge and the parent believe that it is a medical necessity for the minor to remain in inpatient treatment, the minor shall be released to the parent on the second judicial day following the department's determination in order to allow the parent time to file an at-risk youth petition under chapter 13.32A RCW. If the department determines it is a medical necessity for the minor to receive outpatient treatment and the minor declines to obtain such treatment, such refusal shall be grounds for the parent to file an at-risk youth petition.~~

~~(4) If the evaluation conducted under section 17 of this act is done by the department, the reviews required by subsection (1) of this section shall be done by contract with an independent agency.~~

~~(5) The department may, subject to available funds, contract with other governmental agencies to conduct the reviews under this section. The department may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.~~

~~(6) In addition to the review required under this section, the department may periodically determine and redetermine the medical necessity of treatment for purposes of payment with public funds.~~

**NEW SECTION. Sec. 10.** A new section is added to chapter 71.34 RCW to read as follows:

For the purpose of gathering information related to parent-initiated mental health treatment, the department shall report to the appropriate committees of the legislature by December 1 of each year the following information:

(1) The total number of parent-initiated admissions of minors to evaluation and treatment facilities under section 17 of this act for the prior year;

(2) The number of minors in the prior year admitted to evaluation or treatment facilities under section 17 of this act who are released from treatment, pursuant to RCW 71.34.025(3), because the department determined that it was not a medical necessity to continue the minor's treatment on an inpatient basis;

(3) The lengths of time in treatment for minors admitted in the prior year to evaluation and treatment facilities under section 17 of this act.

**NEW SECTION. Sec. 11.** A new section is added to chapter 71.34 RCW to read as follows:

For purposes of eligibility for medical assistance under chapter 74.09 RCW, minors in inpatient mental health treatment shall be considered to be part of their parent's or legal guardian's household, unless the minor has been assessed by the department or its designee as likely

to require such treatment for at least ninety consecutive days, or is in out-of-home care in accordance with chapter 13.34 RCW, or the parents are found to not be exercising responsibility for care and control of the minor. Payment for such care by the department shall be made only in accordance with rules, guidelines, and clinical criteria applicable to inpatient treatment of minors established by the department.

## **PART II-B - VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

**Sec. 12.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to read as follows:

~~((H))~~ Any minor thirteen years or older may request and receive outpatient treatment without the consent of the minor's parent. Parental authorization is required for outpatient treatment of a minor under the age of thirteen.

~~((2) When in the judgment of the professional person in charge of an evaluation and treatment facility there is reason to believe that a minor is in need of inpatient treatment because of a mental disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to an evaluation and treatment facility in accordance with the following requirements:~~

~~(a) A minor may be voluntarily admitted by application of the parent. The consent of the minor is not required for the minor to be evaluated and admitted as appropriate.~~

~~(b) A minor thirteen years or older may, with the concurrence of the professional person in charge of an evaluation and treatment facility, admit himself or herself without parental consent to the evaluation and treatment facility, provided that notice is given by the facility to the minor's parent in accordance with the following requirements:~~

~~(i) Notice of the minor's admission shall be in the form most likely to reach the parent within twenty-four hours of the minor's voluntary admission and shall advise the parent that the minor has been admitted to inpatient treatment; the location and telephone number of the facility providing such treatment; and the name of a professional person on the staff of the facility providing treatment who is designated to discuss the minor's need for inpatient treatment with the parent.~~

~~(ii) The minor shall be released to the parent at the parent's request for release unless the facility files a petition with the superior court of the county in which treatment is being provided setting forth the basis for the facility's belief that the minor is in need of inpatient treatment and that release would constitute a threat to the minor's health or safety.~~

~~(iii) The petition shall be signed by the professional person in charge of the facility or that person's designee.~~

~~(iv) The parent may apply to the court for separate counsel to represent the parent if the parent cannot afford counsel.~~

~~(v) There shall be a hearing on the petition, which shall be held within three judicial days from the filing of the petition.~~

~~(vi) The hearing shall be conducted by a judge, court commissioner, or licensed attorney designated by the superior court as a hearing officer for such hearing. The hearing may be held at the treatment facility.~~

~~(vii) At such hearing, the facility must demonstrate by a preponderance of the evidence presented at the hearing that the minor is in need of inpatient treatment and that release would constitute a threat to the minor's health or safety. The hearing shall not be conducted using the rules of evidence, and the admission or exclusion of evidence sought to be presented shall be within the exercise of sound discretion by the judicial officer conducting the hearing.~~

~~(c) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months.~~

~~(d) The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days.~~

~~(3) A notice of intent to leave shall result in the following:~~

~~(a) Any minor under the age of thirteen must be discharged immediately upon written request of the parent.~~

~~(b) Any minor thirteen years or older voluntarily admitted may give notice of intent to leave at any time. The notice need not follow any specific form so long as it is written and the intent of the minor can be discerned.~~

~~(c) The staff member receiving the notice shall date it immediately, record its existence in the minor's clinical record, and send copies of it to the minor's attorney, if any, the county-designated mental health professional, and the parent.~~

~~(d) The professional person in charge of the evaluation and treatment facility shall discharge the minor, thirteen years or older, from the facility within twenty-four hours after receipt of the minor's notice of intent to leave, unless the county-designated mental health professional or a parent or legal guardian files a petition or an application for initial detention within the time prescribed by this chapter.~~

~~(4) The ability of a parent to apply to a certified evaluation and treatment program for the involuntary admission of his or her minor child does not create a right to obtain or benefit from any funds or resources of the state. However, the state may provide services for indigent minors to the extent that funds are available therefor.)~~

**NEW SECTION. Sec. 13.** For the purpose of gathering information related to parental notification of outpatient mental health treatment of minors, the department of health shall conduct a survey of providers of outpatient treatment, as defined in chapter 71.34 RCW. The survey shall gather information from a statistically valid sample of providers. In accordance with confidentiality statutes and the physician-patient privilege, the survey shall secure information from the providers related to:

(1) The number of minors receiving outpatient treatment;

(2) The number of parents of minors in treatment notified of the minor's treatment;

- (3) The average number of outpatient visits prior to parental notification;
- (4) The average number of treatments with parental notification;
- (5) The average number of treatments without parental notification;
- (6) The percentage of minors in treatment who are prescribed medication;
- (7) The medication prescribed;
- (8) The number of patients terminating treatment due to parental notification; and
- (9) Any other pertinent information.

The department shall submit the survey results to the governor and the appropriate committees of the legislature by December 1, 1998.  
This section expires June 1, 1999.

#### **PART II-C - VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

NEW SECTION. **Sec. 14.** A new section is added to chapter 71.34 RCW to read as follows:

(1) A minor thirteen years or older may admit himself or herself to an evaluation and treatment facility for inpatient mental treatment, without parental consent. The admission shall occur only if the professional person in charge of the facility concurs with the need for inpatient treatment.

(2) When, in the judgment of the professional person in charge of an evaluation and treatment facility, there is reason to believe that a minor is in need of inpatient treatment because of a mental disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to an evaluation and treatment facility.

(3) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months. The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days.

NEW SECTION. **Sec. 15.** A new section is added to chapter 71.34 RCW to read as follows:

The administrator of the treatment facility shall provide notice to the parents of a minor when the minor is voluntarily admitted to inpatient treatment under section 14 of this act. The notice shall be in the form most likely to reach the parent within twenty-four hours of the minor's voluntary admission and shall advise the parent: (1) That the minor has been admitted to inpatient treatment; (2) of the location and telephone number of the facility providing such treatment; (3) of the name of a professional person on the staff of the facility providing treatment who is designated to discuss the minor's need for inpatient treatment with the parent; and (4) of the medical necessity for admission.

NEW SECTION. **Sec. 16.** A new section is added to chapter 71.34 RCW to read as follows:

(1) Any minor thirteen years or older voluntarily admitted to an evaluation and treatment facility under section 14 of this act may give notice of intent to leave at any time. The notice need not follow any specific form so long as it is written and the intent of the minor can be discerned.

(2) The staff member receiving the notice shall date it immediately, record its existence in the minor's clinical record, and send copies of it to the minor's attorney, if any, the county-designated mental health professional, and the parent.

(3) The professional person shall discharge the minor, thirteen years or older, from the facility upon receipt of the minor's notice of intent to leave.

#### **PART II-D - PARENT-INITIATED MENTAL HEALTH TREATMENT**

NEW SECTION. **Sec. 17.** A new section is added to chapter 71.34 RCW to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to an evaluation and treatment facility and request that the professional person examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if the parent brings the minor to the facility.

(3) An appropriately trained professional person may evaluate whether the minor has a mental disorder. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the department if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the facility based solely on his or her request.

(6) Prior to the review conducted under RCW 71.34.025, the professional person shall notify the minor of his or her right to petition superior court for release from the facility.

(7) For the purposes of this section "professional person" does not include a social worker, unless the social worker is certified under RCW 18.19.110 and appropriately trained and qualified by education and experience, as defined by the department, in psychiatric social work.

**NEW SECTION. Sec. 18.** A new section is added to chapter 71.34 RCW to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to a provider of outpatient mental health treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a mental disorder and is in need of outpatient treatment.

(2) The consent of the minor is not required for evaluation if the parent brings the minor to the provider.

(3) The professional person may evaluate whether the minor has a mental disorder and is in need of outpatient treatment.

(4) Any minor admitted to inpatient treatment under section 14 or 17 of this act shall be discharged immediately from inpatient treatment upon written request of the parent.

**NEW SECTION. Sec. 19.** A new section is added to chapter 71.34 RCW to read as follows:

Following the review conducted under RCW 71.34.025, a minor child may petition the superior court for his or her release from the facility. The petition may be filed not sooner than five days following the review. The court shall release the minor unless it finds, upon a preponderance of the evidence, that it is a medical necessity for the minor to remain at the facility.

**NEW SECTION. Sec. 20.** A new section is added to chapter 71.34 RCW to read as follows:

If the minor is not released as a result of the petition filed under section 19 of this act, he or she shall be released not later than thirty days following the later of: (1) The date of the department's determination under RCW 71.34.025(2); or (2) the filing of a petition for judicial review under section 19 of this act, unless a professional person or the county designated mental health professional initiates proceedings under this chapter.

**NEW SECTION. Sec. 21.** A new section is added to chapter 71.34 RCW to read as follows:

The ability of a parent to bring his or her minor child to a certified evaluation and treatment program for evaluation and treatment does not create a right to obtain or benefit from any funds or resources of the state. The state may provide services for indigent minors to the extent that funds are available.

## **PART II-E - CHEMICAL DEPENDENCY**

**Sec. 22.** RCW 70.96A.020 and 1996 c 178 s 23 and 1996 c 133 s 33 are each reenacted and amended to read as follows:

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

(1) "Alcoholic" means a person who suffers from the disease of alcoholism.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department of social and health services as meeting standards adopted under this chapter.

(4) "Chemical dependency" means alcoholism or drug addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(5) "Chemical dependency program" means expenditures and activities of the department designed and conducted to prevent or treat alcoholism and other drug addiction, including reasonable administration and overhead.

(6) "Department" means the department of social and health services.

(7) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and qualified to do so by meeting standards adopted by the department.

(8) "Director" means the person administering the chemical dependency program within the department.

(9) "Drug addict" means a person who suffers from the disease of drug addiction.

(10) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(11) "Emergency service patrol" means a patrol established under RCW 70.96A.170.

(12) "Gravely disabled by alcohol or other drugs" means that a person, as a result of the use of alcohol or other drugs: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe

deterioration in routine functioning evidenced by a repeated and escalating loss of cognition or volitional control over his or her actions and is not receiving care as essential for his or her health or safety.

(13) "Incapacitated by alcohol or other psychoactive chemicals" means that a person, as a result of the use of alcohol or other psychoactive chemicals, has his or her judgment so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment and presents a likelihood of serious harm to himself or herself, to any other person, or to property.

(14) "Incompetent person" means a person who has been adjudged incompetent by the superior court.

(15) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(16) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(17) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on one's self; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior that has caused the harm or that places another person or persons in reasonable fear of sustaining the harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others.

(18) "Medical necessity" for inpatient care of a minor means a requested certified inpatient service that is reasonably calculated to: (a) Diagnose, arrest, or alleviate a chemical dependency; or (b) prevent the worsening of chemical dependency conditions that endanger life or cause suffering and pain, or result in illness or infirmity or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(19) "Minor" means a person less than eighteen years of age.

~~((19))~~ (20) "Parent" means the parent or parents who have the legal right to custody of the child. Parent includes custodian or guardian.

~~((20))~~ (21) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

~~((21))~~ (22) "Person" means an individual, including a minor.

~~((22))~~ (23) "Professional person in charge" or "professional person" means a physician or chemical dependency counselor as defined in rule by the department, who is empowered by a certified treatment program with authority to make assessment, admission, continuing care, and discharge decisions on behalf of the certified program.

(24) "Secretary" means the secretary of the department of social and health services.

~~((23))~~ (25) "Treatment" means the broad range of emergency, detoxification, residential, and outpatient services and care, including diagnostic evaluation, chemical dependency education and counseling, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and other drug addicts and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons.

~~((24))~~ (26) "Treatment program" means an organization, institution, or corporation, public or private, engaged in the care, treatment, or rehabilitation of alcoholics or other drug addicts.

## PART II-F - VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT

**Sec. 23.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to read as follows:

~~((1))~~ Any person thirteen years of age or older may give consent for himself or herself to the furnishing of outpatient treatment by a chemical dependency treatment program certified by the department. ~~((Consent of the parent of a person less than eighteen years of age for inpatient treatment is necessary to authorize the care unless the child meets the definition of a child in need of services in RCW 13.32A.030(4)(c), as determined by the department.))~~ Parental authorization is required for any treatment of a minor under the age of thirteen. ~~((The parent of a minor is not liable for payment of care for such persons pursuant to this chapter, unless they have joined in the consent to the treatment.~~

(2) ~~The parent of any minor child may apply to a certified treatment program for the admission of his or her minor child for purposes authorized in this chapter. The consent of the minor child shall not be required for the application or admission. The certified treatment program shall accept the application and evaluate the child for admission. The ability of a parent to apply to a certified treatment program for the admission of his or her minor child does not create a right to obtain or benefit from any funds or resources of the state. However, the state may provide services for indigent minors to the extent that funds are available therefor.~~

(3) ~~Any provider of outpatient treatment who provides outpatient treatment to a minor thirteen years of age or older shall provide notice of the minor's request for treatment to the minor's parents if: (a) The minor signs a written consent authorizing the disclosure; or (b) the treatment program director determines that the minor lacks capacity to make a rational choice regarding consenting to disclosure. The notice shall be made within seven days of the request for treatment, excluding Saturdays, Sundays, and holidays, and shall contain the name, location,~~

~~and telephone number of the facility providing treatment, and the name of a professional person on the staff of the facility providing treatment who is designated to discuss the minor's need for treatment with the parent.))~~

NEW SECTION. Sec. 24. A new section is added to chapter 70.96A RCW to read as follows:

Any provider of outpatient treatment who provides outpatient treatment to a minor thirteen years of age or older shall provide notice of the minor's request for treatment to the minor's parents if: (1) The minor signs a written consent authorizing the disclosure; or (2) the treatment program director determines that the minor lacks capacity to make a rational choice regarding consenting to disclosure. The notice shall be made within seven days of the request for treatment, excluding Saturdays, Sundays, and holidays, and shall contain the name, location, and telephone number of the facility providing treatment, and the name of a professional person on the staff of the facility providing treatment who is designated to discuss the minor's need for treatment with the parent.

#### **PART II-G - VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**

NEW SECTION. Sec. 25. A new section is added to chapter 70.96A RCW to read as follows:

Parental consent is required for inpatient chemical dependency treatment of a minor, unless the child meets the definition of a child in need of services in RCW 13.32A.030(4)(c) as determined by the department: PROVIDED, That parental consent is required for any treatment of a minor under the age of thirteen.

This section does not apply to petitions filed under this chapter.

NEW SECTION. Sec. 26. A new section is added to chapter 70.96A RCW to read as follows:

(1) The parent of a minor is not liable for payment of inpatient or outpatient chemical dependency treatment unless the parent has joined in the consent to the treatment.

(2) The ability of a parent to apply to a certified treatment program for the admission of his or her minor child does not create a right to obtain or benefit from any funds or resources of the state. However, the state may provide services for indigent minors to the extent that funds are available therefor.

#### **PART II-H - PARENT-INITIATED CHEMICAL DEPENDENCY TREATMENT**

NEW SECTION. Sec. 27. A new section is added to chapter 70.96A RCW to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to a certified treatment program and request that a chemical dependency assessment be conducted by a professional person to determine whether the minor is chemically dependent and in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if the parent brings the minor to the program.

(3) An appropriately trained professional person may evaluate whether the minor is chemically dependent. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the program, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the department if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the program based solely on his or her request.

Sec. 28. RCW 70.96A.097 and 1995 c 312 s 48 are each amended to read as follows:

~~(1) ((The admission of any child under RCW 70.96A.095 may be reviewed by the county designated chemical dependency specialist between fifteen and thirty days following admission. The county designated chemical dependency specialist may undertake the review on his or her own initiative and may seek reimbursement from the parents, their insurance, or medicaid for the expense of the review.~~

~~(2)) The department shall ensure that, for any minor admitted to inpatient treatment under section 27 of this act, a review is conducted ~~((no later than sixty days))~~ by a physician or chemical dependency counselor, as defined in rule by the department, who is employed by the department or an agency under contract with the department and who neither has a financial interest in continued inpatient treatment of the minor nor is affiliated with the program providing the treatment. The physician or chemical dependency counselor shall conduct the review not less than seven nor more than fourteen days following ((admission)) the date the minor was brought to the facility under section 27(1) of this act to determine whether it is ((medically appropriate)) a medical necessity to continue the ((child's)) minor's treatment on an inpatient basis. ((The department may, subject to available funds, contract with a county for the conduct of the review conducted under this subsection and may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.~~



~~If the county-designated chemical dependency specialist determines that continued inpatient treatment of the child is no longer medically appropriate, the specialist shall notify the facility, the child, the child's parents, and the department of the finding within twenty-four hours of the determination.~~

~~(3) For purposes of eligibility for medical assistance under chapter 74.09 RCW, children in inpatient mental health or chemical dependency treatment shall be considered to be part of their parent's or legal guardian's household, unless the child has been assessed by the department of social and health services or its designee as likely to require such treatment for at least ninety consecutive days, or is in out-of-home care in accordance with chapter 13.34 RCW, or the child's parents are found to not be exercising responsibility for care and control of the child. Payment for such care by the department of social and health services shall be made only in accordance with rules, guidelines, and clinical criteria applicable to inpatient treatment of minors established by the department.)~~

~~(2) In making a determination under subsection (1) of this section whether it is a medical necessity to release the minor from inpatient treatment, the department shall consider the opinion of the treatment provider, the safety of the minor, the likelihood the minor's chemical dependency recovery will deteriorate if released from inpatient treatment, and the wishes of the parent.~~

~~(3) If, after any review conducted by the department under this section, the department determines it is no longer a medical necessity for a minor to receive inpatient treatment, the department shall immediately notify the parents and the professional person in charge. The professional person in charge shall release the minor to the parents within twenty-four hours of receiving notice. If the professional person in charge and the parent believe that it is a medical necessity for the minor to remain in inpatient treatment, the minor shall be released to the parent on the second judicial day following the department's determination in order to allow the parent time to file an at-risk youth petition under chapter 13.32A RCW. If the department determines it is a medical necessity for the minor to receive outpatient treatment and the minor declines to obtain such treatment, such refusal shall be grounds for the parent to file an at-risk youth petition.~~

~~(4) The department may, subject to available funds, contract with other governmental agencies for the conduct of the reviews conducted under this section and may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.~~

~~(5) In addition to the review required under this section, the department may periodically determine and redetermine the medical necessity of treatment for purposes of payment with public funds.~~

**NEW SECTION. Sec. 29.** A new section is added to chapter 70.96A RCW to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to a provider of outpatient chemical dependency treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a chemical dependency and is in need of outpatient treatment.

(2) The consent of the minor is not required for evaluation if the parent brings the minor to the provider.

(3) The professional person in charge of the program may evaluate whether the minor has a chemical dependency and is in need of outpatient treatment.

(4) Any minor admitted to inpatient treatment under section 27 of this act shall be discharged immediately from inpatient treatment upon written request of the parent.

**NEW SECTION. Sec. 30.** A new section is added to chapter 70.96A RCW to read as follows:

Following the review conducted under RCW 70.96A.097, a minor child may petition the superior court for his or her release from the facility. The petition may be filed not sooner than five days following the review. The court shall release the minor unless it finds, upon a preponderance of the evidence, that it is a medical necessity for the minor to remain at the facility.

**NEW SECTION. Sec. 31.** A new section is added to chapter 70.96A RCW to read as follows:

If the minor is not released as a result of the petition filed under section 30 of this act, he or she shall be released not later than thirty days following the later of: (1) The date of the department's determination under RCW 70.96A.097(2); or (2) the filing of a petition for judicial review under section 30 of this act, unless a professional person or the designated chemical dependency specialist initiates proceedings under this chapter.

**NEW SECTION. Sec. 32.** A new section is added to chapter 70.96A RCW to read as follows:

For purposes of eligibility for medical assistance under chapter 74.09 RCW, minors in inpatient chemical dependency treatment shall be considered to be part of their parent's or legal guardian's household, unless the minor has been assessed by the department or its designee as likely to require such treatment for at least ninety consecutive days, or is in out-of-home care in accordance with chapter 13.34 RCW, or the parents are found to not be exercising responsibility for care and control of the minor. Payment for such care by the department shall be made only in accordance with rules, guidelines, and clinical criteria applicable to inpatient treatment of minors established by the department.

**NEW SECTION. Sec. 33.** It is the purpose of sections 27 and 29 of this act to assure the ability of parents to exercise reasonable, compassionate care and control of their minor children when there is a medical necessity for treatment and without the requirement of filing a petition under chapter 70.96A RCW.

**NEW SECTION. Sec. 34.** The department of social and health services shall adopt rules defining "appropriately trained professional person" for the purposes of conducting mental health and chemical dependency evaluations under sections 17(3), 18(1), 27(3), and 29(1) of this act.

### PART III - MISCELLANEOUS

**NEW SECTION. Sec. 35.** The legislature finds that an essential component of the children in need of services, dependency, and truancy laws is the use of juvenile detention. As chapter 7.21 RCW is currently written, courts may not order detention time without a criminal charge being filed. It is the intent of the legislature to avoid the bringing of criminal charges against youth who need the guidance of the court rather than its punishment. The legislature further finds that ordering a child placed in detention is a remedial action, not a punitive one. Since the legislature finds that the state is required to provide instruction to children in detention, use of the courts' contempt powers is an effective means for furthering the education and protection of these children. Thus, it is the intent of the legislature to authorize a limited sanction of time in juvenile detention independent of chapter 7.21 RCW for failure to comply with court orders in truancy, child in need of services, at-risk youth, and dependency cases for the sole purpose of providing the courts with the tools necessary to enforce orders in these limited types of cases because other statutory contempt remedies are inadequate.

**Sec. 36.** RCW 7.21.030 and 1989 c 373 s 3 are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e) In cases under chapters 13.32A, 13.34, and 28A.225 RCW, commitment to juvenile detention for a period of time not to exceed seven days. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

**Sec. 37.** RCW 13.32A.250 and 1996 c 133 s 28 are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party to comply with an order entered under this chapter is a civil contempt of court as provided in ~~((chapter 7.21))~~ RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to seven days, or both for contempt of court under this section.

(4) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(5) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(6) Whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court may issue an order directing law enforcement to pick up and take the child to detention. The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.

**Sec. 38.** RCW 13.34.165 and 1996 c 133 s 29 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in ~~((chapter 7.21))~~ RCW 7.21.030(2)(e).

(2) The maximum term of imprisonment that may be imposed as a ~~((punitive))~~ remedial sanction for contempt of court under this section is confinement for up to seven days.

(3) A child imprisoned for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

(5) Whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court may issue an order directing law enforcement to pick up and take the child to detention. The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.

**Sec. 39.** RCW 28A.225.090 and 1997 c 68 s 2 are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to:

(a) Attend the child's current school;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Be referred to a community truancy board, if available; or

(e) Submit to testing for the use of controlled substances or alcohol based on a determination that such testing is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law.

(2) If the child fails to comply with the court order, the court may order the child to be punished by detention as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as community service. Failure by a child to comply with an order issued under this subsection shall not be punishable by detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW.

(3) Any parent violating any of the provisions of either RCW 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community service instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

**NEW SECTION. Sec. 40.** The legislature finds that predatory individuals, such as drug dealers, sexual marauders, and panderers, provide shelter to at-risk youth as a means of preying upon them. The legislature further finds that at-risk youth are vulnerable to the influence of these individuals. Thus, the legislature finds that it is important to the safety of Washington's youth that they be prevented from coming in contact with these predatory individuals. The legislature further finds that locating runaway children is the first step to preventing individuals from preying on these youth and to achieving family reconciliation. Therefore, the legislature intends to use punitive measures to create a clear disincentive for predatory individuals intending to take advantage of at-risk youth. The legislature further intends that all persons be required to report the location of a runaway minor, but that those individuals who fail to make such a report because they wish to have the minor remain unlocated as a means of preying upon them be punished for their failure to report the child's location.

**Sec. 41.** RCW 13.32A.080 and 1994 sp.s. c 7 s 507 are each amended to read as follows:

(1)(a) A person commits the crime of unlawful harboring of a minor if the person provides shelter to a minor without the consent of a parent of the minor and after the person knows that the minor is away from the home of the parent, without the parent's permission, and if the person intentionally:

(i) Fails to release the minor to a law enforcement officer after being requested to do so by the officer; or

(ii) Fails to disclose the location of the minor to a law enforcement officer after being requested to do so by the officer, if the person knows the location of the minor and had either taken the minor to that location or had assisted the minor in reaching that location; or

(iii) Obstructs a law enforcement officer from taking the minor into custody; or

(iv) Assists the minor in avoiding or attempting to avoid the custody of the law enforcement officer; or

(v) Engages the child in a crime; or

(iv) Engages in a clear course of conduct that demonstrates an intent to contribute to the delinquency of a minor or the involvement of a minor in a sex offense as defined in RCW 9.94A.030.

- (b) It is a defense to a prosecution under this section that the defendant had custody of the minor pursuant to a court order.
- (2) Harboring a minor is punishable as a gross misdemeanor.
- (3) Any person who provides shelter to a child, absent from home, may notify the department's local community service office of the child's presence.
- (4) An adult responsible for involving a child in the commission of an offense may be prosecuted under existing criminal statutes including, but not limited to:
- (a) Distribution of a controlled substance to a minor, as defined in RCW 69.50.406;
  - (b) Promoting prostitution as defined in chapter 9A.88 RCW; and
  - (c) Complicity of the adult in the crime of a minor, under RCW 9A.08.020.

**Sec. 42.** RCW 13.32A.082 and 1996 c 133 s 14 are each amended to read as follows:

(1) Any person who, without legal authorization, provides shelter to a minor and who knows at the time of providing the shelter that the minor is away from the parent's home, or other lawfully prescribed residence, without the permission of the parent, shall promptly report the location of the child to the parent, the law enforcement agency of the jurisdiction in which the person lives, or the department. The report may be made by telephone or any other reasonable means.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Shelter" means the person's home or any structure over which the person has any control.

(b) "Promptly report" means to report within eight hours after the person has knowledge that the minor is away from home without parental permission.

(3) When the department receives a report under subsection (1) of this section, it shall make a good faith attempt to notify the parent that a report has been received and offer services designed to resolve the conflict and accomplish a reunification of the family.

(4) A person who does not report a child's location in violation of subsection (1) of this section with the intent to contribute to the delinquency of a minor or engage the child in a crime is guilty of a misdemeanor.

NEW SECTION. **Sec. 43.** Part headings used in this act do not constitute any part of the law.

NEW SECTION. **Sec. 44.** This act may be known and cited as "the Becca act of 1998."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Long moved that the Senate concur in the House amendment to Substitute Senate Bill No. 6208.

#### POINT OF INQUIRY

Senator Thibaudeau: "Senator Long, it says here that the court must use remedial civil contempt when enforcing CHINS, and so forth."

Senator Long: "Right. The way we sent it over there, it could have been criminal and this now came back saying it will be civil, as opposed to criminal."

Senator Thibaudeau: "Thank you."

The President declared the question before the Senate to be the motion by Senator Long that the Senate concur in the House amendment to Substitute Senate Bill No. 6208.

The motion by Senator Long carried and the Senate concurred in the House amendment to Substitute Senate Bill No. 6208.

#### MOTIONS

On motion of Senator Oke, Senators Benton, Schow and West were excused.

On motion of Senator Goings, Senators Brown and Tim Sheldon were excused.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6208, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6208 as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 9; Absent, 0; Excused, 6.

Voting yea: Senators Bauer, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Snyder, Stevens, Strannigan, Swecker, Winsley, Wood and Zarelli - 34. Voting nay: Senators Fairley, Fraser, Heavey, Jacobsen, Kohl, Sheldon, B., Spanel, Thibaudeau and Wojahn - 9. Excused: Senators Anderson, Benton, Brown, Schow, Sheldon, T. and West - 6. SUBSTITUTE SENATE BILL NO. 6208, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6214 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to: (1) Clarify that it is the nature of a person's current conduct, current mental condition, history, and likelihood of committing future acts that pose a threat to public safety or himself or herself, rather than simple categorization of offenses, that should determine treatment procedures and level; (2) improve and clarify the sharing of information between the mental health and criminal justice systems; and (3) provide additional opportunities for mental health treatment for persons whose conduct threatens himself or herself or threatens public safety and has led to contact with the criminal justice system.

The legislature recognizes that a person can be incompetent to stand trial, but may not be gravely disabled or may not present a likelihood of serious harm. The legislature does not intend to create a presumption that a person who is found incompetent to stand trial is gravely disabled or presents a likelihood of serious harm requiring civil commitment.

**Sec. 2.** RCW 71.05.010 and 1997 c 112 s 2 are each amended to read as follows:

The provisions of this chapter are intended by the legislature:

(1) To ~~((and))~~ prevent inappropriate, indefinite commitment of mentally disordered persons and to eliminate legal disabilities that arise from such commitment;

(2) To provide prompt evaluation and timely and appropriate treatment of persons with serious mental disorders;

(3) To safeguard individual rights;

(4) To provide continuity of care for persons with serious mental disorders;

(5) To encourage the full use of all existing agencies, professional personnel, and public funds to prevent duplication of services and unnecessary expenditures;

(6) To encourage, whenever appropriate, that services be provided within the community;

(7) To protect the public safety.

**Sec. 3.** RCW 71.05.020 and 1997 c 112 s 3 are each amended to read as follows:

For the purposes of this chapter:

(1) "Antipsychotic medications(~~(," also referred to as "neuroleptics,")~~)" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders (~~(and currently includes phenothiazines, thioxanthenes, butyrophenone, dihydroindolone, and dibenzoxazine)~~), which includes, but is not limited to atypical antipsychotic medications;

(2) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(3) "County designated mental health professional" means a mental health professional appointed by the county to perform the duties specified in this chapter;

(4) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from a facility providing involuntary care and treatment;

~~((4))~~ (5) "Department" means the department of social and health services;

~~((5))~~ (6) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

~~((6))~~ (7) "Developmental disability" means that condition defined in RCW 71A.10.020(2);

~~((7))~~ (8) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will

not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

~~((8))~~ (9) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

~~((9))~~ (10) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the individual being assisted as manifested by prior charged criminal conduct;

~~((10))~~ (11) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(12) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge from involuntary confinement, and a projected possible date for discharge from involuntary confinement; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

~~((11))~~ (13) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

~~((12))~~ (14) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

~~((13))~~ (b) The individual has threatened the physical safety of another and has a history of one or more violent acts;

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

~~((14))~~ (16) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

~~((15))~~ (17) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

~~((16))~~ (18) "Private agency" means any person, partnership, corporation, or association not defined as a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, hospital, or sanitarium, which is conducted for, or includes a department or ward conducted for the care and treatment of persons who are mentally ill;

~~((17))~~ (19) "Professional person" ~~((shall))~~ means a mental health professional ~~((as above defined,))~~ and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

~~((18))~~ (20) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

~~((19))~~ (21) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

~~((20))~~ (22) "Public agency" means any evaluation and treatment facility or institution, hospital, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill or deranged, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

~~((21))~~ (23) "Resource management services" has the meaning given in chapter 71.24 RCW;

~~((22))~~ (24) "Secretary" means the secretary of the department of social and health services, or his or her designee;

~~((23))~~ (25) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

(26) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

**Sec. 4.** RCW 71.05.030 and 1985 c 354 s 31 are each amended to read as follows:

Persons suffering from a mental disorder may not be involuntarily committed for treatment of such disorder except pursuant to provisions of this chapter, chapter 10.77 RCW ~~((or its successor))~~, chapter 71.06 RCW, chapter 71.34 RCW, transfer pursuant to RCW 72.68.031 through 72.68.037, or pursuant to court ordered evaluation and treatment not to exceed ninety days pending a criminal trial or sentencing.

**Sec. 5.** RCW 71.05.035 and 1989 c 420 s 2 are each amended to read as follows:

~~((With respect to chapter 420, Laws of 1989,))~~ The legislature finds that among those persons who endanger the safety of others by committing ~~((felony))~~ crimes are a small number of persons with developmental disabilities. While their conduct is not typical of the vast majority of persons with developmental disabilities who are responsible citizens, for their own welfare and for the safety of others the state may need to exercise control over those few dangerous individuals who are developmentally disabled, have been charged with ~~((felony))~~ crimes that involve a threat to public safety or security, and have been found either incompetent to stand trial or not guilty by reason of insanity. The legislature finds, however, that the use of civil commitment procedures under chapter 71.05 RCW to effect state control over dangerous developmentally disabled persons has resulted in their commitment to institutions for the mentally ill. The legislature finds that existing programs in mental institutions may be inappropriate for persons who are developmentally disabled because the services provided in mental institutions are oriented to persons with mental illness, a condition not necessarily associated with developmental disabilities. Therefore, the legislature believes that, where appropriate, and subject to available funds, persons with developmental disabilities who have been charged with ~~((felony))~~ crimes that involve a threat to public safety or security and have been found incompetent to stand trial or not guilty by reason of insanity should receive state services addressing their needs, that such services must be provided in conformance with an individual habilitation plan, and that their initial treatment should be separate and discrete from treatment for persons involved in any other treatment or habilitation program in a manner consistent with the needs of public safety.

**Sec. 6.** RCW 71.05.050 and 1997 c 112 s 5 are each amended to read as follows:

Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a mental disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his or her request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate release and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment and/or possible release, at which time they shall again be advised of their right to release upon request: PROVIDED HOWEVER, That if the professional staff of any public or private agency or hospital regards a person voluntarily admitted who requests release as presenting, as a result of a mental disorder, an imminent likelihood of serious harm, or is gravely disabled, they may detain such person for sufficient time to notify the ~~((designated))~~ county designated mental health professional of such person's condition to enable ~~((such))~~ the county designated mental health professional to authorize such person being further held in custody or transported to an evaluation and treatment center pursuant to the provisions of this chapter, which shall in ordinary circumstances be no later than the next judicial day: PROVIDED FURTHER, That if a person is brought to the emergency room of a public or private agency or hospital for observation or treatment, the person refuses voluntary admission, and the professional staff of the public or private agency or hospital regard such person as presenting as a result of a mental disorder an imminent likelihood of serious harm, or as presenting an imminent danger because of grave disability, they may detain such person for sufficient time to notify the ~~((designated))~~ county designated mental health professional of such person's condition to enable ~~((such))~~ the county designated mental health professional to authorize such person being further held in custody or transported to an evaluation treatment center pursuant to the conditions in this chapter, but which time shall be no more than six hours from the time the professional staff determine that an evaluation by the county designated mental health professional is necessary.

**Sec. 7.** RCW 71.05.130 and 1991 c 105 s 3 are each amended to read as follows:

In any judicial proceeding for involuntary commitment or detention, or in any proceeding challenging such commitment or detention, the prosecuting attorney for the county in which the proceeding was initiated shall represent the individuals or agencies petitioning for commitment or detention and shall defend all challenges to such commitment or detention: PROVIDED, That ~~((after January 1, 1980,))~~ the attorney general shall represent and provide legal services and advice to state hospitals or institutions with regard to all provisions of and proceedings under this chapter except in proceedings initiated by such hospitals and institutions seeking fourteen day detention.

**Sec. 8.** RCW 71.05.150 and 1997 c 112 s 8 are each amended to read as follows:

(1)(a) When a county designated mental health professional ~~((designated by the county))~~ receives information alleging that a person, as a result of a mental disorder: (i) Presents a likelihood of serious harm~~((;))~~; or (ii) is gravely disabled; ~~((such mental health professional))~~ the county designated mental health professional may, after investigation and evaluation of the specific facts alleged~~((;))~~ and of the reliability and credibility of ~~((the))~~ any person ~~((or persons, if any,))~~ providing information to initiate detention, ~~((may,))~~ if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the county designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility.

(b) Whenever it appears, by petition for initial detention, to the satisfaction of a judge of the superior court that a person presents, as a result of a mental disorder, a likelihood of serious harm, or is gravely disabled, and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily, the judge may issue an order requiring the person to appear within twenty-four hours after service of the order at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period. The order shall state the address of the evaluation and treatment facility to which the person is to report and whether the required seventy-two hour evaluation and treatment services may be delivered on an outpatient or inpatient basis and that if the person named in the order fails to appear at the evaluation and treatment facility at or before the date and time stated in the order, such person may be involuntarily taken into custody for evaluation and treatment. The order shall also designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(c) The county designated mental health professional shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear together with a notice of rights and a petition for initial detention. After service on such person the county designated mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility and the designated attorney. The county designated mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility. The person shall be permitted to remain in his or her home or other place of his or her choosing prior to the time of evaluation and shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(d) If the person ordered to appear does appear on or before the date and time specified, the evaluation and treatment facility may admit such person as required by RCW 71.05.170 or may provide treatment on an outpatient basis. If the person ordered to appear fails to appear on or before the date and time specified, the evaluation and treatment facility shall immediately notify the county designated mental health professional (~~designated by the county~~) who may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. Should the county designated mental health professional notify a peace officer authorizing him or her to take a person into custody under the provisions of this subsection, he or she shall file with the court a copy of such authorization and a notice of detention. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of detention, a notice of rights, and a petition for initial detention.

(2) When a county designated mental health professional (~~designated by the county~~) receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the county designated mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(3) A peace officer may take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility pursuant to subsection (1)(d) of this section.

(4) A peace officer may, without prior notice of the proceedings provided for in subsection (1) of this section, take or cause such person to be taken into custody and immediately delivered to an evaluation and treatment facility or the emergency department of a local hospital:

(a) Only pursuant to subsections (1)(d) and (2) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(5) Persons delivered to evaluation and treatment facilities by peace officers pursuant to subsection (4)(b) of this section may be held by the facility for a period of up to twelve hours: PROVIDED, That they are examined by a mental health professional within three hours of their arrival. Within twelve hours of their arrival, the (~~designated~~) county designated mental health professional must file a supplemental petition for detention, and commence service on the designated attorney for the detained person.

**Sec. 9.** RCW 71.05.160 and 1997 c 112 s 10 are each amended to read as follows:

Any facility receiving a person pursuant to RCW 71.05.150 shall require a petition for initial detention stating the circumstances under which the person's condition was made known and stating that such officer or person has evidence, as a result of his or her personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm, or that he or she is gravely disabled, and stating the specific facts known to him or her as a result of his or her personal observation or investigation, upon which he or she bases the belief that such person should be detained for the purposes and under the authority of this chapter.

If a person is involuntarily placed in an evaluation and treatment facility pursuant to RCW 71.05.150, on the next judicial day following the initial detention, the county designated mental health professional (~~designated by the county~~) shall file with the court and serve the designated attorney of the detained person the petition or supplemental petition for initial detention, proof of service of notice, and a copy of a notice of emergency detention.



**Sec. 10.** RCW 71.05.170 and 1997 c 112 s 11 are each amended to read as follows:

Whenever the ~~((designated))~~ county designated mental health professional petitions for detention of a person whose actions constitute a likelihood of serious harm, or who is gravely disabled, the facility providing seventy-two hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. The facility shall then evaluate the person's condition and admit or release such person in accordance with RCW 71.05.210. The facility shall notify in writing the court and the ~~((designated))~~ county designated mental health professional of the date and time of the initial detention of each person involuntarily detained in order that a probable cause hearing shall be held no later than seventy-two hours after detention.

The duty of a state hospital to accept persons for evaluation and treatment under this section shall be limited by chapter 71.24 RCW.

**Sec. 11.** RCW 71.05.200 and 1997 c 112 s 14 are each amended to read as follows:

(1) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

(a) That a judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a mentally ill person whose mental disorder presents a likelihood of serious harm or that the person is gravely disabled;

(b) That the person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney the mental health professional has designated pursuant to this chapter;

(c) That the person has the right to remain silent and that any statement he or she makes may be used against him or her;

(d) That the person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and

(e) That the person has the right to refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(2) When proceedings are initiated under RCW 71.05.150 (2), (3), or (4)(b), no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the county designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.

(3) The judicial hearing described in subsection (1) of this section is hereby authorized, and shall be held according to the provisions of subsection (1) of this section and rules promulgated by the supreme court.

**Sec. 12.** RCW 71.05.210 and 1997 c 112 s 15 are each amended to read as follows:

Each person involuntarily admitted to an evaluation and treatment facility shall, within twenty-four hours of his or her admission, be examined and evaluated by a licensed physician who may be assisted by a physician assistant according to chapter 18.71A RCW or an advanced registered nurse practitioner according to chapter 18.79 RCW and a mental health professional ~~((as defined in this chapter))~~, and shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a ~~((court proceeding))~~ trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.340, or 71.05.370, the individual may refuse ~~((all but emergency life-saving treatment))~~ psychiatric medications, but may not refuse: (1) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (2) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right ~~((to))~~ of such refusal ~~((of treatment))~~. ~~((Such))~~ The person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

If, after examination and evaluation, the licensed physician and mental health professional determine that the initial needs of the person would be better served by placement in a chemical dependency treatment facility, then the person shall be referred to an approved treatment program defined under RCW 70.96A.020.

An evaluation and treatment center admitting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for treatment. Notice of such fact shall be given to the court, the designated attorney, and the ~~((designated))~~ county designated mental health professional and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

**Sec. 13.** RCW 71.05.230 and 1997 c 112 s 18 are each amended to read as follows:

A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder and either results in a likelihood of serious harm, or results in the detained person being gravely disabled and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the county designated mental health professional (~~((designated by the county))~~) has filed a petition for fourteen day involuntary detention or a ninety day less restrictive alternative with the court. The petition must be signed either by two physicians or by one physician and a mental health professional who have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and shall set forth the less restrictive alternative proposed by the facility; and

(5) A copy of the petition has been served on the detained person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The court has ordered a fourteen day involuntary intensive treatment or a ninety day less restrictive alternative treatment after a probable cause hearing has been held pursuant to RCW 71.05.240; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the county designated mental health professional (~~((designated by the county))~~) may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated has agreed to assume such responsibility.

**NEW SECTION. Sec. 14.** A new section is added to chapter 71.05 RCW to read as follows:

In making a determination of whether there is a likelihood of serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320, the court shall give great weight to whether the person has: (1) A recent history of one or more violent acts; or (2) a recent history of one or more commitments under this chapter or its equivalent provisions under the laws of another state which were based on a likelihood of serious harm. The existence of prior violent acts or commitments under this chapter or its equivalent shall not be the sole basis for determining whether a person presents a likelihood of serious harm.

For the purposes of this section "recent" refers to the period of time not exceeding three years prior to the current hearing.

**Sec. 15.** RCW 71.05.280 and 1997 c 112 s 22 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be confined for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of mental disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of mental disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.090(~~((3))~~), and has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts. In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the (~~felony~~) crime; or

(4) Such person is gravely disabled.

**Sec. 16.** RCW 71.05.290 and 1997 c 112 s 24 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the (~~designated~~) county designated mental health professional may petition the superior court for an order

requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by two examining physicians, or by one examining physician and examining mental health professional. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.090(~~((3))~~) (4), then the professional person in charge of the treatment facility or his or her professional designee or the county designated mental health professional may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

**Sec. 17.** RCW 71.05.300 and 1997 c 112 s 25 are each amended to read as follows:

The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the (~~designated~~) county designated mental health professional. The (~~designated~~) county designated mental health professional shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, and the prosecuting attorney, and provide a copy of the petition to such persons as soon as possible.

At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney and of his or her right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a developmentally disabled person who has been determined to be incompetent pursuant to RCW 10.77.090(~~((3))~~) (4), then the appointed professional person under this section shall be a developmental disabilities professional.

The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.

**NEW SECTION. Sec. 18.** A new section is added to chapter 71.05 RCW to read as follows:

(1) If an individual is referred to a county designated mental health professional under RCW 10.77.090(1)(d)(iii)(A), the county designated mental health professional shall examine the individual within forty-eight hours. If the county designated mental health professional determines it is not appropriate to detain the individual or petition for a ninety-day less restrictive alternative under RCW 71.05.230(4), that decision shall be immediately presented to the superior court for hearing. The court shall hold a hearing to consider the decision of the county designated mental health professional not later than the next judicial day. At the hearing the superior court shall review the determination of the county designated mental health professional and determine whether an order should be entered requiring the person to be evaluated at an evaluation and treatment facility. No person referred to an evaluation and treatment facility may be held at the facility longer than seventy-two hours.

(2) If an individual is placed in an evaluation and treatment facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall evaluate the individual for purposes of determining whether to file a ninety-day inpatient or outpatient petition under chapter 71.05 RCW. Immediately following completion of the evaluation, the professional person shall file a petition or, if the recommendation of the professional person is to release the individual, present his or her recommendation to the court. The superior court shall review the recommendation not later than the next judicial day. For an individual subject to this subsection, the professional person may directly file a petition for ninety-day inpatient or outpatient treatment and no petition for initial detention or fourteen-day detention is required before such a petition may be filed.

(3) If a county designated mental health professional or the professional person and prosecuting attorney or attorney general, as appropriate, stipulate that the individual does not present a likelihood of serious harm or is not gravely disabled, the hearing under this section is not required and the individual, if in custody, shall be released.

(4) The individual shall have the rights specified in RCW 71.05.250.

**NEW SECTION. Sec. 19.** A new section is added to chapter 71.05 RCW to read as follows:

Whenever a county designated mental health professional or professional person is conducting an evaluation under this chapter, consideration shall include all reasonably available information and records regarding: (1) Prior recommendations for evaluation of the need for civil commitments when the recommendation is made pursuant to an evaluation conducted under chapter 10.77 RCW; (2) history of one or more violent acts; (3) prior determinations of incompetency or insanity under chapter 10.77 RCW; and (4) prior commitments under this chapter.

**Sec. 20.** RCW 71.05.330 and 1997 c 112 s 27 are each amended to read as follows:

(1) Nothing in this chapter shall prohibit the superintendent or professional person in charge of the hospital or facility in which the person is being involuntarily treated from releasing him or her prior to the expiration of the commitment period when, in the opinion of the superintendent or professional person in charge, the person being involuntarily treated no longer presents a likelihood of serious harm.

Whenever the superintendent or professional person in charge of a hospital or facility providing involuntary treatment pursuant to this chapter releases a person prior to the expiration of the period of commitment, the superintendent or professional person in charge shall in writing notify the court which committed the person for treatment.

(2) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) is released under this section, the superintendent or professional person in charge shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the release date. Notice shall be provided at least thirty days before the release date. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county in which the person is being involuntarily treated for a hearing to determine whether the person is to be released. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and the guardian or conservator of the committed person. The court shall conduct a hearing on the petition within ten days of filing the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be released without substantial danger to other persons, or substantial likelihood of committing ~~((felonious))~~ criminal acts jeopardizing public safety or security. If the court disapproves of the release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the committed person shall be released or shall be returned for involuntary treatment subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

**Sec. 21.** RCW 71.05.340 and 1997 c 112 s 28 are each amended to read as follows:

(1)(a) When, in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient treatment prior to or at the expiration of the period of commitment, then such outpatient care may be required as a condition for early release for a period which, when added to the inpatient treatment period, shall not exceed the period of commitment. If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility. A copy of the conditions for early release shall be given to the patient, the ~~((designated))~~ county designated mental health professional in the county in which the patient is to receive outpatient treatment, and to the court of original commitment.

(b) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of this subsection, the superintendent or professional person in charge of the hospital or facility providing involuntary treatment shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision to conditionally release the person. Notice and a copy of the conditions for early release shall be provided at least thirty days before the person is released from inpatient care. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county that issued the commitment order to hold a hearing to determine whether the person may be conditionally released and the terms of the conditional release. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and guardian or conservator of the committed person, and the court of original commitment. If the county in which the committed person is to receive outpatient treatment is the same county in which the criminal charges against the committed person were dismissed, then the court shall, upon the motion of the prosecuting attorney, transfer the proceeding to the court in that county. The court shall conduct a hearing on the petition within ten days of the filing of the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be conditionally released without substantial danger to other persons, or substantial likelihood of committing ~~((felonious))~~ criminal acts jeopardizing public safety or security. If the court disapproves of the conditional release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the conditional release of the person shall be approved by the court on the same or modified conditions or the person shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

(2) The hospital or facility designated to provide outpatient care or the secretary may modify the conditions for continued release when such modification is in the best interest of the person. Notification of such changes shall be sent to all persons receiving a copy of the original conditions.

(3)(a) If the hospital or facility designated to provide outpatient care, the ~~((designated))~~ county designated mental health professional, or the secretary determines that:

- (i) A conditionally released person is failing to adhere to the terms and conditions of his or her release~~((, that))~~;
- (ii) Substantial deterioration in ~~((the))~~ a conditionally released person's functioning has occurred~~((,))~~;
- (iii) There is evidence of substantial decompensation with a ~~((high))~~ reasonable probability that the decompensation can be reversed by further inpatient treatment~~((,))~~ or ~~((there is))~~

~~(iv) The person poses~~ a likelihood of serious harm~~((, then,))~~.

Upon notification by the hospital or facility designated to provide outpatient care, or on his or her own motion, the ~~((designated))~~ county ~~designated~~ mental health professional or the secretary may order that the conditionally released person be apprehended and taken into custody and temporarily detained in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment.

~~((The))~~ (b) The hospital or facility designated to provide outpatient treatment shall notify the secretary or county designated mental health professional when a conditionally released person fails to adhere to terms and conditions of his or her release or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm. The county designated mental health professional or secretary shall order the person apprehended and temporarily detained in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment.

~~(c) A person~~ ~~((shall be))~~ detained under this subsection (3) shall be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been conditionally released. The ~~((designated))~~ county ~~designated~~ mental health professional or the secretary may modify or rescind such order at any time prior to commencement of the court hearing.

~~((b))~~ (d) The court that originally ordered commitment shall be notified within two judicial days of a person's detention under the provisions of this section, and the ~~((designated))~~ county ~~designated~~ mental health professional or the secretary shall file his or her petition and order of apprehension and detention with the court and serve them upon the person detained. His or her attorney, if any, and his or her guardian or conservator, if any, shall receive a copy of such papers as soon as possible. Such person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as specifically set forth in this section and except that there shall be no right to jury trial. The issues to be determined shall be: (i) Whether the conditionally released person did or did not adhere to the terms and conditions of his or her release; (ii) that substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a ~~((high))~~ reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the conditions listed in this subsection (3)~~((b))~~ (d) have occurred, whether the conditions of release should be modified or the person should be returned to the facility.

~~((c))~~ (e) Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed for involuntary treatment, or otherwise in accordance with the provisions of this chapter. Such hearing may be waived by the person and his or her counsel and his or her guardian or conservator, if any, but shall not be waivable unless all such persons agree to waive, and upon such waiver the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions.

(4) The proceedings set forth in subsection (3) of this section may be initiated by the ~~((designated))~~ county ~~designated~~ mental health professional or the secretary on the same basis set forth therein without requiring or ordering the apprehension and detention of the conditionally released person, in which case the court hearing shall take place in not less than five days from the date of service of the petition upon the conditionally released person.

Upon expiration of the period of commitment, or when the person is released from outpatient care, notice in writing to the court which committed the person for treatment shall be provided.

(5) The grounds and procedures for revocation of less restrictive alternative treatment shall be the same as those set forth in this section for conditional releases.

(6) In the event of a revocation of a conditional release, the subsequent treatment period may be for no longer than the actual period authorized in the original court order.

**Sec. 22.** RCW 71.05.390 and 1993 c 448 s 6 are each amended to read as follows:

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

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his or her guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person~~((, not))~~: (a) Employed by the facility~~((, who does not have the))~~; (b) who has medical responsibility for the patient's care ~~((or who is not))~~; (c) who is a ~~((designated))~~ county ~~designated~~ mental health professional ~~((or who is not involved in))~~; (d) who is providing services under ~~((the community mental health services act,))~~ chapter 71.24 RCW; or (e) who is employed by a state or local correctional facility where the person is confined.

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

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

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

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

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

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

/s/

"

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

(7) To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board for persons who are the subject of the records and who are committed to the custody of the department of corrections or indeterminate sentence review board which information or records are necessary to carry out the responsibilities of their office. Except for dissemination of information released pursuant to RCW 71.05.425 and 4.24.550, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, the extent of information that may be released is limited as follows:

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

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

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

(8) To the attorney of the detained person.

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

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

(11) To the persons designated in RCW 71.05.425 for the purposes described in that section.

(12) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(13) To a patient's next of kin, guardian, or conservator, if any, in the event of death, as provided in RCW 71.05.400.

(14) To the department of health of the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.17 RCW.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial or in a civil commitment proceeding pursuant

to chapter 71.09 RCW. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

**Sec. 23.** RCW 71.05.530 and 1973 1st ASCE c 142 s 58 are each amended to read as follows:

Evaluation and treatment facilities authorized pursuant to this chapter may be part of the comprehensive community mental health services program conducted in counties pursuant to ~~((the Community Mental Health Services Act,))~~ chapter 71.24 RCW, and may receive funding pursuant to the provisions thereof.

**Sec. 24.** RCW 71.05.560 and 1973 1st ASCE c 142 s 61 are each amended to read as follows:

The department ~~((of social and health services))~~ shall adopt such rules ~~((and regulations))~~ as may be necessary to effectuate the intent and purposes of this chapter, which shall include but not be limited to evaluation of the quality of the program and facilities operating pursuant to this chapter, evaluation of the effectiveness and cost effectiveness of such programs and facilities, and procedures and standards for certification and other action relevant to evaluation and treatment facilities.

**NEW SECTION. Sec. 25.** A new section is added to chapter 71.05 RCW to read as follows:

In any judicial proceeding in which a professional person has made a recommendation regarding whether an individual should be committed for treatment under this chapter, and the court does not follow the recommendation, the court shall enter findings that state with particularity its reasoning, including a finding whether the state met its burden of proof in showing whether the person presents a likelihood of serious harm.

**NEW SECTION. Sec. 26.** A new section is added to chapter 71.05 RCW to read as follows:

The department shall develop state-wide protocols to be utilized by professional persons and county designated mental health professionals in administration of this chapter and chapter 10.77 RCW. The protocols shall be updated at least every three years. The protocols shall provide uniform development and application of criteria in evaluation and commitment recommendations, of persons who have, or are alleged to have, mental disorders and are subject to this chapter.

The initial protocols shall be developed not later than September 1, 1999. The department shall develop and update the protocols in consultation with representatives of county designated mental health professionals, local government, law enforcement, county and city prosecutors, public defenders, and groups concerned with mental illness. The protocols shall be submitted to the governor and legislature upon adoption by the department.

**NEW SECTION. Sec. 27.** A new section is added to chapter 71.05 RCW to read as follows:

Where appropriate, and under the prescription of an authorized professional person, atypical antipsychotic medications may be accessed for use by a regional support network through the fund established in section 57 of this act.

**Sec. 28.** RCW 10.77.005 and 1989 c 420 s 1 are each amended to read as follows:

~~((With respect to this act,))~~ The legislature finds that among those persons who endanger the safety of others by committing ~~((felony))~~ crimes are a small number of persons with developmental disabilities. While their conduct is not typical of the vast majority of persons with developmental disabilities who are responsible citizens, for their own welfare and for the safety of others the state may need to exercise control over those few dangerous individuals who are developmentally disabled, have been charged with ~~((felony))~~ crimes that involve a threat to public safety or security, and have been found either incompetent to stand trial or not guilty by reason of insanity. The legislature finds, however, that the use of civil commitment procedures under chapter 71.05 RCW to effect state control over dangerous developmentally disabled persons has resulted in their commitment to institutions for the mentally ill. The legislature finds that existing programs in mental institutions may be inappropriate for persons who are developmentally disabled because the services provided in mental institutions are oriented to persons with mental illness, a condition not necessarily associated with developmental disabilities. Therefore, the legislature believes that, where appropriate, and subject to available funds, persons with developmental disabilities who have been charged with ~~((felony))~~ crimes that involve a threat to public safety or security and have been found incompetent to stand trial or not guilty by reason of insanity should receive state services addressing their needs, that such services must be provided in conformance with an individual habilitation plan, and that their initial treatment should be separate and discrete from treatment for persons involved in any other treatment or habilitation program in a manner consistent with the needs of public safety.

**Sec. 29.** RCW 10.77.010 and 1993 c 31 s 4 are each amended to read as follows:

As used in this chapter:

(1) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing ~~((felonious))~~ criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(2) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(3) "Secretary" means the secretary of the department of social and health services or his or her designee.

(4) "Department" means the state department of social and health services.

(5) "Treatment" means any currently standardized medical or mental health procedure including medication.

(6) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(7) ~~(No condition of mind proximately induced by the voluntary act of a person charged with a crime shall constitute "insanity".~~

(8)) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

~~((9))~~ (8) "Developmental disability" means the condition defined in RCW 71A.10.020(2).

~~((10))~~ (9) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

~~((11))~~ (10) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the individual being assisted as manifested by prior charged criminal conduct.

~~((12) "Psychiatrist" means a person having a license)~~ (11) "Expert or professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology(-

(13) "Psychologist" means a person who has been);

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW(-

(14) "Social worker" means a person); or

(c) A social worker with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

~~((15))~~ (12) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge from involuntary confinement, and a projected possible date for discharge from involuntary confinement; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(13) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person.

(14) "County designated mental health professional" has the same meaning as provided in RCW 71.05.020.

(15) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

**Sec. 30.** RCW 10.77.020 and 1993 c 31 s 5 are each amended to read as follows:

(1) At any and all stages of the proceedings pursuant to this chapter, any person subject to the provisions of this chapter shall be entitled to the assistance of counsel, and if the person is indigent the court shall appoint counsel to assist him or her. A person may waive his or her right to counsel; but such waiver shall only be effective if a court makes a specific finding that he or she is or was competent to so waive. In making such findings, the court shall be guided but not limited by the following standards: Whether the person attempting to waive the assistance of counsel, does so understanding:

(a) The nature of the charges;

(b) The statutory offense included within them;

(c) The range of allowable punishments thereunder;

(d) Possible defenses to the charges and circumstances in mitigation thereof; and

(e) All other facts essential to a broad understanding of the whole matter.



(2) Whenever any person is subjected to an examination pursuant to any provision of this chapter, he or she may retain an expert or professional person to perform an examination in his or her behalf. In the case of a person who is indigent, the court shall upon his or her request assist the person in obtaining an expert or professional person to perform an examination or participate in the hearing on his or her behalf. An expert or professional person obtained by an indigent person pursuant to the provisions of this chapter shall be compensated for his or her services out of funds of the department, in an amount determined by ((#)) the secretary to be fair and reasonable.

(3) ~~((Whenever any person has been committed under any provision of this chapter, or ordered to undergo alternative treatment following his or her acquittal of a crime charged by reason of insanity, such commitment or treatment cannot exceed the maximum possible penal sentence for any offense charged for which the person was acquitted by reason of insanity. If at the end of that period the person has not been finally discharged and is still in need of commitment or treatment, civil commitment proceedings may be instituted, if appropriate.~~

(4)) Any time the defendant is being examined by court appointed experts or professional persons pursuant to the provisions of this chapter, the defendant shall be entitled to have his or her attorney present. The defendant may refuse to answer any question if he or she believes his or her answers may tend to incriminate him or her or form links leading to evidence of an incriminating nature.

NEW SECTION. Sec. 31. A new section is added to chapter 10.77 RCW to read as follows:

(1) Whenever any person has been: (a) Committed to a correctional facility or inpatient treatment under any provision of this chapter; or (b) ordered to undergo alternative treatment following his or her acquittal by reason of insanity of a crime charged, such commitment or treatment cannot exceed the maximum possible penal sentence for any offense charged for which the person was committed, or was acquitted by reason of insanity.

(2) Whenever any person committed under any provision of this chapter has not been finally discharged within seven days of the maximum possible penal sentence under subsection (1) of this section, and the professional person in charge of the facility believes it more likely than not that the person will not be finally discharged, the professional person shall, prior to the person's release from the facility, notify the appropriate county designated mental health professional of the impending release and provide a copy of all relevant information regarding the person, including the likely release date and shall indicate why final discharge was not made.

(3) A county designated mental health professional who receives notice and records under subsection (2) of this section shall, prior to the date of probable release, determine whether to initiate proceedings under chapter 71.05 RCW.

Sec. 32. RCW 10.77.030 and 1974 AS c 198 s 3 are each amended to read as follows:

(1) Evidence of insanity is not admissible unless the defendant, at the time of arraignment or within ten days thereafter or at such later time as the court may for good cause permit, files a written notice of his or her intent to rely on such a defense.

(2) Insanity is a defense which the defendant must establish by a preponderance of the evidence.

(3) No condition of mind proximately induced by the voluntary act of a person charged with a crime shall constitute insanity.

Sec. 33. RCW 10.77.040 and 1974 AS c 198 s 4 are each amended to read as follows:

Whenever the issue of insanity is submitted to the jury, the court shall instruct the jury to return a special verdict in substantially the following form:

answer

yes or no

1. Did the defendant commit the act charged?

.....

2. If your answer to number 1 is yes, do you acquit him or her because of insanity existing at the time of the act charged?

.....

3. If your answer to number 2 is yes, is the defendant a substantial danger to other persons unless kept under further control by the court or other persons or institutions?

.....

4. If your answer to number 2 is yes, does the defendant present a substantial likelihood of committing ~~((felonious))~~ criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions?

.....

5. If your answers to either number 3 or number 4 is yes, is it in the best interests of the defendant and others that the defendant be placed in treatment that is less restrictive than detention in a state mental hospital?

.....

Sec. 34. RCW 10.77.060 and 1989 c 420 s 4 are each amended to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate at least two qualified experts or professional persons, one of whom shall be approved by the prosecuting attorney, to examine and report upon the mental condition of the defendant. At least one of the experts or professional persons appointed shall be a developmental disabilities professional if the court is advised

by any party that the defendant may be developmentally disabled. For purposes of the examination, the court may order the defendant committed to a hospital or other ((suitable)) suitably secure public or private mental health facility for a period of time necessary to complete the examination, but not to exceed fifteen days from the time of admission to the facility.

(b) When a defendant is ordered to be committed for inpatient examination under this subsection (1), the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the expert or professional persons regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the examination authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the examination shall include the following:

(a) A description of the nature of the examination;

(b) A diagnosis of the mental condition of the defendant;

(c) If the defendant suffers from a mental disease or defect, or is developmentally disabled, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, an opinion as to the defendant's sanity at the time of the act;

(e) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing ((felonious)) criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(4) The secretary may execute such agreements as appropriate and necessary to implement this section.

NEW SECTION. Sec. 35. A new section is added to chapter 10.77 RCW to read as follows:

(1) Whenever a defendant is evaluated under this chapter, a copy of the order requiring the evaluation shall be transmitted to the county designated mental health professional of the county in which the defendant was charged.

(2)(a) When a defendant is evaluated under RCW 10.77.060, the professional person shall make a recommendation to the court whether the defendant should be examined by a county designated mental health professional for purposes of filing a petition under chapter 71.05 RCW whenever the court determines, and enters a finding that, the defendant is charged with: (i) A felony; or (ii) a nonfelony crime and: (A) Is charged with, or has a history of, one or more violent acts; (B) is a threat to public safety; (C) has previously been acquitted by reason of insanity; or (D) has previously been found incompetent pursuant to this chapter.

(b) The facility conducting the evaluation shall provide its report and recommendation to the court in which the criminal proceeding is pending. A copy of the report and recommendation shall be provided to the county designated mental health professional, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held. Upon request, the facility shall also provide copies of any source documents relevant to the evaluation to the county designated mental health professional. The report and recommendation shall be provided not less than twenty-four hours preceding the transfer of the defendant to the correctional facility in the county in which the criminal proceeding is pending.

(c) If the facility concludes, under RCW 10.77.060(3)(f), the person should be kept under further control, an evaluation shall be conducted of such person under chapter 71.05 RCW. The court shall order an evaluation be conducted by the appropriate county designated mental health professional: (i) Prior to release from confinement for such person who is convicted, if sentenced to confinement for twenty-four months or less; (ii) for any person who is acquitted; or (iii) for any person whose charges are dismissed pursuant to RCW 10.77.090(4).

(3) The county designated mental health professional shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (2)(b) of this section.

(4) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the county designated mental health professional under subsection (3) of this section to the facility conducting the evaluation under this chapter.

**Sec. 36.** RCW 10.77.070 and 1973 1st ASCE c 117 s 7 are each amended to read as follows:

When the defendant wishes to be examined by a qualified expert or professional person of his or her own choice such examiner shall be permitted to have reasonable access to the defendant for the purpose of such examination, as well as to all relevant medical and psychological records and reports.

**Sec. 37.** RCW 10.77.080 and 1974 ASCE c 198 s 7 are each amended to read as follows:

The defendant may move the court for a judgment of acquittal on the grounds of insanity: PROVIDED, That a defendant so acquitted may not later contest the validity of his or her detention on the grounds that he or she did not commit the acts charged. At the hearing upon ~~((said))~~ the motion the defendant shall have the burden of proving by a preponderance of the evidence that he or she was insane at the time of the offense or offenses with which he or she is charged. If the court finds that the defendant should be acquitted by reason of insanity, it shall enter specific findings in substantially the same form as set forth in RCW 10.77.040 ~~((as now or hereafter amended))~~. If the motion is denied, the question may be submitted to the trier of fact in the same manner as other issues of fact.

**Sec. 38.** RCW 10.77.090 and 1989 c 420 s 5 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment ~~((:))~~ the court finds, following a report as provided in RCW 10.77.060, ~~((as now or hereafter amended, that the))~~ a defendant is incompetent ~~((:))~~ the court shall order the proceedings against the defendant be stayed ~~((:))~~ except as provided in subsection ~~((5))~~ (7) of this section ~~((, and,))~~.

(b) If the defendant is charged with a felony and determined to be incompetent, ~~((may))~~ the court shall commit the defendant to the custody of the secretary, who shall place such defendant in an appropriate facility of the department for evaluation and treatment, or the court may alternatively order the defendant to undergo evaluation and treatment at some other facility as determined by the department, or under the guidance and control of ~~((some other))~~ a professional person, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event, for no longer than a period of ninety days.

(c) A defendant found incompetent shall be evaluated at the direction of the secretary and a determination made whether the defendant is developmentally disabled. Such evaluation and determination shall be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary. When appropriate, and subject to available funds, if the defendant is determined to be developmentally disabled, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant shall have the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. The program shall be separate from programs serving persons involved in any other treatment or habilitation program. The program shall be appropriately secure under the circumstances and shall be administered by developmental disabilities professionals who shall direct the habilitation efforts. The program shall provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety. The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department. A copy of the report shall be sent to the facility.

(d)(i) If the defendant is:

(A) Charged with a nonfelony crime and has: (I) A history of one or more violent acts, or a pending charge of one or more violent acts; or (II) been previously acquitted by reason of insanity or been previously found incompetent under this chapter with regard to an alleged offense involving actual, threatened, or attempted physical harm to a person; and

(B) Found by the court to be not competent; then

(C) The court shall order the secretary to place the defendant: (I) At a secure mental health facility in the custody of the department or an agency designated by the department for mental health treatment and restoration of competency. The placement shall not exceed fourteen days in addition to any unused time of the evaluation under RCW 10.77.060. The fourteen-day period shall be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility; (II) on conditional release for up to ninety days for mental health treatment and restoration of competency; or (III) any combination of (d)(i)(C)(I) and (II) of this subsection.

(ii) At the end of the mental health treatment and restoration period in (d)(i) of this subsection, or at any time a professional person determines competency has been, or is unlikely to be, restored the defendant shall be returned to court for a hearing. If, after notice and hearing, competency has been restored, the stay entered under (a) of this subsection shall be lifted. If competency has not been restored, the proceedings shall be dismissed. If the court concludes that competency has not been restored, but that further treatment within the time limits established by (d)(i) of this subsection is likely to restore competency, the court may order that treatment for purposes of competency restoration be continued. Such treatment may not extend beyond the combination of time provided for in (d)(i)(C)(I) and (II) of this subsection.

(iii)(A) If the proceedings are dismissed under (d)(ii) of this subsection and the defendant was on conditional release at the time of dismissal, the court shall order the county designated mental health professional within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

(B) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours for evaluation for purposes of filing a petition under chapter 71.05 RCW.

(iv) If at any time during the proceeding the court finds, following notice and hearing, a defendant is not likely to regain competency, the proceedings shall be dismissed and the defendant shall be evaluated as provided in (d)(iii) of this subsection.

(e) If the defendant is charged with a crime that is not a felony and the defendant does not meet the criteria under (d) of this subsection, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the county designated mental health professional to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all

parties at least twenty-four hours before the dismissal of any proceeding under this subsection (1)(e), and provide an opportunity for a hearing on whether to dismiss the proceedings.

~~(2) On or before expiration of the initial ninety-day period of commitment under subsection (1)(b) of this section the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent. ((If the defendant is charged with a crime which is not a felony, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the county mental health professional to evaluate the defendant and commence proceedings under chapter 71.05 RCW if appropriate; and subsections (2) and (3) of this section shall not be applicable: PROVIDED, That, upon order of the court, the prosecutor may directly petition for fourteen days of involuntary treatment under chapter 71.05 RCW.~~

~~(2)) (3) If the court finds by a preponderance of the evidence that ((the)) a defendant charged with a felony is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional ninety-day period, but it must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second ninety-day period. The defendant, the defendant's attorney, or the prosecutor((, or the judge)) shall have the right to demand that the hearing ((on or before the expiration of the second ninety-day period)) be before a jury. No extension shall be ordered for a second ninety-day period, nor for any subsequent period as provided in subsection ((3)) (4) of this section if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension. ((If no demand is made, the hearing shall be before the court. The court or jury shall determine whether or not the defendant has become competent.~~

~~(3)) (4) For persons charged with a felony, at the hearing upon the expiration of the second ninety-day period or at the end of the first ninety-day period, in the case of a developmentally disabled defendant, if the jury or court((, as the case may be,)) finds that the defendant is incompetent, the charges shall be dismissed without prejudice, and either civil commitment proceedings shall be instituted((, if appropriate,)) or the court shall order the release of the defendant: PROVIDED, That the criminal charges shall not be dismissed if ((at the end of the second ninety-day period, or at the end of the first ninety-day period, in the case of a developmentally disabled defendant,)) the court or jury finds that:~~  
~~(a) The defendant (i) is a substantial danger to other persons((,)); or (ii) presents a substantial likelihood of committing ((felonious)) criminal acts jeopardizing public safety or security((,)); and ((that)) (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for an additional six months. At the end of ((said)) the six-month period, if the defendant remains incompetent, the charges shall be dismissed without prejudice and either civil commitment proceedings shall be instituted((, if appropriate,)) or the court shall order release of the defendant.~~

~~((4)) (5) If the defendant is referred to the county designated mental health professional for consideration of initial detention proceedings under chapter 71.05 RCW pursuant to this chapter, the county designated mental health professional shall provide prompt written notification of the results of the determination whether to commence initial detention proceedings under chapter 71.05 RCW, and whether the person was detained. The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.~~

~~(6) The fact that the defendant is unfit to proceed does not preclude any pretrial proceedings which do not require the personal participation of the defendant.~~

~~((5)) (7) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.~~

~~((6)) (8) At or before the conclusion of any commitment period provided for by this section, the facility providing evaluation and treatment shall provide to the court a written report of examination which meets the requirements of RCW 10.77.060(3).~~

**Sec. 39.** RCW 10.77.110 and 1989 c 420 s 6 are each amended to read as follows:

(1) If a defendant is acquitted of a ((felony)) crime by reason of insanity, and it is found that he or she is not a substantial danger to other persons, and does not present a substantial likelihood of committing ((felonious)) criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, the court shall direct the defendant's final discharge. If it is found that such defendant is a substantial danger to other persons, or presents a substantial likelihood of committing ((felonious)) criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, the court shall order his or her hospitalization, or any appropriate alternative treatment less restrictive than detention in a state mental hospital, pursuant to the terms of this chapter.

(2) If the defendant has been found not guilty by reason of insanity and a substantial danger, or presents a substantial likelihood of committing ((felonious)) criminal acts jeopardizing public safety or security, so as to require treatment then the secretary shall immediately cause the defendant to be evaluated to ascertain if the defendant is developmentally disabled. When appropriate, and subject to available funds, the defendant may be committed to a program specifically reserved for the treatment and training of developmentally disabled persons. A person so committed shall receive habilitation services according to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. The treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of developmentally disabled persons. The treatment program shall provide physical security to a degree consistent with the finding that the defendant is dangerous and may incorporate varying conditions of security and alternative sites when the

dangerousness of any particular defendant makes this necessary. The department may limit admissions to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

(3) If it is found that such defendant is not a substantial danger to other persons, and does not present a substantial likelihood of committing ~~((felonious))~~ criminal acts jeopardizing public safety or security, but that he or she is in need of control by the court or other persons or institutions, the court shall direct the defendant's conditional release. ~~((If the defendant is acquitted by reason of insanity of a crime which is not a felony, the court shall order the defendant's release or order the defendant's continued custody only for a reasonable time to allow the county-designated mental health professional to evaluate the individual and to proceed with civil commitment pursuant to chapter 71.05 RCW, if considered appropriate.))~~

**Sec. 40.** RCW 10.77.140 and 1989 c 420 s 8 are each amended to read as follows:

Each person committed to a hospital or other facility or conditionally released pursuant to this chapter shall have a current examination of his or her mental condition made by one or more experts or professional persons at least once every six months. ~~((Said))~~ The person may retain, or if the person is indigent and so requests, the court may appoint a qualified expert or professional person to examine him or her, and such expert or professional person shall have access to all hospital records concerning the person. In the case of a committed or conditionally released person who is developmentally disabled, the expert shall be a developmental disabilities professional. The secretary, upon receipt of the periodic report, shall provide written notice to the court of commitment of compliance with the requirements of this section.

**Sec. 41.** RCW 10.77.150 and 1993 c 31 s 6 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140~~((, as now or hereafter amended,))~~ may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) The court of the county which ordered the person's commitment, upon receipt of an application for conditional release with the secretary's recommendation for conditional release, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary. The prosecuting attorney shall represent the state at such hearings and shall have the right to have the patient examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf. The issue to be determined at such a hearing is whether or not the person may be released conditionally without substantial danger to other persons, or substantial likelihood of committing ~~((felonious))~~ criminal acts jeopardizing public safety or security. The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer prior to making any change in the offender's address or employment.

(3) If the court determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released person's failure to appear for the medication or treatment report the failure to the court, to the prosecuting attorney of the county in which the released person was committed, and to the supervising community corrections officer.

(4) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial.

**Sec. 42.** RCW 10.77.180 and 1993 c 31 s 9 are each amended to read as follows:

Each person conditionally released pursuant to RCW 10.77.150~~((, as now or hereafter amended,))~~ shall have his or her case reviewed by the court which conditionally released him or her no later than one year after such release and no later than every two years thereafter, such time to be scheduled by the court. Review may occur in a shorter time or more frequently, if the court, in its discretion, on its own motion, or on motion of the person, the secretary of social and health services, the secretary of corrections, medical or mental health practitioner, or the prosecuting attorney, so determines. The sole question to be determined by the court is whether the person shall continue to be conditionally released. The court in making its determination shall be aided by the periodic reports filed pursuant to RCW 10.77.140~~((, as now or hereafter amended,))~~ and ~~((RCW))~~ 10.77.160, and the opinions of the secretary ~~((of social and health services))~~ and other experts or professional persons.

**Sec. 43.** RCW 10.77.190 and 1993 c 31 s 10 are each amended to read as follows:

(1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his or her conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into custody until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified. The court shall be notified before the close of the next judicial day of the apprehension. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court or secretary of social and health services or the secretary of corrections or their designees shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(3) If the hospital or facility designated to provide outpatient care determines that a conditionally released person presents a threat to public safety, the hospital or facility shall immediately notify the secretary of social and health services or the secretary of corrections or their designees. The secretary shall order that the conditionally released person be apprehended and taken into custody.

(4) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his or her release, or whether the person presents a threat to public safety. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his or her conditional release shall be revoked and he or she shall be committed subject to release only in accordance with provisions of this chapter.

**Sec. 44.** RCW 10.77.200 and 1993 c 31 s 11 are each amended to read as follows:

(1) Upon application by the committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for final discharge. In making this determination, the secretary may consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case. If the secretary approves the final discharge he or she then shall authorize ~~((said))~~ the person to petition the court.

(2) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for final discharge, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the prosecuting attorney's choice. If the petitioner is indigent, and the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the petitioner is developmentally disabled, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the petitioner no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing ~~((felonious))~~ criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(3) Nothing contained in this chapter shall prohibit the patient from petitioning the court for final discharge or conditional release from the institution in which he or she is committed. The issue to be determined on such proceeding is whether the petitioner, as a result of a mental disease or defect, is a substantial danger to other persons, or presents a substantial likelihood of committing ~~((felonious))~~ criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus.

**Sec. 45.** RCW 10.77.210 and 1993 c 31 s 12 are each amended to read as follows:

(1) Any person involuntarily detained, hospitalized, or committed pursuant to the provisions of this chapter shall have the right to adequate care and individualized treatment. The person who has custody of the patient or is in charge of treatment shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations of the patient that have been filed with the secretary pursuant to this chapter. Except as provided in RCW 10.77.205 and 4.24.550 regarding the release of information concerning insane offenders who are acquitted of sex offenses and subsequently committed pursuant to this chapter, all records and reports made pursuant to this chapter, shall be made available only upon request, to the committed person, to his or her attorney, to his or her personal physician, to the supervising community corrections officer, to the prosecuting attorney, to the court, to the protection and advocacy agency, or other expert or professional persons who, upon proper showing, demonstrates a need for access to such records. All records and reports made pursuant to this chapter shall also be made available, upon request, to the department of corrections or the indeterminate sentence review board if the person was on parole, probation, or community supervision at the time of detention, hospitalization, or commitment or the person is subsequently convicted for the crime for which he or she was detained, hospitalized, or committed pursuant to this chapter.

(2) All relevant records and reports as defined by the department in rule shall be made available, upon request, to criminal justice agencies as defined in RCW 10.97.030.

**NEW SECTION. Sec. 46.** In developing rules under RCW 10.77.210(2), the department shall implement the following legislative intent: Increasing public safety; and making decisions based on a person's current conduct and mental condition rather than the classification of the charges.

**NEW SECTION. Sec. 47.** A new section is added to chapter 10.77 RCW to read as follows:

A copy of relevant records and reports as defined by the department, in consultation with the department of corrections, made pursuant to this chapter, and including relevant information necessary to meet the requirements of section 35(2) of this act and RCW 10.77.090, shall accompany the defendant upon transfer to a mental health facility or a correctional institution or facility.

**NEW SECTION. Sec. 48.** A new section is added to chapter 72.10 RCW to read as follows:

The secretary shall, for any person committed to a state correctional facility after the effective date of this section, inquire at the time of commitment whether the person had received outpatient mental health treatment within the two years preceding confinement and the name of the person providing the treatment.

The secretary shall inquire of the treatment provider if he or she wishes to be notified of the release of the person from confinement, for purposes of offering treatment upon the inmate's release. If the treatment provider wishes to be notified of the inmate's release, the secretary shall attempt to provide such notice at least seven days prior to release.

At the time of an inmate's release if the secretary is unable to locate the treatment provider, the secretary shall notify the regional support network in the county the inmate will most likely reside following release.

If the secretary has, prior to the release from the facility, evaluated the inmate and determined he or she requires postrelease mental health treatment, a copy of relevant records and reports relating to the inmate's mental health treatment or status shall be promptly made available to the offender's present or future treatment provider. The secretary shall determine which records and reports are relevant and may provide a summary in lieu of copies of the records.

**Sec. 49.** RCW 10.97.030 and 1990 c 3 s 128 are each amended to read as follows:

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

(1) "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, including acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional supervision, and release.

The term includes information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

- (a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;
- (b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis;
- (c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during public judicial proceedings;
- (d) Records of traffic violations which are not punishable by a maximum term of imprisonment of more than ninety days;
- (e) Records of any traffic offenses as maintained by the department of licensing for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses and pursuant to RCW 46.52.130 (~~as now existing or hereafter amended~~);
- (f) Records of any aviation violations or offenses as maintained by the department of transportation for the purpose of regulating pilots or other aviation operators, and pursuant to RCW 47.68.330 (~~as now existing or hereafter amended~~);
- (g) Announcements of executive clemency.

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

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

(4) "Conviction or other disposition adverse to the subject" means any disposition of charges (~~(-except)~~) other than: (a) A decision not to prosecute((s)); (b) a dismissal((s)); or (c) acquittal ((except when the)); with the following exceptions, which shall be considered dispositions adverse to the subject: An acquittal ((is)) due to a finding of not guilty by reason of insanity and a dismissal by reason of incompetency, pursuant to chapter 10.77 RCW((and the person was committed pursuant to chapter 10.77 RCW: PROVIDED, HOWEVER, That)); and a dismissal entered after a period of probation, suspension, or deferral of sentence ((shall be considered a disposition adverse to the subject)).

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

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

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

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

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

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

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

**NEW SECTION. Sec. 50.** A new section is added to chapter 10.77 RCW to read as follows:

Where appropriate, and under the prescription of an authorized professional person, atypical antipsychotic medications may be accessed for use by a regional support network through the fund established in section 57 of this act.

**NEW SECTION. Sec. 51.** The code reviser shall alphabetize the definitions in RCW 10.77.010 and correct any references.

**NEW SECTION. Sec. 52.** The following acts or parts of acts are each repealed:

(1) RCW 71.05.015 and 1979 AS c 215 s 1; and

(2) RCW 71.05.080 and 1973 1st AS c 142 s 13.

**NEW SECTION. Sec. 53.** This act takes effect July 1, 1998, except for sections 18, 35, 38, and 39 of this act, which take effect March 1, 1999.

**NEW SECTION. Sec. 54.** (1) The Washington state institute for public policy shall conduct an evaluation of this act to determine:

(a) Whether there has been a reduction in recidivism for mentally ill offenders who are felons or who meet the criteria specified in RCW 10.77.090(1)(d) and received mental health services as a result of the provisions of chapters 10.77 and 71.05 RCW.

(b) The number of nonfelony offenders who have been referred to competency restoration under RCW 10.77.090(1)(d)(i)(C) and the percentage of such offenders who have been restored to competency within the allotted time for felons, nonfelony offenders meeting the criteria under RCW 10.77.090(1)(d), and the nonfelony offenders who do not meet this criteria.

(c) Whether the information-sharing provisions of this act are adequate to provide necessary information to the affected parties. The analysis shall include findings as to whether the flow of information is resulting in the efficient usage of the information and whether there are revisions in the flow which would better allow the courts, professional persons, and parties to proceedings to make better use of the information.

(2) The evaluation shall be presented to the legislature on or before November 15, 2003.

**NEW SECTION. Sec. 55.** The department of corrections shall report to the fiscal committees of the legislature on the efficacy of the regional support networks in implementing the provisions of this act. Such report shall be submitted annually on or before September 30th and shall include information about the administrative expenses of the regional support networks.

**NEW SECTION. Sec. 56.** RCW 10.77.005 is recodified within chapter 10.77 RCW after RCW 10.77.090.

**NEW SECTION. Sec. 57.** \$210,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the establishment of a fund to reimburse regional support networks for the cost of atypical antipsychotic medications. This amount is not subject to the provisions of RCW 71.24.035(17)(d).

**NEW SECTION. Sec. 58.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 59.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 60.** This act shall expire on June 30, 2001.

**NEW SECTION. Sec. 61.** The joint legislative audit and review committee shall conduct an evaluation of the efficiency and effectiveness of this act in meeting its stated goals. Such an evaluation shall include the operation of the state mental hospitals and the regional support networks, as well as any other appropriate entity. The joint legislative audit and review committee shall prepare an interim report of its findings which shall be delivered to the appropriate legislative committees of the house of representatives and the senate no later than September 1, 2000. In addition, the joint legislative audit and review committee shall prepare a final report of its findings which shall be delivered to the appropriate legislative committees of the house of representatives and the senate no later than January 1, 2001."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION



Senator Long moved that the Senate concur in the House amendment to Second Substitute Senate Bill No. 6214.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Long that the Senate concur in the House amendment to Second Substitute Senate Bill No. 6214.

The motion by Senator Long carried and the Senate concurred in the House amendment to Second Substitute Senate Bill No. 6214

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6214, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6214, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 45. Excused: Senators Anderson, Brown, Sheldon, T. and West - 4. SECOND SUBSTITUTE SENATE BILL NO. 6214, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator McCaslin: "A point of personal privilege, Mr. President. Ladies and gentlemen of the Senate, if you have noticed Shirley Winsley's desk, I just want to inform you that she must have a special pre-need funeral plan that includes flowers. I wonder if Shirley Winsley would tell us what that pre-need funeral plan is. Senator Johnson informed me that for you golfers, if a ball lands on her desk, you get a free drop."

#### PERSONAL PRIVILEGE

Senator Winsley: "A point of personal privilege, Mr. President. I want to thank everyone for sending me these beautiful flowers, but one thing I am not greedy and so I would like to share one of these bouquets with Senator McCaslin. Another thing, it is not my funeral, but if they all stay on my desk, I might be dead by morning, because I am very allergic to these plants. So, I figure if I put them on someone else's desk, I have at least the opportunity to look at them and not smell them. Thank you."

#### MESSAGE FROM THE HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6238 with the following amendment(s):

On page 1 on line 11, after "filed" insert "by the department"

On page 1, on line 16, after "include" insert "but not be limited to"

On page 7, on line 11, strike "ten" and insert "fifteen"

On page 9, after line 2, insert the following:

"NEW SECTION. Sec. 5. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Long moved that the Senate refuse to concur in the House amendments to Engrossed Substitute Senate Bill No. 6238 and requests of the House a conference thereon.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Long that the Senate refuse to concur in the House amendments to Engrossed Substitute Senate Bill No. 6238 and requests of the House a conference thereon.

The motion by Senator Long carried and the Senate refuses to concur in the House amendments to Engrossed Substitute Senate Bill No. 6238 and requests of the House a conference thereon.

MOTION

At 4:12 p.m., on motion of Senator Johnson, the Senate adjourned until 10:00 a.m., Tuesday, March 10, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FIFTY-SEVENTH DAY, MARCH 9, 1998

**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**FIFTY-EIGHTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Tuesday, March 10, 1998

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senator Benton. On motion of Senator Hale, Senator Benton was excused.

The Sergeant at Arms Color Guard, consisting of Pages Katie Stephens and Shaine Truscott, presented the Colors. Reverend Paul Dalton, pastor of Mary Queen of Peace Catholic Church of Issaquah, and a guest of Senator Dino Rossi, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Johnson, and pursuant to Rule 46, the Ways and Means Committee was granted special leave to meet during the session.

**MESSAGES FROM THE HOUSE**

March 9, 1998

**MR. PRESIDENT:**

The Speaker has signed:  
SECOND ENGROSSED SENATE BILL NO. 5185,  
SUBSTITUTE SENATE BILL NO. 5355,  
ENGROSSED SENATE BILL NO. 5499,  
SUBSTITUTE SENATE BILL NO. 5532,  
ENGROSSED SENATE BILL NO. 5695,  
SENATE BILL NO. 6149,  
SUBSTITUTE SENATE BILL NO. 6150,  
SUBSTITUTE SENATE BILL NO. 6153,  
SENATE BILL NO. 6155,  
SENATE BILL NO. 6172,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6174,  
SENATE BILL NO. 6220,  
SENATE BILL NO. 6228,  
SUBSTITUTE SENATE BILL NO. 6229,  
SENATE BILL NO. 6311,  
ENGROSSED SENATE BILL NO. 6325,  
SENATE BILL NO. 6329,  
SUBSTITUTE SENATE BILL NO. 6346,  
SENATE BILL NO. 6352,  
SUBSTITUTE SENATE BILL NO. 6396,  
SENATE BILL NO. 6400,  
SUBSTITUTE SENATE BILL NO. 6425,  
SENATE BILL NO. 6429,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6492,

SENATE BILL NO. 6536,  
SUBSTITUTE SENATE BILL NO. 6545,  
SUBSTITUTE SENATE BILL NO. 6574,  
SENATE BILL NO. 6581,  
SUBSTITUTE SENATE BILL NO. 6605,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6648,  
SUBSTITUTE SENATE BILL NO. 6669,  
SENATE BILL NO. 6728,  
SUBSTITUTE SENATE BILL NO. 6731,  
SUBSTITUTE SENATE BILL NO. 6737,  
SENATE BILL NO. 6758,  
SENATE JOINT MEMORIAL NO. 8019, and the same are herewith transmitted.

March 9, 1998

MR. PRESIDENT:

The Speaker has signed:  
HOUSE BILL NO. 1172,  
SUBSTITUTE HOUSE BILL NO. 1193,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1230,  
HOUSE BILL NO. 1487,  
SECOND SUBSTITUTE HOUSE BILL NO. 1618,  
SUBSTITUTE HOUSE BILL NO. 1750,  
HOUSE BILL NO. 1835,  
SUBSTITUTE HOUSE BILL NO. 1992,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2300,  
SUBSTITUTE HOUSE BILL NO. 2351,  
SUBSTITUTE HOUSE BILL NO. 2368,  
SUBSTITUTE HOUSE BILL NO. 2411,  
ENGROSSED HOUSE BILL NO. 2414,  
SUBSTITUTE HOUSE BILL NO. 2461,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2477,  
HOUSE BILL NO. 2503,  
SUBSTITUTE HOUSE BILL NO. 2529,  
HOUSE BILL NO. 2568,  
HOUSE BILL NO. 2704,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752,  
SUBSTITUTE HOUSE BILL NO. 2773,  
SECOND SUBSTITUTE HOUSE BILL NO. 2782,  
ENGROSSED HOUSE BILL NO. 2791,  
SUBSTITUTE HOUSE BILL NO. 2858,  
ENGROSSED HOUSE BILL NO. 2894,  
SUBSTITUTE HOUSE BILL NO. 2917,  
HOUSE BILL NO. 2969,  
SUBSTITUTE HOUSE BILL NO. 2977, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 9, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following House Bills and passed the bills as amended by the Senate:  
HOUSE BILL NO. 2550,

HOUSE BILL NO. 2557,  
SECOND SUBSTITUTE HOUSE BILL NO. 3089.

TIMOTHY A. MARTIN, Chief Clerk

March 9, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following House Bills and passed the bills as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1769,  
SUBSTITUTE HOUSE BILL NO. 1781,  
SUBSTITUTE HOUSE BILL NO. 2688,  
SUBSTITUTE HOUSE BILL NO. 2710,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2836,  
SUBSTITUTE HOUSE BILL NO. 2885,  
SUBSTITUTE HOUSE BILL NO. 2941,  
SUBSTITUTE HOUSE BILL NO. 2960,  
SECOND SUBSTITUTE HOUSE BILL NO. 3070,  
SUBSTITUTE HOUSE BILL NO. 3096.

TIMOTHY A. MARTIN, Chief Clerk

March 9, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following House Bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1043,  
SUBSTITUTE HOUSE BILL NO. 1072,  
SUBSTITUTE HOUSE BILL NO. 1083,  
HOUSE BILL NO. 1165,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1221,  
ENGROSSED HOUSE BILL NO. 1252,  
ENGROSSED HOUSE BILL NO. 1254,  
HOUSE BILL NO. 1297,  
HOUSE BILL NO. 1309,  
ENGROSSED HOUSE BILL NO. 1408,  
SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1746,  
SUBSTITUTE HOUSE BILL NO. 1786,  
SUBSTITUTE HOUSE BILL NO. 1867,  
SUBSTITUTE HOUSE BILL NO. 2166,  
HOUSE BILL NO. 2463,  
HOUSE BILL NO. 2500,  
HOUSE BILL NO. 2558,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2596,  
SUBSTITUTE HOUSE BILL NO. 2611.

TIMOTHY A. MARTIN, Chief Clerk

March 9, 1998

MR. PRESIDENT:

The House grants the request of the Senate for a conference on SECOND SUBSTITUTE SENATE BILL NO. 6168. The Speaker has appointed the following members as conferees: Representatives Van Luven, Clements and Kenney.

TIMOTHY A. MARTIN, Chief Clerk

March 9, 1998

MR. PRESIDENT:

The House grants the request of the Senate for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 6204. The Speaker has appointed the following members as conferees: Representatives Chandler, Schoesler and Linville.

TIMOTHY A. MARTIN, Chief Clerk

March 9, 1998

MR. PRESIDENT:

The House grants the request of the Senate for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 6408. The Speaker has appointed the following members as conferees: Representatives Sheahan, Sterk and Costa.

TIMOTHY A. MARTIN, Chief Clerk

March 9, 1998

MR. PRESIDENT:

The House grants the request of the Senate for a conference on SUBSTITUTE SENATE BILL NO. 6751. The Speaker has appointed the following members as conferees: Representatives Cooke, Boldt and Tokuda.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL NO. 5164  
SENATE BILL NO. 5217,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5527,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5760,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5769,  
SUBSTITUTE SENATE BILL NO. 6114,  
SENATE BILL NO. 6122,  
SUBSTITUTE SENATE BILL NO. 6130,  
ENGROSSED SENATE BILL NO. 6139,  
ENGROSSED SENATE BILL NO. 6142,  
SECOND SUBSTITUTE SENATE BILL NO. 6156,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6166,  
SUBSTITUTE SENATE BILL NO. 6175,  
SUBSTITUTE SENATE BILL NO. 6182,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6191,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6203,  
SENATE BILL NO. 6219,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6235,  
ENGROSSED SENATE BILL NO. 6257,  
SENATE BILL NO. 6278,  
SENATE BILL NO. 6301,  
SUBSTITUTE SENATE BILL NO. 6302,  
SUBSTITUTE SENATE BILL NO. 6306,  
SUBSTITUTE SENATE BILL NO. 6341,  
SENATE BILL NO. 6355,  
SUBSTITUTE SENATE BILL NO. 6358,

SENATE BILL NO. 6380.

SIGNED BY THE PRESIDENT

The President signed:

HOUSE BILL NO. 1172,  
SUBSTITUTE HOUSE BILL NO. 1193,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1230,

HOUSE BILL NO. 1487,  
SECOND SUBSTITUTE HOUSE BILL NO. 1618,  
SUBSTITUTE HOUSE BILL NO. 1750,  
HOUSE BILL NO. 1835,  
SUBSTITUTE HOUSE BILL NO. 1992,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2300,  
SUBSTITUTE HOUSE BILL NO. 2351,  
SUBSTITUTE HOUSE BILL NO. 2368,  
SUBSTITUTE HOUSE BILL NO. 2411,  
ENGROSSED HOUSE BILL NO. 2414,  
SUBSTITUTE HOUSE BILL NO. 2461,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2477,  
HOUSE BILL NO. 2503,  
SUBSTITUTE HOUSE BILL NO. 2529,  
HOUSE BILL NO. 2568,  
HOUSE BILL NO. 2704,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752,  
SUBSTITUTE HOUSE BILL NO. 2773,  
SECOND SUBSTITUTE HOUSE BILL NO. 2782,  
ENGROSSED HOUSE BILL NO. 2791,  
SUBSTITUTE HOUSE BILL NO. 2858,  
ENGROSSED HOUSE BILL NO. 2894,  
SUBSTITUTE HOUSE BILL NO. 2917,  
HOUSE BILL NO. 2969,  
SUBSTITUTE HOUSE BILL NO. 2977.

EDITOR'S NOTE: A conference was granted on Engrossed Substitute Senate Bill No. 6238 on March 9, 1998, but conferees were not appointed at that time.

APPOINTMENT OF CONFERENCE COMMITTEE ON ENGROSSED SUBSTITUTE SENATE BILL NO. 6238

The President appointed as member of the Conference Committee on Engrossed Substitute Senate Bill No. 6238 and the House amendment(s) thereto: Senators Long, Hargrove and Johnson.

MOTION

On motion of Senator Snyder, the Conference Committee appointments were confirmed.

MOTION

On motion of Senator Morton, the following resolution was adopted:

SENATE RESOLUTION 1998-8711

By Senators Morton and Rasmussen

WHEREAS, In 1957, the Washington State Legislature designated that the second Wednesday in April each year is celebrated as Arbor Day; and

WHEREAS, Arbor Day is a day to recognize our state tree, the Western Hemlock, and our state flower, the Rhododendron; and

WHEREAS, Arbor Day is a traditional day for the planting of trees by citizens in the state of Washington, having been celebrated in Washington since 1917, when Governor Ernest Lister conducted the first official observance; and

WHEREAS, Nurseries, orchards, tree farms, public and private forests, horticultural and home orchards and gardens all add to the beauty, economy and vigor of our state; and

WHEREAS, Arbor Day focuses community attention on planting trees while educating school children and all of Washington's citizens about the value of trees and plants in our environment, in neighborhoods and communities; and

WHEREAS, Arbor Day focuses on the special significance that trees play in the state's agricultural and timber-based economy, and the importance of continued regeneration of our renewable resources, and the significance of trees in habitat for our state's wildlife; and

WHEREAS, The state of Washington is appropriately called the Evergreen State due to the existence and special significance that trees and plants contribute to our jobs, natural beauty, environment, and quality of life to our citizens;

NOW, THEREFORE BE IT RESOLVED, That the Senate proclaims April 8, 1998, as Washington Arbor Day, and encourages residents to plant a tree and celebrate this day as a day to plant and nurture trees and all plant life in Washington State.

Senators Morton, Oke, Prentice, Hargrove and Rasmussen spoke to Senate Resolution 1998-8711.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced Bruce Briggs, from Briggs Nursery in Olympia, who had presented each of the Senators with a Japanese Maple tree in honor of Arbor Day.

#### MOTION

On motion of Senator Wood, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8722

By Senators Wood, Fairley, Heavey, Hargrove, Finkbeiner, Hochstatter, McDonald, Anderson, Spanel, Loveland, Bauer, Rasmussen, Newhouse, B. Sheldon, Prince, Kohl, McAuliffe, West, Sellar, Schow, Prentice, Winsley, Haugen, Zarelli, Kline, Long, Oke, Rossi, Fraser, Patterson, Swecker, and Brown

WHEREAS, The sport of lawn bowling dates back to the days of Sir Francis Drake, who was an avid lawn bowler, and is widely played in many countries around the world; and

WHEREAS, Lawn bowling is fun for people of all ages and promotes lifelong physical activity; and

WHEREAS, Lawn bowling competition is available for all ages, including seniors and super-seniors; and

WHEREAS, Lawn bowling was a sport at the 1996 Atlanta ParaOlympics for athletes with physical disabilities; and

WHEREAS, the 1998 United States Singles and Pairs Lawn Bowls Championship will be held in Seattle on August 17th through 21st at Jefferson Park hosted by the Jefferson Park Lawn Bowls Club;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize the Jefferson Park Lawn Bowls Club for its outstanding leadership in the United States among lawn bowls clubs and for the honor of being chosen as the host club for the 1998 United States Championships of Lawn Bowls; and

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the President's Council on Physical Fitness and Sports; George West, 1998 United States Championship Committee Cochair; and to Susan Parker, 1998 United States Championship Committee Cochair and President, Northwest Division, American Women's Lawn Bowls Association.

Senators Wood and Patterson spoke to Senate Resolution 1998-8722.



#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced guests from the Jefferson Park Lawn Bowls Club, who were seated in the gallery.

#### MOTION

At 10:27 a.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 11:55 a.m. by President Owen.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the 1998 Cashmere Royalty, the Queen, Tana Parmley and Princesses Annie Walcker and Alita Guzman. The President also introduced Senator George Sellar who accompanied the royalty to the rostrum. With permission of the Senate, business was suspended to permit Queen Tana to address the Senate.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1126 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees: Representatives Mastin, D. Schmidt and Dunshee.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Johnson, the Senate granted the request of the House for a conference on Substitute House Bill No. 1126 and the Senate amendment(s) thereto.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute House Bill No. 1126 and the Senate amendment(s) thereto: Senators West, Snyder and Strannigan.

#### MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

#### MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2077 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees: Representatives D. Schmidt, Wensman and Wolfe.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Johnson, the Senate granted the request of the House for a conference on Substitute House Bill No. 2077 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute House Bill No. 2077 and the Senate amendment(s) thereto: Senators Hale, Patterson and Horn.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees: Representatives D. Sommers, Mitchell and Wood.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Johnson, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 2439 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 2439 and the Senate amendment(s) thereto: Senators Benton, Hargrove and Prince.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2556 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees: Representatives Cooke, Boldt and Dickerson.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Johnson, the Senate granted the request of the House for a conference on Substitute House Bill No. 2556 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute House Bill No. 2556 and the Senate amendment(s) thereto: Senators Long, Hargrove and Zarelli.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 3041 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees: Representatives Cooke, McDonald and Costa.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Johnson, the Senate granted the request of the House for a conference on Engrossed House Bill No. 3041 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed House Bill No. 3041 and the Senate amendment(s) thereto: Senators Roach, Hargrove and Zarelli.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6108 with the following amendment(s):  
Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) A budget is hereby adopted and, subject to the provisions set forth in the following sections, the several amounts specified in parts I through VIII of this act, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for salaries, wages, and other expenses of the agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1997, and ending June 30, 1999, except as otherwise provided, out of the several funds of the state hereinafter named.

(2) Unless the context clearly requires otherwise, the definitions in this section apply throughout this act.

(a) "Fiscal year 1998" or "FY 1998" means the fiscal year ending June 30, 1998.

(b) "Fiscal year 1999" or "FY 1999" means the fiscal year ending June 30, 1999.

(c) "FTE" means full time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall lapse.

**PART I**  
**GENERAL GOVERNMENT**

Sec. 101. 1997 c 149 s 101 (uncodified) is amended to read as follows:

**FOR THE HOUSE OF REPRESENTATIVES**

General Fund Appropriation (FY 1998) \$	((24,241,000))
	<u>24,219,000</u>
General Fund Appropriation (FY 1999) \$	((25,637,000))
	<u>25,709,000</u>
<u>Department of Retirement Systems Expense</u>	
<u>Account Appropriation \$</u>	<u>25,000</u>
TOTAL APPROPRIATION \$	((49,878,000))
	<u>49,953,000</u>

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

(1) \$75,000 of the general fund fiscal year 1998 appropriation and \$75,000 of the general fund fiscal year 1999 appropriation are provided solely for the independent operations of the legislative ethics board. Expenditure decisions of the board, including employment of staff, shall be independent of the senate and house of representatives.

(2) ~~(((\$25,000 of the general fund fiscal year 1998 appropriation is provided solely to implement Substitute Senate Concurrent Resolution No. 8408 (water policy report). If the concurrent resolution is not enacted by June 30, 1997, the amount provided in this subsection shall lapse))~~ The department of retirement systems expense account appropriation is provided solely to implement the provisions relating the actuarial audit of the pension contribution rates in Substitute House Bill No. 2544 (funding state retirement systems). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

Sec. 102. 1997 c 149 s 102 (uncodified) is amended to read as follows:

**FOR THE SENATE**

General Fund Appropriation (FY 1998) \$	((19,357,000))
	<u>19,360,000</u>
General Fund Appropriation (FY 1999) \$	((20,663,000))
	<u>20,785,000</u>
<u>Department of Retirement Systems Expense Account</u>	
<u>Appropriation \$</u>	
TOTAL APPROPRIATION \$	((40,020,000))
	<u>40,170,000</u>

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

(1) \$75,000 of the general fund fiscal year 1998 appropriation and \$75,000 of the general fund fiscal year 1999 appropriation are provided solely for the independent operations of the legislative ethics board. Expenditure decisions of the board, including employment of staff, shall be independent of the senate and house of representatives.

(2) ~~(((\$25,000 of the general fund fiscal year 1998 appropriation is provided solely to implement Substitute Senate Concurrent Resolution No. 8408 (water policy report). If the concurrent resolution is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.~~

(3)) \$100,000 of the general fund appropriation for fiscal year 1998 is provided solely for a study of financial aid and tuition by the senate committee on ways and means and the house of representatives committee on appropriations.

(a) The study shall report on the current usage and distribution of financial aid, investigate other resources available to financial aid recipients, and shall compare alternative methods of financial aid distribution and their impacts on the sectors of higher education and students served within each sector.

(b) The study shall also provide comparative data from other states on methods of establishing tuition rates and the relationship of tuition to state funding.

(3) The department of retirement systems expense account appropriation is provided solely to implement the provisions relating to the actuarial audit of the pension contribution rates in Substitute House Bill No. 2544 (funding state retirement systems). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(4) \$25,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the legislature and the office of financial management to contract jointly for a performance review of the state long-term care system. The review shall result in recommendations by October 1, 1998, on strategies for increasing the long-term affordability and cost-effectiveness of the system, and shall include a review of topics such as methods for matching service levels to recipient needs, options for managing growth in entitlement caseloads, and techniques for projecting the number of persons in need of publicly-funded services.

**Sec. 103.** 1997 c 454 s 101 (uncodified) is amended to read as follows:

**FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

General Fund Appropriation (FY 1998) \$

((1,421,000))

1,371,000

General Fund Appropriation (FY 1999) \$

((1,425,000))

1,875,000

TOTAL APPROPRIATION \$

((2,846,000))

3,246,000

The appropriations in this section are subject to the following conditions and limitations: ~~(((\$50,000 of the general fund appropriation for fiscal year 1998 is provided solely to implement Substitute Senate Bill No. 5071 (school district territory). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.))~~

(1) \$340,000 of the general fund appropriation for fiscal year 1999 is provided solely for a study of the system of finance of the Washington common schools as required by section 501 of this act.

(2) \$35,000 of the general fund appropriation for fiscal year 1999 is provided solely for a study of: (a) The effect of the state certificate of need program under chapter 70.38 RCW on the cost, quality, and availability of hospital, ambulatory surgery, home health, hospice, and kidney disease treatment services; and (b) the effect the repeal of the program would have on the cost, quality, and availability of any of these services, and on the availability of charity care and of health facilities and services in rural areas, including the experience in other states where such programs have been fully or partially repealed. The study shall be submitted to the legislature by January 1, 1999.

(3) \$75,000 of the general fund appropriation for fiscal year 1999 is provided solely for completion of a management audit of the division of developmental disabilities, within the department of social and health services. The objectives of the review shall include, but are not limited to: (a) An analysis and evaluation of the current organizational structures, management practices, and performance measures that are in place to fulfill statutory responsibilities; (b) an assessment of the impact of overlapping statutory or administrative code responsibilities with other department of social and health services divisions and other state agencies; and (c) development of recommendations, as appropriate, that would result in significant management improvements in the division's operations. The audit report shall be provided to the senate committee on ways and means and the house of representatives committee on appropriations by January 8, 1999.

**Sec. 104.** 1997 c 149 s 104 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

General Fund Appropriation (FY 1998) \$

1,263,000

General Fund Appropriation (FY 1999) \$

((1,332,000))

1,482,000

TOTAL APPROPRIATION \$

((2,595,000))

2,745,000

The appropriations in this section are subject to the following conditions and limitations: The committee shall conduct an inventory and examination of state data processing projects funded in this act and make recommendations to improve the accountability and legislative evaluation and oversight of these projects.

**Sec. 105.** 1997 c 149 s 110 (uncodified) is amended to read as follows:

**FOR THE COURT OF APPEALS**

General Fund Appropriation (FY 1998) \$	((40,225,000))
	<u>10,340,000</u>
General Fund Appropriation (FY 1999) \$	((40,133,000))
	<u>10,307,000</u>
TOTAL APPROPRIATION \$	((20,358,000))
	<u>20,647,000</u>

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

(1) \$271,000 of the general fund fiscal year 1999 appropriation is provided solely for an additional judge position and related support staff in division I in King county, effective July 1, 1998.

(2) \$490,000 of the general fund fiscal year 1998 appropriation is provided solely for remodeling existing space in division I court facilities to house additional staff.

**Sec. 106.** 1997 c 149 s 111 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON JUDICIAL CONDUCT**

General Fund Appropriation (FY 1998) \$	((652,000))
	<u>692,000</u>
General Fund Appropriation (FY 1999) \$	((653,000))
	<u>714,000</u>
TOTAL APPROPRIATION \$	((1,305,000))
	<u>1,406,000</u>

**Sec. 107.** 1997 c 149 s 112 (uncodified) is amended to read as follows:

**FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund Appropriation (FY 1998) \$	12,723,000
General Fund Appropriation (FY 1999) \$	((12,595,000))
	<u>12,870,000</u>
Public Safety and Education Account Appropriation \$	((31,134,000))
	<u>30,919,000</u>
Judicial Information Systems Account Appropriation \$	((16,305,000))
	<u>17,489,000</u>

TOTAL APPROPRIATION \$

((72,757,000))

74,001,000

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

(1) Funding provided in the judicial information systems account appropriation shall be used for the operations and maintenance of technology systems that improve services provided by the supreme court, the court of appeals, the office of public defense, and the office of the administrator for the courts. \$400,000 of the judicial information systems account appropriation is provided solely for the year 2000 date conversion.

(2) No moneys appropriated in this section may be expended by the administrator for the courts for payments in excess of fifty percent of the employer contribution on behalf of superior courts judges for insurance and health care plans and federal social security and medicare and medical aid benefits. Consistent with Article IV, section 13 of the state Constitution and 1996 Attorney General's Opinion No. 2, it is the intent of the legislature that the cost of these employer contributions shall be shared equally between the state and county or counties in which the judges serve. The administrator for the courts shall continue to implement procedures for the collection and disbursement of these employer contributions.

(3) ((~~\$6,510,000~~)) \$6,465,000 of the public safety and education account appropriation is provided solely for the continuation of treatment alternatives to street crimes (TASC) programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties.

(4) \$125,000 of the public safety and education account appropriation is provided solely for the workload associated with the increase in state cases filed in Thurston county superior court.

(5) \$223,000 of the public safety and education account appropriation is provided solely for the gender and justice commission.

(6) \$308,000 of the public safety and education account appropriation is provided solely for the minority and justice commission.

(7) \$100,000 of the general fund fiscal year 1998 appropriation and \$100,000 of the general fund fiscal year 1999 appropriation are provided solely for judicial program enhancements. Within the funding provided in this subsection, the office of administrator of courts in consultation with the supreme court shall determine the program or programs to receive an enhancement.

(8) \$35,000 of the general fund fiscal year 1998 appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 1771 (guardian certification). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(9) \$100,000 of the general fund fiscal year 1998 appropriation is provided solely for the Snohomish county preprosecution diversion program.

(10) \$175,000 of the general fund appropriation for fiscal year 1999 is provided solely for costs associated with the publication and distribution of a judicial voter pamphlet for the 1998 primary election.

(11) \$100,000 of the general fund appropriation for fiscal year 1999 is provided solely for contract with the Washington state institute for public policy. The institute shall conduct a study of outcomes for offenders sentenced to the treatment alternatives for street crime (TASC) program. The study shall focus on recidivism outcomes and shall recommend which state agency should have administrative responsibility for TASC.

**Sec. 108.** 1997 c 149 s 113 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF PUBLIC DEFENSE**

Public Safety and Education Account

Appropriation \$

((12,187,000))

12,103,000

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

(1) The cost of defending indigent offenders in death penalty cases has escalated significantly over the last four years. The office of public defense advisory committee shall analyze the current methods for reimbursing private attorneys and shall develop appropriate standards and criteria designed to control costs and still provide indigent defendants their constitutional right to representation at public expense. The office of public defense advisory committee shall report its findings and recommendations to the supreme court and the appropriate legislative committees by September 30, 1998.

(2) \$688,000 of the public safety and education account appropriation is provided solely to increase the reimbursement for private attorneys providing constitutionally mandated indigent defense in nondeath penalty cases.

**Sec. 109.** 1997 c 149 s 114 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE GOVERNOR**

General Fund--State Appropriation (FY 1998) \$

((5,047,000))

General Fund--State Appropriation (FY 1999) \$	5,068,000
	((4,963,000))
General Fund--Federal Appropriation \$	5,020,000
	((188,000))
Water Quality Account Appropriation \$	553,000
	700,000
TOTAL APPROPRIATION \$	(10,898,000))
	11,341,000

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

(1) \$1,618,000 of the general fund--state appropriation for fiscal year 1998, \$1,520,000 of the general fund--state appropriation for fiscal year 1999, \$700,000 of the water quality account appropriation, and \$188,000 of the general fund--federal appropriation are provided solely for the implementation of the Puget Sound work plan and agency action items PSAT-01 through PSAT-06.

(2) \$12,000 of the general fund--state appropriation for fiscal year 1998 and \$13,000 of the general fund--state appropriation for fiscal year 1999 are provided for the state law enforcement medal of honor committee for the purposes of recognizing qualified law enforcement officers as provided by chapter 41.72 RCW.

(3) \$21,000 of the general fund--state appropriation for fiscal year 1998 and \$57,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the office of the family and children's ombudsman for the Wenatchee investigation, support staff, and increased travel costs.

**Sec. 110.** 1997 c 149 s 116 (uncodified) is amended to read as follows:

**FOR THE PUBLIC DISCLOSURE COMMISSION**

General Fund Appropriation (FY 1998) \$	((1,457,000))
	1,568,000
General Fund Appropriation (FY 1999) \$	((1,206,000))
	1,262,000
TOTAL APPROPRIATION \$	((2,663,000))
	2,830,000

The appropriations in this section are subject to the following conditions and limitations: \$306,000 of the general fund fiscal year 1998 appropriation and \$72,000 of the general fund fiscal year 1999 appropriation are provided solely for technology for customer service improvements.

**Sec. 111.** 1997 c 149 s 117 (uncodified) is amended to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund Appropriation (FY 1998) \$	8,055,000
General Fund Appropriation (FY 1999) \$	((5,901,000))
	8,031,000
Archives & Records Management Account--State Appropriation \$	4,032,000
Archives & Records Management Account--Private/Local	



Appropriation \$ ((2,553,000))

2,833,000

Department of Personnel Service Account

Appropriation \$ 663,000

TOTAL APPROPRIATION \$ ((21,204,000))

23,614,000

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

(1) \$2,355,000 of the general fund appropriation for fiscal year 1998 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures.

(2) \$2,011,000 of the general fund appropriation for fiscal year 1998 and \$2,536,000 of the general fund appropriation for fiscal year 1999 are provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, and the publication and distribution of the voters and candidates pamphlet.

(3) \$99,000 of the general fund appropriation is provided solely for the state's participation in the United States census block boundary suggestion program.

(4) \$125,000 of the fiscal year 1998 general fund appropriation is provided solely for legal advertising of state measures under RCW 29.27.072.

(5) \$45,000 of the general fund fiscal year 1998 appropriation is provided solely for an economic feasibility study of a state horse park.

(6) The election review section under chapter 29.60 RCW shall be administered in a manner consistent with Engrossed Senate Bill No. 5565 (election procedures review).

(7)(a) \$1,850,000 of the general fund appropriation for fiscal year 1999 is provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of state-wide significance during fiscal year 1999. An eligible nonprofit organization must be formed solely for the purpose of, and be experienced in, providing gavel-to-gavel television coverage of state government deliberations and other events of state-wide significance and must have received a determination of tax-exempt status under section 501(c)(3) of the federal internal revenue code.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a four-year contract with the nonprofit organization to provide public affairs coverage through June 30, 2002. The funding level for each year of the contract shall be based on the amount provided in this subsection and adjusted to reflect the implicit price deflator for the previous year. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(8) \$194,000 of the general fund fiscal year 1999 appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2882 (providing technical assistance to agency personnel and state contractors). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(9) \$280,000 of the archives and records management account--private/local appropriation is provided solely for preserving and restoring security microfilm.

**Sec. 112.** 1997 c 149 s 120 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER**

State Treasurer's Service Account

Appropriation \$ ((11,567,000))

12,382,000

Sec. 113. 1997 c 149 s 121 (uncodified) is amended to read as follows:

**FOR THE STATE AUDITOR**

General Fund Appropriation (FY 1998) \$

((678,000))

688,000

General Fund Appropriation (FY 1999) \$

((678,000))

1,193,000

State Auditing Services Revolving Account

Appropriation \$

((11,928,000))

12,373,000

TOTAL APPROPRIATION \$

((13,284,000))

14,254,000

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

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$420,000 of the general fund appropriation for fiscal year 1998 and \$420,000 of the general fund appropriation for fiscal year 1999 are provided solely for staff and related costs to audit special education programs that exhibit unusual rates of growth, extraordinarily high costs, or other characteristics requiring attention of the state safety net committee, and other school districts for baseline purposes and to determine if there are common errors. The auditor shall consult with the superintendent of public instruction regarding training and other staffing assistance needed to provide expertise to the audit staff.

(3) \$250,000 of the general fund fiscal year 1998 appropriation and \$250,000 of the general fund fiscal year 1999 appropriation are provided solely for the budget and reporting system (BARS) to improve the reporting of local government fiscal data. Audits of counties and cities by the division of municipal corporations shall include findings regarding the completeness, accuracy, and timeliness of BARS data reported to the state auditor's office.

(4) The state auditor shall develop recommendations and curricula for preventing instances of improper governmental actions as defined in chapter 42.20 RCW, the state whistleblower act. In developing these recommendations and curricula, the state auditor shall involve the office of financial management, office of the attorney general, executive ethics board, department of personnel, employee organizations, and other interested parties. These recommendations shall be submitted to the governor and the legislature by June 30, 1998.

(5) \$120,000 of the auditing services revolving fund appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2881 (auditing state contractors). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(6) \$25,000 of the general fund fiscal year 1999 appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2831 (a joint report to the legislature on the results of cost studies and service quality and reliability reports from electric utilities). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse. No fee may be collected from the electric utilities for this joint report.

(7) \$10,000 of the general fund fiscal year 1998 appropriation and \$490,000 of the general fund fiscal year 1999 appropriation are provided solely for staff and related costs to: Verify the accuracy of reported school district data submitted for state funding purposes or program audits of state funded public school programs; and establish the specific amount of funds to be recovered whenever the amount is not firmly established in the course of any public school audits conducted by the state auditor's office. The results of the audits shall be submitted to the superintendent of public instruction for corrections of data and adjustments of funds.

Sec. 114. 1997 c 149 s 122 (uncodified) is amended to read as follows:

**FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

General Fund Appropriation (FY 1998) \$

((4,000))

11,000

General Fund Appropriation (FY 1999) \$	63,000
TOTAL APPROPRIATION \$	<del>((67,000))</del>
	<u>74,000</u>
<b>Sec. 115. 1997 c 149 s 123 (uncodified) is amended to read as follows:</b>	
<b>FOR THE ATTORNEY GENERAL</b>	
General Fund--State Appropriation (FY 1998) \$	<del>((4,361,000))</del>
	<u>4,161,000</u>
General Fund--State Appropriation (FY 1999) \$	<del>((3,631,000))</del>
	<u>4,056,000</u>
General Fund--Federal Appropriation \$	2,248,000
Public Safety and Education Account Appropriation \$	<del>((1,300,000))</del>
	<u>1,291,000</u>
New Motor Vehicle Arbitration Account Appropriation \$	1,094,000
Legal Services Revolving Account Appropriation \$	<del>((125,008,000))</del>
	<u>125,758,000</u>
TOTAL APPROPRIATION \$	<del>((137,642,000))</del>
	<u>138,608,000</u>

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

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year.

(2) The attorney general shall include, at a minimum, the following information with each bill sent to agencies receiving legal services: (a) The number of hours and cost of attorney services provided during the billing period; (b) cost of support staff services provided during the billing period; (c) attorney general overhead and central support costs charged to the agency for the billing period; (d) direct legal costs, such as filing and docket fees, charged to the agency for the billing period; and (e) other costs charged to the agency for the billing period. The attorney general may, with approval of the office of financial management change its billing system to meet the needs of its user agencies.

(3) \$300,000 of the fiscal year 1998 general fund--state appropriation is provided for a comprehensive assessment of environmental and public health impacts and for other costs related to pursuing remedies for pollution in the Spokane river basin.

(4) ~~((640,000))~~ \$440,000 of the fiscal year 1998 general fund--state appropriation and ~~((210,000))~~ \$410,000 of the fiscal year 1999 general fund--state appropriation are provided solely to implement the supervision management and recidivist tracking program to allow the department of corrections and local law enforcement agencies to share information concerning the activities of offenders on community supervision. ~~((No information on any person may be entered into or retained in the program unless the person is under the jurisdiction of the department of corrections.))~~

(5) \$84,000 of the legal services revolving account appropriation for fiscal year 1999 is provided solely to implement Substitute House Bill No. 2521 (providing for curfews). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(6) \$141,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Engrossed Second Substitute House Bill No. 2845 (enacting the Washington state false claims act). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(7) Within the amounts provided in this section, the attorney general shall implement Engrossed Substitute House Bill No. 2769 (establishing procedures for reporting felonies by state employees). If the bill is not enacted by June 30, 1998, this subsection is null and void.

(8) Within the amounts provided in this section, the attorney general shall implement Second Substitute House Bill No. 2027 (regulating travel sales). If the bill is not enacted by June 30, 1998, this subsection is null and void.

**Sec. 116.** 1997 c 149 s 124 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS**

Securities Regulation Account Appropriation \$ ((5,445,000))

5,482,000

The appropriation in this section is subject to the following conditions and limitations: \$34,000 of the securities regulation account appropriation is provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

**Sec. 117.** 1997 c 454 s 103 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

General Fund--State Appropriation (FY 1998) \$ ((57,361,000))

57,041,000

General Fund--State Appropriation (FY 1999) \$ ((56,351,000))

59,871,000

General Fund--Federal Appropriation \$ ((155,278,000))

169,000,000

General Fund--Private/Local Appropriation \$ 6,903,000

Public Safety and Education Account  
Appropriation \$ ((8,781,000))

8,720,000

Public Works Assistance Account  
Appropriation \$ 2,223,000

Building Code Council Account Appropriation \$ ((1,318,000))

1,366,000

Administrative Contingency Account  
Appropriation \$ 1,776,000

Low-Income Weatherization Assistance Account  
Appropriation \$ 923,000

Violence Reduction and Drug Enforcement Account  
Appropriation \$ 6,042,000

Manufactured Home Installation Training Account

Appropriation	\$	250,000
Washington Housing Trust Account		
Appropriation	\$	7,999,000
Public Facility Construction Loan Revolving Account		
Appropriation	\$	515,000
<u>Clean Washington Account Appropriation (FY 1998)</u>	\$	11,000
TOTAL APPROPRIATION	\$	((305,720,000))

322,640,000

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

(1) ~~((3,282,500))~~ \$2,962,500 of the general fund--state appropriation for fiscal year 1998 and ~~((3,282,500))~~ \$3,602,500 of the general fund--state appropriation for fiscal year 1999 are provided solely for a contract with the Washington technology center. For work essential to the mission of the Washington technology center and conducted in partnership with universities, the center shall not pay any increased indirect rate nor increases in other indirect charges above the absolute amount paid during the 1995-97 biennium.

(2) \$155,000 of the general fund--state appropriation for fiscal year 1998 and ~~((155,000))~~ \$445,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for a contract with the Washington manufacturing extension partnership.

(3) \$9,964,000 of the general fund--federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 1998 as follows:

- (a) \$3,603,250 to local units of governments to continue the multi-jurisdictional narcotics task forces;
- (b) \$500,000 to the department to continue the state-wide drug prosecution assistance program in support of multijurisdictional narcotics task forces;
- (c) \$1,306,075 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;
- (d) \$240,000 to the department for grants to support tribal law enforcement needs;
- (e) \$900,000 to drug courts in eastern and western Washington;
- (f) \$300,000 to the department for grants to provide sentencing alternatives training programs to defenders;
- (g) \$200,000 for grants to support substance-abuse treatment in county jails;
- (h) \$517,075 to the department for legal advocacy for victims of domestic violence and for training of local law enforcement officers and prosecutors on domestic violence laws and procedures;
- (i) \$903,000 to the department to continue youth violence prevention and intervention projects;
- (j) \$91,000 for the governor's council on substance abuse;
- (k) \$99,000 for program evaluation and monitoring;
- (l) \$100,000 for the department of corrections for a feasibility study of replacing or updating the offender based tracking system.
- (m) \$498,200 for development of a state-wide system to track criminal history records; and
- (n) No more than \$706,400 to the department for grant administration and reporting.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this section. If moneys in excess of those appropriated in this section become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold these moneys in reserve and may not expend them without a specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding fiscal year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

(4) \$11,715,000 of the general fund--federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 1999 as follows:

- (a) \$3,878,250 to local units of government to continue multijurisdictional narcotics task forces;
- (b) \$531,000 to the department to continue the drug prosecution assistance program in support of multijurisdictional narcotics task forces;
- (c) \$1,363,075 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;
- (d) \$256,000 to the department for grants to support tribal law enforcement needs;

(e) \$1,093,000 to drug courts in eastern and western Washington;

(f) \$312,000 to the department for grants assisting in the development, conduct, and training on sentencing alternatives;

(g) \$261,000 to the department to continue a substance-abuse treatment in jails program, to test the effect of treatment on future criminal behavior;

(h) \$581,075 to the department to continue domestic violence legal advocacy;

(i) \$949,000 to the department to continue youth violence prevention and intervention projects;

(j) \$91,000 to the department to continue the governor's council on substance abuse;

(k) \$99,000 to the department to continue evaluation of Byrne formula grant programs;

(l) \$1,496,200 to the office of financial management for the criminal history records improvement program; and

(m) \$804,400 to the department for required grant administration, monitoring and reporting on Byrne formula grant programs.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this subsection. If moneys in excess of those appropriated in this section become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold these moneys in reserve and may not expend them without specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

~~((4))~~ (5) \$1,000,000 of the general fund fiscal year 1998 appropriation and \$1,000,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Engrossed Substitute House Bill No. 1576 (buildable lands) or Senate Bill No. 6094 (growth management). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((5) \$4,800,000)~~ (6) \$4,766,000 of the public safety and education account appropriation, \$1,000,000 of the fiscal year 1998 general fund--state appropriation, and ~~((1,000,000))~~ \$1,034,000 of the fiscal year 1999 general fund--state appropriation are provided solely for indigent civil legal representation services contracts and contracts administration. The amounts provided in this subsection are contingent upon enactment of section 2 of Engrossed Substitute House Bill No. 2276 (civil legal services for indigent persons). If section 2 of the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((6))~~ (7) \$643,000 of the general fund--state fiscal year 1998 appropriation and \$643,000 of the general fund--state fiscal year 1999 appropriation are provided solely to increase payment rates for contracted early childhood education assistance program providers. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

~~((7))~~ (8) \$75,000 of the general fund--state fiscal year 1998 appropriation and \$75,000 of the general fund--state fiscal year 1999 appropriation are provided solely as a grant for the community connections program in Walla Walla county.

~~((8))~~ (9) \$300,000 of the general fund--state fiscal year 1998 appropriation and \$300,000 of the general fund--state fiscal year 1999 appropriation are provided solely to contract with the Washington state association of court-appointed special advocates/guardians ad litem (CASA/GAL) to establish pilot programs in three counties to recruit additional community volunteers to represent the interests of children in dependency proceedings. Of this amount, a maximum of \$30,000 shall be used by the department to contract for an evaluation of the effectiveness of CASA/GAL in improving outcomes for dependent children. The evaluation shall address the cost-effectiveness of CASA/GAL and to the extent possible, identify savings in other programs of the state budget where the savings resulted from the efforts of the CASA/GAL volunteers. The department shall report to the governor and legislature by October 15, 1998.

~~((9))~~ (10) \$75,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for state sponsorship of the "BIO 99" international biotechnology conference and exhibition in the Seattle area in 1999.

~~((10))~~ (11) \$698,000 of the general fund--state appropriation for fiscal year 1998, \$697,000 of the general fund--state appropriation for fiscal year 1999, and \$1,101,000 of the administrative contingency account appropriation are provided solely for contracting with associate development organizations.

~~((11))~~ (12) \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to expand the long-term care ombudsman program.

~~((12))~~ (13) \$60,000 of the general fund--state appropriation for fiscal year 1998 and \$60,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for implementation of the Puget Sound work plan action item DCTED-01.

~~((13))~~ (14) \$20,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for a task force on tourism promotion and development. The task force shall report to the legislature on its findings and recommendations by January 31, 1998.

~~((14))~~ (15) \$61,000 of the general fund--state appropriation for fiscal year 1998 and \$60,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the pacific northwest economic region (PNWER).

~~((15))~~ (16) \$123,000 of the general fund--state appropriation for fiscal year 1998 and \$124,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the community development finance program.

~~((16))~~ (17) Within the appropriations provided in this section, the department shall conduct a study of possible financial incentives to assist in revitalization of commercial areas and report its findings and recommendations to the appropriate committees of the legislature by November 15, 1997.

(18) \$49,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(19) \$166,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Substitute House Bill No. 2898 (buildable lands programs). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(20) \$150,000 of the general fund--state fiscal year 1999 appropriation is provided solely to implement Substitute House Bill No. 1800 (assisting crime stoppers programs). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(21) \$600,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the development of housing for low-income, temporary or migrant farm workers, in accordance with Second Substitute Senate Bill No. 6168 (temporary worker housing), through grants awarded after the effective date of this act. The legislature finds that providing housing for low-income temporary or migrant workers is a public purpose. The department shall prioritize grants and shall award grants on a competitive basis to local governments, nonprofit corporations, or other entities. Grant moneys awarded by the department under this subsection may be matched by nonstate sources on a dollar-for-dollar basis, in cash or in-kind. Of the amount in this subsection, \$100,000 is provided solely for restroom and shower facilities at the Horn Rapids Park in Benton county; no match need be provided for this project. The amount in this subsection is contingent upon enactment of sections 1 through 8 of Second Substitute Senate Bill No. 6168. If any of these sections of the bill are not enacted by June 30, 1998, this subsection is null and void, and the amounts provided in this subsection shall lapse. Any amounts in this section not committed to grants by June 30, 1999, shall lapse.

(22) The department shall report to the legislature on the services provided by licensed overnight youth shelters. The report shall describe their services in relation to other support services for youth living outside of a family structure, the funding sources used by these facilities, the types of clients served at these facilities, and shall report on whether any of the youth who receive services at these shelters are actually eligible for foster care services through the department of social and health services. In compiling the report, the department will consult staff of the children's administration of the department of social and health services. The report shall be provided by December 12, 1998, to the members of the appropriate house of representatives and senate committees.

(23) \$27,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the sexual assault program within the office of crime victims advocacy.

(24) \$5,000,000 of the general fund--federal fiscal year 1999 appropriation is provided solely for implementing WorkFirst grants to community action agencies or other local nonprofit organizations. The grants shall be used to provide job opportunities, transitional support services, one-on-one assistance, case management, and job retention services to basic skills training program participants.

Sec. 118. 1997 c 454 s 104 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

General Fund--State Appropriation (FY 1998) \$	((40,530,000))
	<u>10,626,000</u>
General Fund--State Appropriation (FY 1999) \$	((40,253,000))
	<u>10,922,000</u>
General Fund--Federal Appropriation \$	23,331,000
General Fund--Local Appropriation \$	<u>190,000</u>
TOTAL APPROPRIATION \$	((44,114,000))
	<u>45,069,000</u>

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

(1) The office of financial management, in cooperation with the higher education coordinating board and the state board for community and technical colleges, shall develop long-term higher education enrollment forecasting models for consideration by the legislature. To the extent possible, the pilot models shall incorporate trends in demography, higher education applications, K-12 graduation rates, labor market needs, and state and national higher education policy and economic considerations. The public institutions of education shall cooperate in the development of models by providing any necessary data in a timely and organized manner. The private education institutions of the state are encouraged to participate in this effort. Pilot models will be provided to the legislature by November 1, 1998.

(2) \$139,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Engrossed Second Substitute House Bill No. 2880 (task force on vendor contracting practices). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(3) \$12,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Engrossed Second Substitute House Bill No. 2882 (providing technical assistance to agency personnel and state contractors). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(4) \$25,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the legislature and the office of financial management to contract jointly for a performance review of the state long-term care system. The review shall result in recommendations by October 1, 1998, on strategies for increasing the long-term affordability and cost-effectiveness of the system, and shall include a review of topics such as methods for matching service levels to recipient needs, options for managing growth in entitlement caseloads, and techniques for projecting the number of persons in need of publicly-funded services.

Sec. 119. 1997 c 149 s 129 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF PERSONNEL**

General Fund--State Appropriation (FY 1999) \$

30,000

Department of Personnel Service Account

Appropriation \$

((16,493,000))

16,563,000

Higher Education Personnel Services Account

Appropriation \$

1,632,000

TOTAL APPROPRIATION \$

((18,125,000))

18,225,000

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

(1) The department shall reduce its charge for personnel services to the lowest rate possible.  
(2) \$32,000 of the department of personnel service fund appropriation is provided solely for the creation, printing, and distribution of the personal benefits statement for state employees.

(3) The department of personnel service account appropriation contains sufficient funds to continue the employee exchange program with the Hyogo prefecture in Japan.

(4) \$500,000 of the department of personnel service account appropriation is provided solely for the career transition program to assist state employees who are separated or are at risk of lay-off due to reduction-in-force. Services shall include employee retraining and career counseling.

(5) \$800,000 of the department of personnel service account appropriation is provided solely for the human resource data warehouse to: Expand the type and amount of information available on the state-wide work force; and to provide the office of financial management, legislature, and state agencies with direct access to the data for policy and planning purposes. The department of personnel shall establish uniform reporting procedures, applicable to all state agencies and higher education institutions, for reporting data to the data warehouse by June 30, 1998. The department of personnel will report quarterly to the legislative fiscal committees, the office of financial management, the information services board, and the office of information technology oversight of the department of information services the following items: (a) The number of state agencies that have received access to the data warehouse (it is anticipated that approximately 40 agencies will receive access during the 1997-99 biennium); (b) the change in requests for downloads from the mainframe computer by agencies with access to the data warehouse, to reflect transferring customers use of the mainframe computer to the more economical use of data warehouse information; and (c) a summary of customer feedback from agencies with access to the data warehouse. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(6) The department of personnel has the authority to charge agencies for expenses associated with converting its payroll/personnel computer system to accommodate the year 2000 date change. Funding to cover these expenses shall be realized from the agency FICA savings associated with the pretax benefits contributions plan.

(7) The department of personnel shall charge all administrative services costs incurred by the department of retirement systems for the deferred compensation program. The billings to the department of retirement systems shall be for actual costs only.

Sec. 120. 1997 c 149 s 130 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE LOTTERY**

Industrial Insurance Premium Refund

Appropriation \$

9,000



Lottery Administrative Account		
Appropriation	\$	19,966,000
TOTAL APPROPRIATION		\$ 19,975,000

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

(1) The state lottery shall apportion 30 percent of fiscal year 1999 gross revenue to the state's general fund. If a lower percentage is apportioned to the general fund in fiscal year 1999, a dollar amount equal to the difference between the actual apportionment and 30 percent of fiscal year 1999 gross revenue shall lapse from the lottery administrative account appropriation.

(2) If the state lottery provides cash bonuses or cash marketing incentives to retailers, a dollar amount equal to the total cash bonuses and marketing incentives shall lapse from the lottery administrative account appropriation.

(3) The requirements of subsections (1) and (2) of this section are contingent upon the enactment of House Bill No. 3120 (regarding lottery revenues). If the bill is not enacted by June 30, 1998, subsections (1) and (2) of this section are null and void.

Sec. 121. 1997 c 149 s 134 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS--OPERATIONS**

Dependent Care Administrative Account		
Appropriation	\$	357,000
Department of Retirement Systems Expense Account		
Appropriation	\$	((31,415,000))
TOTAL APPROPRIATION		\$ 34,345,000
		((31,772,000))
		<u>34,702,000</u>

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

(1) \$1,373,000 of the department of retirement systems expense account appropriation is provided solely for the information systems project known as the electronic document image management system. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(2) \$1,259,000 of the department of retirement systems expense account appropriation is provided solely for the information systems project known as the receivables management system. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(3) The department of retirement systems shall complete a study examining whether it would be cost-effective to contract out the administration functions for the dependent care assistance program and shall report to the fiscal committees of the legislature by December 15, 1997.

(4) \$118,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Substitute House Bill No. 2491 (TRS/PERS plan I gain sharing). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(5) \$826,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Substitute Senate Bill No. 6306 (creating the Washington school employees' retirement system). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

Sec. 122. 1997 c 149 s 136 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF REVENUE**

General Fund Appropriation (FY 1998)	\$	65,033,000
General Fund Appropriation (FY 1999)	\$	((65,320,000))
		<u>65,603,000</u>
Timber Tax Distribution Account		
Appropriation	\$	4,778,000
Waste Reduction/Recycling/Litter Control		

Appropriation	\$	
		100,000
State Toxics Control Account Appropriation	\$	
		67,000
Solid Waste Management Account		
Appropriation	\$	
		92,000
Oil Spill Administration Account		
Appropriation	\$	
		14,000
TOTAL APPROPRIATION	\$	
		((135,404,000))
		<u>135,687,000</u>

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

(1) \$1,540,000 of the general fund appropriation for fiscal year 1998 and ((~~\$1,710,000~~)) \$1,799,000 of the general fund appropriation for fiscal year 1999 are provided solely for senior citizen property tax deferral distribution. If neither Substitute Senate Bill No. 6321 nor Engrossed Substitute Senate Bill No. 6533 (senior/disabled property tax) is enacted by June 30, 1998, \$89,000 of the general fund appropriation for fiscal year 1999 shall lapse.

(2) Within the amounts appropriated in this section the department shall conduct a study identifying the impacts of exempting all shellfish species from the tax imposed on enhanced food fish under chapter 82.27 RCW. The study shall include an estimate of the fiscal impacts to state revenues as well as an examination of how such an exemption would impact shellfish-based industries and communities where shellfish-based industries are located. The department shall complete this study and report its findings to the legislature by December 1, 1997.

(3) The department shall study the costs incurred by retailers in collecting and remitting state and local sales taxes. The study shall (a) identify and estimate the costs for small, medium, and large retailers, (b) estimate the cost to retailers of implementing changes in tax rates and/or the tax base, (c) identify current statutory and regulatory procedures that impose costs and burdens on retailers, as well as alternatives that would lessen these costs and burdens, (d) estimate any direct or indirect compensation retailers currently receive, if any, and (e) review how many other states provide compensation to retailers and the nature of the compensation. The department shall report its findings to the fiscal committees of the house of representatives and senate by December 31, 1998.

(4) \$100,000 of the general fund appropriation for fiscal year 1999 is provided solely for the implementation of tax legislation enacted during the 1998 legislative session.

(5) \$94,000 of the general fund appropriation for fiscal year 1999 is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

**Sec. 123.** 1997 c 149 s 141 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

General Fund Appropriation (FY 1999)	\$	
		<u>6,400,000</u>
Data Processing Revolving Account		
Appropriation	\$	
		3,577,000
K-20 Technology Account Appropriation	\$	
		44,028,000
TOTAL APPROPRIATION	\$	
		((47,605,000))
		<u>54,005,000</u>

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

(1) The department shall provide a toll-free telephone number and operator service staff for the general public to call for information about state agencies. The department may provide such staff, equipment, and facilities as are necessary for this purpose. The director shall adopt rules to fix terms and charges for these services. All state agencies and the legislature shall participate in the information program and shall reimburse the department of information services in accordance with rules established by the director. The department shall also provide conference calling services for state and other public agencies on a fee-for-service basis.

(2) \$44,028,000 of the K-20 technology account appropriation shall be expended in accordance with the expenditures authorized by the K-20 telecommunications oversight and policy committee as currently existing or as modified by Substitute House Bill No. 1698, Substitute Senate Bill No. 5002, or substantially similar legislation (K-20 telecommunications network).

(3) \$6,400,000 of the general fund fiscal year 1999 appropriation is provided solely for deposit into the education and technology revolving fund for K-20 network transport, network operations, and maintenance costs, in accordance with the funding model adopted by the telecommunications oversight and policy committee.

**Sec. 124.** 1997 c 149 s 142 (uncodified) is amended to read as follows:

**FOR THE INSURANCE COMMISSIONER**

General Fund--Federal Appropriation	\$	106,000
Insurance Commissioners Regulatory Account		
Appropriation	\$	((22,431,000))
		<u>22,331,000</u>
TOTAL APPROPRIATION	\$	((22,537,000))
		<u>22,437,000</u>

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

(1) \$532,000 of the insurance commissioner's regulatory account appropriation is provided solely for the expenditure of funds received under the consent order with the Prudential insurance company. These funds are provided solely for implementing the Prudential remediation process and for examinations of the Prudential company.

~~(2) ((\$206,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Substitute House Bill No. 1387 (basic health plan benefits). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.~~

~~(3))~~ \$298,000 of the insurance commissioner's regulatory account appropriation is provided solely for technology improvements that will support the electronic filing of insurance rates and contracts and enable regulators and the industry to share information about licensed agents to protect the public from fraudulent sales practices.

(3) \$50,000 of the insurance commissioner's regulatory account appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

**Sec. 125.** 1997 c 149 s 145 (uncodified) is amended to read as follows:

**FOR THE HORSE RACING COMMISSION**

Horse Racing Commission Account Appropriation	\$	4,828,000
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The appropriation in this section is subject to the following conditions and limitations: Within the amounts appropriated in this section, the horse racing commission, in consultation with the gambling commission, shall study the impact on the major live race tracks and the horse racing and breeding industry of allowing gambling activity currently authorized in Washington by state law or under a state/tribal compact agreement to be conducted at the live race track facilities. The horse racing commission shall report to the appropriate committees of the legislature by December 15, 1998.

**Sec. 126.** 1997 c 149 s 146 (uncodified) is amended to read as follows:

**FOR THE LIQUOR CONTROL BOARD**

General Fund Appropriation (FY 1998)	\$	1,603,000
General Fund Appropriation (FY 1999)	\$	((1,242,000))
		<u>1,294,000</u>
Liquor Control Board Construction and Maintenance		
Account Appropriation	\$	9,919,000
Liquor Revolving Account Appropriation	\$	((121,391,000))

	<u>122,426,000</u>
TOTAL APPROPRIATION \$	((134,155,000))
	<u>135,242,000</u>

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

(1) \$1,250,000 of the liquor revolving account appropriation is provided solely for the agency information technology upgrade. This item is conditioned on satisfying the requirements of section 902 of this act, including the development of a project management plan, a project schedule, a project budget, a project agreement, and incremental funding based on completion of key milestones.

(2) \$1,603,000 of the general fund fiscal year 1998 appropriation and \$1,242,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Substitute Senate Bill No. 6084 or Engrossed Substitute House Bill No. 2272 (transferring enforcement provisions regarding cigarette and tobacco taxes to the liquor control board). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(3) \$459,000 of the liquor revolving account appropriation is provided solely for implementation of Substitute Senate Bill No. 5664 (credit and debit cards purchases in state liquor stores). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(4) \$154,000 of the liquor revolving account appropriation is provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(5) \$944,000 of the liquor revolving account appropriation is provided solely for the increase in vendor commissions due to the higher than expected growth in sales volume.

(6) Within the amounts provided in this section, the liquor control board shall prepare and submit a report on the liquor agency vendor system to the legislature by December 1, 1998. The report shall provide information on: (a) The development and changes to the liquor agency vendor store system during the last twenty years; (b) the business profile of liquor agency vendors including whether the number of liquor agency vendors that sell only liquor and the number of liquor agency vendors that sell other items besides liquor; (c) the growth in the number of liquor agency vendors during the last twenty years; (d) the locations served by liquor agency vendors; (e) the criteria used for establishing liquor agency vendors and determining when to open a state liquor store in a particular location; (f) the average annual commission paid per liquor agency vendor during the last twenty years; (g) the commission rate and components of the commissions provided to liquor agency vendors during the last twenty years; (h) the basis for any changes to the commission rate or components of the commissions provided to liquor agency vendors during the last twenty years; and (i) gross liquor sales by liquor agency vendors during the last twenty years.

(7) \$66,000 of the liquor revolving account appropriation is provided solely for the implementation of Substitute Senate Bill No. 6253 (credit and debit card purchases in state liquor agency vendors). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(8) \$26,000 of the liquor revolving fund appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(9) \$52,000 of the general fund appropriation for fiscal year 1999 is provided solely for equipment for cigarette tax enforcement activities.

**Sec. 127.** 1997 c 149 s 148 (uncodified) is amended to read as follows:

**FOR THE BOARD FOR VOLUNTEER FIREFIGHTERS**

Volunteer Firefighters' Relief & Pension Administrative

Account Appropriation \$

((529,000))

534,000

**Sec. 128.** 1997 c 454 s 105 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund--State Appropriation (FY 1998) \$

((8,151,000))

8,602,000

General Fund--State Appropriation (FY 1999) \$

((8,154,000))

12,938,000

General Fund--Federal Appropriation \$	34,314,000
General Fund--Private/Local Appropriation \$	238,000
Flood Control Assistance Account Appropriation \$	3,000,000
Enhanced 911 Account Appropriation \$	26,782,000
Disaster Response Account--State Appropriation \$	<del>((23,977,000))</del>
	<u>29,035,000</u>
Disaster Response Account--Federal Appropriation \$	<del>((95,419,000))</del>
	<u>110,812,000</u>
<b>TOTAL APPROPRIATION \$</b>	<del>((200,035,000))</del>
	<u>225,721,000</u>

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

(1) \$365,000 of the general fund--state appropriation for fiscal year 1998, \$4,693,000 of the general fund--state appropriation for fiscal year 1999, \$3,000,000 of the flood control assistance account appropriation, and \$6,197,000 of the general fund--federal appropriation are provided solely for deposit in the disaster response account to cover costs pursuant to subsection (2) of this section.

(2) \$23,977,000 of the disaster response account--state appropriation is provided solely for the state share of response and recovery costs associated with federal emergency management agency (FEMA) disaster number 1079 (November/December 1995 storms), FEMA disaster 1100 (February 1996 floods), FEMA disaster 1152 (November 1996 ice storm), FEMA disaster 1159 (December 1996 holiday storm), FEMA disaster 1172 (March 1997 floods) and to assist local governmental entities with the matching funds necessary to earn FEMA funds for FEMA disaster 1100 (February 1996 floods). \$356,000 of the disaster response account--state appropriation is provided solely for fire mobilization costs. \$9,000 of the disaster response account--state appropriation is provided solely for costs associated with FEMA disaster 1182 (Pend Oreille county 1997 spring flood).

(3) \$100,000 of the general fund--state fiscal year 1998 appropriation and \$100,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of a conditional scholarship program pursuant to chapter 28B.103 RCW.

(4) \$35,000 of the general fund--state fiscal year 1998 appropriation and \$35,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the north county emergency medical service.

(5) \$36,000 of the general fund--state fiscal year 1998 appropriation and \$72,000 of the general fund--state fiscal year 1999 appropriation are provided solely for emergency worker claims pursuant to chapter 38.52 RCW.

**Sec. 129.** 1997 c 149 s 152 (uncodified) is amended to read as follows:

**FOR THE STATE CONVENTION AND TRADE CENTER**

State Convention and Trade Center Operating Account

Appropriation \$

~~((27,175,000))~~

27,394,000

**PART II  
HUMAN SERVICES**

**Sec. 201.** 1997 c 149 s 201 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES.** (1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in ~~((this act))~~ subsection (3) of this section, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) ~~((The appropriations in sections 202 through 213 of this act shall be expended for the programs and in the amounts listed in those sections.))~~ The appropriations to the department of social and health services in chapters 149 and 454, Laws of 1997, as amended, shall be expended for the programs and in the amounts specified therein. However, after May 1, 1998, unless specifically prohibited by this act, the department may transfer general fund--state appropriations for fiscal year 1998 among programs after approval by the director of financial management. However, the department shall not transfer general fund--state appropriations (a) from the medical assistance program, (b) from the payments to other agencies program, or (c) from the economic services program for the 1997-99 fiscal biennium. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any allotment modifications.

Sec. 202, 1997 c 454 s 202 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((196,437,000))
	<u>199,953,000</u>
General Fund--State Appropriation (FY 1999) \$	((208,861,000))
	<u>214,524,000</u>
General Fund--Federal Appropriation \$	((252,269,000))
	<u>252,310,000</u>
General Fund--Private/Local Appropriation \$	400,000
Violence Reduction and Drug Enforcement Account Appropriation \$	((4,230,000))
	<u>4,332,000</u>
<b>TOTAL APPROPRIATION \$</b>	<b>((662,197,000))</b>
	<b><u>671,519,000</u></b>

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

(1) \$16,510,000 of the general fund--state appropriation for fiscal year 1998 and \$17,508,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for purposes consistent with the maintenance of effort requirements under the federal temporary assistance for needy families program established under P.L. 104-193.

(2) ~~(\$837,000)~~ \$4,332,000 of the violence reduction and drug enforcement account appropriation and ~~(\$7,228,000)~~ \$3,773,000 of the general fund--federal appropriation are provided solely for the operation of the family policy council, the community public health and safety networks, and delivery of services authorized under the federal family preservation and support act. Within the funds provided, the family policy council shall contract for an evaluation of the community networks with the institute for public policy and shall provide for audits of ten networks. Within the funds provided, the family policy council may build and maintain a geographic information system database tied to community network geography.

(3) \$577,000 of the general fund--state fiscal year 1998 appropriation and \$577,000 of the general fund--state fiscal year 1999 appropriation are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to twelve children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a

result of substance abuse by their mothers. The facility also shall provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(4) \$481,000 of the general fund--state fiscal year 1998 appropriation and \$481,000 of the general fund--state fiscal year 1999 appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(5) \$640,000 of the general fund--state appropriation for fiscal year 1998 and \$640,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to fund Second Substitute Senate Bill No. 5710 (juvenile care and treatment), including section 2 of the bill. Amounts provided in this subsection to implement Second Substitute Senate Bill No. 5710 must be used to serve families who are screened from the child protective services risk assessment process. Services shall be provided through contracts with community-based organizations. If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(6) \$594,000 of the general fund--state appropriation for fiscal year 1998, \$556,000 of the general fund--state appropriation for fiscal year 1999, and \$290,000 of the general fund--federal appropriation are provided solely to fund the provisions of Engrossed Second Substitute House Bill No. 2046 (foster parent liaison). The department shall establish a foster parent liaison in each department of social and health services region of the state and contract with a private provider to implement a recruitment and retention program for foster parents and adoptive families. The department shall provide a minimum of two hundred additional adoptive and foster home placements by June 30, 1998. If the bill is not enacted by June 30, 1997, the amounts in this subsection shall lapse.

(7) \$433,000 of the fiscal year 1998 general fund--state appropriation, \$395,000 of the fiscal year 1999 general fund--state appropriation, and \$894,000 of the general fund--federal appropriation are provided solely to increase the rate paid to private child-placing agencies.

(8) \$580,000 of the general fund--state appropriation for fiscal year 1998 and \$580,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for development and expansion of child care training requirements and optional training programs. The department shall adopt rules to require annual training in early childhood development of all directors, supervisors, and lead staff at child care facilities. Directors, supervisors, and lead staff at child care facilities include persons licensed as family child care providers, and persons employed at child care centers or school age child care centers. The department shall establish a program to fund scholarships and grants to assist persons in meeting these training requirements. The department shall also develop criteria for approving training programs and establish a system for tracking who has received the required level of training. In adopting rules, developing curricula, setting up systems, and administering scholarship programs, the department shall consult with the child care coordinating committee and other community stakeholders.

(9) The department shall provide a report to the legislature by November 1997 on the growth in additional rates paid to foster parents beyond the basic monthly rate. This report shall explain why exceptional, personal, and special rates are being paid for an increasing number of children and why the amount paid for these rates per child has risen in recent years. This report must also recommend methods by which the legislature may improve the current foster parent compensation system, allow for some method of controlling the growth in costs per case, and improve the department's and the legislature's ability to forecast the program's needs in future years.

(10) \$100,000 of the general fund--state appropriation for fiscal year 1998 and \$100,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for legal costs associated with the defense of vendors operating a secure treatment facility, for actions arising from the good faith performance of treatment services for behavioral difficulties or needs.

(11) \$2,745,000 of the fiscal year 1998 general fund--state appropriation, \$2,745,000 of the fiscal year 1999 general fund--state appropriation, and \$1,944,000 of the general fund--federal appropriation are provided solely for the category of services titled "intensive family preservation services."

(12) (~~(\$2,200,000)~~) \$1,642,000 of the fiscal year 1998 general fund--state appropriation (~~(and \$2,200,000)~~), \$1,207,000 of the fiscal year 1999 general fund--state appropriation, and \$1,551,000 of the general fund--federal appropriation are provided solely to continue existing continuum of care and street youth projects.

(13) \$1,456,000 of the general fund--state appropriation for fiscal year 1998, \$1,474,000 of the general fund--state appropriation for fiscal year 1999 and \$1,141,000 of the general fund--federal appropriation are provided solely for the improvement of quality and capacity of the child care system and related consumer education. The activities funded by this appropriation shall include, but not be limited to: Expansion of child care resource and referral network services to serve additional families, to provide technical assistance to child care providers, and to cover currently unserved areas of the state; development of and incentives for child care during nonstandard work hours; and the development of care for infants, toddlers, preschoolers, and school age youth. These amounts are provided in addition to funding for child care training and fire inspections of child care facilities. These activities shall also improve the quality and capacity of the child care system.

(14)(a) \$6,565,000 of the general fund--state appropriation for fiscal year 1998 and \$7,454,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The department shall not retain any portion of these funds to cover administrative or any other departmental costs. The department shall work with the juvenile court administrators to develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per petition processing costs nor shall it penalize counties with lower than average per petition processing costs.

(b) Each quarter during the 1997-1999 fiscal biennium, each county shall report the number of petitions processed and the total costs of processing the petitions in each of the following categories: Truancy, children in need of services, and at-risk youth. Counties shall submit the reports to the department no later than 45 days after the end of the quarter. The department shall forward this information to the chair and ranking minority member of the house appropriations committee and the senate ways and means committee no later than 60 days after a quarter ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(15) \$244,000 of the general fund--state appropriation for fiscal year 1999 and \$77,000 of the general fund--federal appropriation are provided solely for implementation of Substitute House Bill No. 2556 (child abuse prevention and treatment). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(16) \$70,000 of the fiscal year 1999 general fund--state appropriation is provided solely for foster parent intervention support teams.

(17) The children's administration is directed to work with the foster parents' association of Washington state and other stakeholders to define "professional foster parents," and to make recommendations to the appropriate legislative committees by December 1, 1998. The report shall address ongoing foster care payments during an investigation of child abuse and neglect allegations, criteria for receiving exceptional care payments, and other issues related to professional foster parents.

(18) Amounts provided in this section are sufficient to implement Engrossed Second Substitute House Bill No. 3008 (drug affected-infants).

(19) To the extent funds are available, the department shall pay the expense of fingerprint criminal history record checks for low-income family day care homes through the federal bureau of investigation. The department may adopt rules to set eligibility levels.

**Sec. 203.** 1997 c 454 s 203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--JUVENILE REHABILITATION PROGRAM**

(1) COMMUNITY SERVICES

General Fund--State Appropriation (FY 1998) \$	((32,305,000))
	<u>35,894,000</u>
General Fund--State Appropriation (FY 1999) \$	((32,348,000))
	<u>35,622,000</u>
General Fund--Federal Appropriation \$	((46,125,000))
	<u>13,365,000</u>
General Fund--Private/Local Appropriation \$	378,000
Violence Reduction and Drug Enforcement Account Appropriation \$	((41,256,000))
	<u>13,880,000</u>
<b>TOTAL APPROPRIATION \$</b>	<b>((92,412,000))</b>
	<u>99,139,000</u>

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

(a) \$527,000 of the violence reduction and drug enforcement account appropriation is provided solely for deposit in the county criminal justice assistance account solely for costs to the criminal justice system associated with the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the amount provided in this subsection shall lapse. The amount provided in this subsection is intended to provide funding for county adult court



costs associated with the implementation of Engrossed Third Substitute House Bill No. 3900 and shall be distributed in accordance with RCW 82.14.310.

(b) \$2,917,000 of the violence reduction and drug enforcement account is provided solely for the implementation of Engrossed Third Substitute Senate Bill No. 3900 (revising the juvenile code). The amount provided in this subsection is intended to provide funding for county impacts associated with the implementation of Third Substitute Senate Bill No. 3900 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula. If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(c) \$2,350,000 of the general fund--state fiscal year 1998 appropriation and \$2,350,000 of the general fund--state fiscal year 1999 appropriation are provided solely for an early intervention program to be administered at the county level. Moneys shall be awarded on a competitive basis to counties that have submitted plans for implementation of an early intervention program consistent with proven methodologies currently in place in the state. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(d) \$1,221,000 of the violence reduction and drug enforcement appropriation is provided solely to implement alcohol and substance abuse treatment for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that have submitted a plan for the provision of treatment services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation. If Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions) is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(e) \$100,000 of the general fund--state fiscal year 1998 appropriation and \$100,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the juvenile rehabilitation administration to contract with the institute for public policy for the responsibilities assigned in Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(f) \$400,000 of the violence reduction and drug enforcement account appropriation is provided solely for the development of standards measuring the effectiveness of chemical dependency treatment and for conducting evaluations of chemical dependency programs pursuant to Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse. The juvenile rehabilitation administration shall consult with the division of alcohol and substance abuse and contract with the University of Washington to develop the standards and conduct the evaluations.

(g) \$150,000 of the general fund--state fiscal year 1998 appropriation and \$150,000 of the general fund--state fiscal year 1999 appropriation are provided solely for a contract to expand the services of the teamchild project to additional sites. Priority use of these funds shall be to provide teamchild service to early repeat offenders to help ensure they receive appropriate child welfare and educational services.

(h) \$2,500,000 of the violence reduction and drug enforcement account appropriation is provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile justice). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of these grants, and evaluations of programs funded by these grants.

(i) \$2,175,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to improve the safety and security of state run and contracted community residential facilities for juvenile offenders. Of this amount: \$1,817,000 is provided solely for the gathering of additional information during the intake and assessment process, including predispositional diagnostics; \$114,000 is provided solely for increased staffing at state operated facilities; and \$244,000 is provided solely to increase vendor payment rates at contracted facilities, provided that the rate increase is made contingent upon increasing staffing at these facilities.

(j) \$250,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Engrossed Second Substitute House Bill No. 3054 (truant, expelled, and suspended students). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(2) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 1998) \$	((44,782,000))
	<u>43,909,000</u>
General Fund--State Appropriation (FY 1999) \$	((44,662,000))
	<u>45,933,000</u>
General Fund--Private/Local Appropriation \$	727,000
Violence Reduction and Drug Enforcement Account Appropriation \$	15,281,000

TOTAL APPROPRIATION \$

((105,452,000))

105,850,000

The appropriations in this subsection are subject to the following conditions and limitations: \$3,680,000 of the violence reduction and drug enforcement account appropriation is provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(3) PROGRAM SUPPORT

General Fund--State Appropriation (FY 1998) \$

((1,922,000))

1,930,000

General Fund--State Appropriation (FY 1999) \$

((1,610,000))

1,804,000

General Fund--Federal Appropriation \$

156,000

Violence Reduction and Drug Enforcement Account  
Appropriation \$

421,000

TOTAL APPROPRIATION \$

((4,109,000))

4,311,000

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

(a) \$92,000 of the general fund--state fiscal year 1998 appropriation and \$36,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of Substitute Senate Bill No. 5759 (risk classification). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(b) \$206,000 of the general fund--state fiscal year 1998 appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5710 (juvenile care and treatment). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

(c) \$97,000 of the general fund--state fiscal year 1998 appropriation and \$36,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(d) Within the amounts provided in this subsection, the juvenile rehabilitation administration (JRA) shall develop by January 1, 1998, a staffing model for noncustody functions at JRA institutions and work camps. The models should, whenever possible, reflect the most efficient practices currently being used within the system.

(e) \$150,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to contract for the expansion of the experimental gallery program. The department shall contract with either the children's museum or directly with the experimental gallery program for the expansion.

(f) \$15,000 of the general fund--state appropriation for fiscal year 1998 and \$175,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Engrossed House Bill No. 2570 (juvenile offender residential facilities). The department shall contract with the Washington state institute for public policy to conduct the study of community residential facilities mandated by the bill. If this bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

NEW SECTION. Sec. 204. A new section is added to 1997 c 149 (uncodified) to read as follows:

The sum of \$1,000,000 from the state general fund for fiscal year 1999 is appropriated to the department of social and health services, juvenile rehabilitation administration, community services program, solely to implement the juvenile violence prevention grant program created by this section. The governor's juvenile justice advisory committee shall administer the grant program created under this section.

(1) All grant applications shall:

(a) Identify the program or proposed program;

(b) Identify the entity or organization proposing the program. Eligible organizations include, but are not limited to, nonprofit, civic and charitable organizations, local governments, tribes, and community networks;

(c) Include a plan for expenditure of the funds, including specifying what percentage of the grant will be spent on administration and evaluation costs; and

- (d) Include a plan to analyze the effectiveness of the program.
- (2) A program is eligible for a grant under this section only if the program:
  - (a) Is designed to reduce conditions associated with the entry of youth into the juvenile justice system;
  - (b) Is a new program or replicates in another location an existing program that meets the criteria of this section;
  - (c) Is based on research that supports the program's effectiveness in reducing the targeted populations risk for delinquency;
  - (d) Has community support and is community-based;
  - (e) Will be used for prevention of juvenile crime and not as a disposition or confinement option for adjudicated or diverted juvenile offenders. This restriction shall not preclude serving juveniles who have been adjudicated or diverted prior to participation in the program or who are diverted or adjudicated during participation in the program; and
  - (f) Is in addition to any other state or locally funded juvenile violence deterrence program and will not supplant existing federal, state, or local funds. However, if a program is no longer eligible for federal, state, or local funds, funding provided in this section may supplant that lost federal, state, or local funding.
- (3) To encourage local ownership of youth violence deterrence programs, grants awarded by the committee under this section shall:
  - (a) Have a duration of up to one year, with renewal options based on availability of funding and the achievement of outcomes; and
  - (b) Not exceed more than seventy-five percent of the total estimated cost of a program. Entities or organizations applying for grants under this section must demonstrate that at least twenty-five percent of the cost of the program will be funded from nonstate moneys.
- (4) To encourage grant applications, the committee shall simplify the grant application process to the greatest extent possible.
- (5) The committee may require that a percentage of the expenditures for a grant be spent to evaluate the program's effectiveness. The committee may also require that the evaluation be conducted by individuals or organizations that are not participating in the program.
- (6) A review team is established to make recommendations to the governor's juvenile justice advisory committee on the funding of grants made under this section.
  - (a) The review team shall consist of no more than fifteen persons appointed by the committee. Appointees must represent the state's geographic and cultural diversity and must have demonstrated an interest in juvenile violence and its prevention. The review team shall include representatives from entities that disperse funds targeted at youth, including, but not limited to, the office of the superintendent of public instruction, the office of crime victims advocacy, the family policy council, the department of health, the stop youth violence advisory committee, the Washington council for the prevention of child abuse and neglect, and the division of alcohol and substance abuse within the department of social and health services.
  - (b) Review team members are eligible for reimbursement of expenses under RCW 43.03.050 and 43.03.060.

Sec. 205. 1997 c 149 s 204 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MENTAL HEALTH PROGRAM**

**(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS**

General Fund--State Appropriation (FY 1998) \$	((167,577,000))
	<u>170,940,000</u>
General Fund--State Appropriation (FY 1999) \$	((170,803,000))
	<u>173,112,000</u>
General Fund--Federal Appropriation \$	((296,006,000))
	<u>299,064,000</u>
General Fund--Private/Local Appropriation \$	4,000,000
<b>TOTAL APPROPRIATION \$</b>	<b>((638,386,000))</b>
	<u>647,116,000</u>

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

- (a) Regional support networks shall use portions of the general fund--state appropriation for implementation of working agreements with the vocational rehabilitation program which will maximize the use of federal funding for vocational programs.

(b) From the general fund--state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and adult services program for the general fund--state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(c) ~~(\$2,413,000 of the general fund--state appropriation for fiscal year 1998 and \$2,393,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to directly reimburse eligible providers for the medicaid share of mental health services provided to persons eligible for both medicaid and medicare. To be reimbursed, the service must be covered by and provided in accordance with the state medicaid plan.~~

~~(d))~~ \$1,304,000 of the general fund--state appropriation for fiscal year 1998, \$3,356,000 of the general fund--state appropriation for fiscal year 1999, and \$5,056,000 of the general fund--federal appropriation are provided solely for distribution to those regional support networks whose 1997-99 allocation would otherwise be less than the regional support network would receive if all funding appropriated in this subsection (1) of this section for medicaid outpatient mental health services were distributed among all regional support networks at the state-wide average per capita rate for each eligibility category.

~~((e))~~ (d) At least thirty days prior to entering contracts that would capitate payments for voluntary psychiatric hospitalizations, the mental health division shall report the proposed capitation rates, and the assumptions and calculations by which they were established, to the budget and forecasting divisions of the office of financial management, the appropriations committee of the house of representatives, and the ways and means committee of the senate.

(2) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 1998) \$	((59,496,000))
	<u>61,886,000</u>
General Fund--State Appropriation (FY 1999) \$	((59,508,000))
	<u>59,994,000</u>
General Fund--Federal Appropriation \$	((127,118,000))
	<u>133,305,000</u>
General Fund--Private/Local Appropriation \$	((30,940,000))
	<u>24,805,000</u>
TOTAL APPROPRIATION \$	((277,062,000))
	<u>279,990,000</u>

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

(a) The state mental hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) The mental health program at Western state hospital shall continue to use labor provided by the Tacoma prerelease program of the department of corrections.

(c) \$246,000 of the general fund--state fiscal year 1998 appropriation and \$318,000 of the general fund--state fiscal year 1999 appropriation are provided solely for funding outside medical costs. The mental health division shall provide a report on outside medical costs to the fiscal committees of the legislature by September 30, 1998, and September 30, 1999. The report shall detail the monthly and per capita expenditures for outside medical costs at each state hospital.

(d) \$256,000 of the general fund--state fiscal year 1998 appropriation and \$254,000 of the general fund--state fiscal year 1999 appropriation are provided solely for funding pharmacy and new drug costs. The mental health division shall provide a report on pharmacy and new drug costs to the fiscal committees of the legislature by September 30, 1998, and September 30, 1999. The report shall detail monthly and per capita expenditures for pharmacy and new drug costs for each state hospital. Expenditures for each new generation atypical antipsychotic medication, including clozapine, risperidone, olanzapine, and any newly introduced medications of this nature, must be specifically reported.

(e) \$1,700,000 of the general fund--state fiscal year 1998 appropriation is provided solely for replacing lost federal revenues for medicare discharges in fiscal year 1998. The mental health division must aggressively pursue the prompt resolution of issues resulting in this loss

of revenues with the federal health care financing administration (HCFA). In the event any or all of the lost federal revenues are restored, an equal amount of the general fund--state fiscal year 1998 appropriation shall lapse.

(f) Within the amounts provided in this subsection, the mental health division shall develop by October 1, 1998, a staffing model for direct and indirect functions for the wards at each of the state hospitals. The model should, whenever possible, reflect the most efficient practices for providing treatment and therapeutic services appropriate to the characteristics and needs of the individual patient.

(3) CIVIL COMMITMENT

General Fund Appropriation (FY 1998) \$	((5,423,000))
	<u>7,174,000</u>
General Fund Appropriation (FY 1999) \$	((6,082,000))
	<u>7,779,000</u>
TOTAL APPROPRIATION \$	((11,505,000))
	<u>14,953,000</u>

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

(a) \$2,088,000 of the general fund fiscal year 1998 appropriation and \$2,415,000 of the general fund fiscal year 1999 appropriation are provided solely for court-related costs for residents at the special commitment center.

(b) Within the amounts provided in this subsection, the mental health division shall develop by October 1, 1998, a staffing model for direct and indirect functions at the special commitment center. The model should, whenever possible, reflect the most efficient practices for providing treatment and therapeutic services appropriate to the characteristics and needs of the individual patient.

(c) Within the amounts provided in this subsection, the mental health division shall provide a report on outside medical costs to the fiscal committees of the legislature by September 30, 1998, and September 30, 1999. The report shall detail the monthly and per capita expenditures for outside medical costs at the special commitment center.

(d) Within the amounts provided in this subsection, the mental health division shall provide a report on pharmacy and new drug costs to the fiscal committees of the legislature by September 30, 1998, and September 30, 1999. The report shall detail monthly and per capita expenditures for pharmacy and new drug costs at the special commitment center. Expenditures for each new generation atypical antipsychotic medication, including clozapine, risperidone, olanzapine, and any newly introduced medications of this nature must be specifically reported.

(4) SPECIAL PROJECTS

General Fund--State Appropriation (FY 1998) \$	50,000
General Fund--State Appropriation (FY 1999) \$	450,000
General Fund--Federal Appropriation \$	3,826,000
TOTAL APPROPRIATION \$	4,326,000

The appropriations in this subsection are subject to the following conditions and limitations: \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$450,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for development and operation of the pilot project for mentally ill offenders described in Substitute Senate Bill No. 6002 (mentally ill offenders). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(5) PROGRAM SUPPORT

General Fund--State Appropriation (FY 1998) \$	((2,560,000))
	<u>2,537,000</u>
General Fund--State Appropriation (FY 1999) \$	((2,395,000))
	<u>2,373,000</u>
General Fund--Federal Appropriation \$	

	((3,111,000))
	<u>3,085,000</u>
TOTAL APPROPRIATION \$	((8,066,000))
	<u>7,995,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: \$60,000 of the general fund--state appropriation for fiscal year 1998 is provided solely to increase the department's capacity to carry out legislative intent set forth in RCW 71.24.400 through 71.24.415. To facilitate this activity, the secretary shall appoint an oversight committee of project stakeholders including representatives from: Service providers, mental health regional support networks, the department's mental health division, the department's division of alcohol and substance abuse, the department's division of children and family services, and the department's medical assistance administration. The oversight group shall continue to seek ways to streamline service delivery as set forth in RCW 71.24.405 until at least July 1, 1998.

**Sec. 206.** 1997 c 149 s 205 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--DEVELOPMENTAL DISABILITIES PROGRAM**

(1) COMMUNITY SERVICES

General Fund--State Appropriation (FY 1998) \$	((140,172,000))
	<u>148,033,000</u>
General Fund--State Appropriation (FY 1999) \$	((142,643,000))
	<u>166,853,000</u>
General Fund--Federal Appropriation \$	((194,347,000))
	<u>227,123,000</u>
Health Services Account Appropriation \$	((1,695,000))
	<u>639,000</u>
TOTAL APPROPRIATION \$	((478,857,000))
	<u>542,648,000</u>

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

(a) \$1,695,000 of the health services account appropriation and \$1,835,000 of the general fund--federal appropriation are provided solely for the enrollment in the basic health plan of home care workers with family incomes below 200 percent of the federal poverty level who are employed through state contracts. Enrollment in the basic health plan for home care workers with family incomes at or above 200 percent of poverty shall be covered with general fund--state and matching general fund--federal revenues that were identified by the department to have been previously appropriated for health benefits coverage, to the extent that these funds had not been contractually obligated for worker wage increases prior to March 1, 1996.

(b) \$365,000 of the general fund--state appropriation for fiscal year 1998 and \$1,543,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for employment, or other day activities and training programs, for young people who complete their high school curriculum in 1997 or 1998.

(c) \$22,974,000 of the general fund--state appropriation for fiscal year 1998 and \$25,111,000 of the general fund--state appropriation for fiscal year 1999, plus any vendor rate increases allotted in accordance with section 213 of this act, are provided solely to deliver personal care services to an average of 6,250 children and adults in fiscal year 1998 and an average of 7,100 children and adults in fiscal year 1999. If the secretary of social and health services determines that total expenditures are likely to exceed these appropriated amounts, the secretary shall take action as required by RCW 74.09.520 to adjust either functional eligibility standards or service levels or both sufficiently to maintain expenditures within appropriated levels. Such action may include the adoption of emergency rules and may not be taken to the extent that projected over-expenditures are offset by under-expenditures elsewhere within the program's general fund--state appropriation. Prior to adjusting

eligibility standards, the secretary should first exercise all opportunities to manage the average cost per person served through methods such as promoting the use of informal and less expensive forms of care; reducing authorization of hours for stand-by assistance when unpaid caregivers are available in the home; and reducing on a sliding-scale basis the amount of service authorized per functional need level, with smaller reductions for greater levels of need.

(d) \$453,000 of the general fund--state appropriation for fiscal year 1998, \$214,000 of the general fund--state appropriation for fiscal year 1999, and \$719,000 of the general fund--federal appropriation are provided solely to continue operation of the united cerebral palsy residential center during the period in which its residents are phasing into new community residences.

(e) \$197,000 of the general fund--state appropriation for fiscal year 1998 and \$197,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to contract with the Washington initiative for supported employment for the purpose of continuing the promotion of supported employment services for persons with disabilities.

(f) The department shall not reduce the number of persons served in community residential, employment and day program, family support, or personal care services below the levels identified in the Legislative Budget Notes, 1997-99 Biennium, as published by the legislative fiscal committees, in order to undertake activities proposed by the department but not funded in this supplemental appropriations act.

(g) \$2,151,000 of the general fund--state appropriation for fiscal year 1998, \$5,782,000 of the general fund--state appropriation for fiscal year 1999, and \$8,362,000 of the general fund--federal appropriation are provided solely to develop and operate secure residential and day program placements for persons who seem likely to present a significant risk to the public safety if their current residential arrangement were to continue.

(h) \$426,000 of the general fund--state appropriation for fiscal year 1999 and \$469,000 of the general fund--federal appropriation are provided solely to develop and operate community services for persons residing at eastern and western state hospitals whose needs are such that they cannot be served in existing community vacancies.

(i) \$200,000 of the general fund--state appropriation for fiscal year 1998 and \$1,592,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for employment and day program services for adults, or residential placements for children or adults, who are not currently able to participate in such services because of funding limitations.

(j) \$105,000 of the general fund--state appropriation for fiscal year 1998, \$933,000 of the general fund--state appropriation for fiscal year 1999, and \$1,029,000 of the general fund--federal appropriation are provided solely to develop and operate community services for persons moving from the residential habilitation centers as a result of an agreement with the federal department of justice or a settlement agreement to a lawsuit.

(k) \$89,000 of the general fund--state appropriation for fiscal year 1998, \$661,000 of the general fund--state appropriation for fiscal year 1999, and \$825,000 of the general fund--federal appropriation are provided solely for medicaid personal care exceptional rates.

(l) Within amounts appropriated in this subsection, the division shall contract for a pilot program to test an alternative service delivery model for services to persons with autism. The division must utilize a competitive process to determine the site of the pilot. The pilot must be time limited and subject to an evaluation of client outcomes to determine the effectiveness and efficiency of the pilot compared to the standard service model for persons with autism.

(m) Within amounts appropriated in this section, the division of developmental disabilities may expend a maximum of \$83,440 of the general fund--state appropriation for fiscal year 1999 and \$83,440 of the general fund--federal appropriation to implement Substitute House Bill No. 2983 (developmentally disabled residents). If this bill is not enacted by June 30, 1998, this subsection is null and void.

(2) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 1998) \$	((63,982,000))
	<u>65,277,000</u>
General Fund--State Appropriation (FY 1999) \$	((63,206,000))
	<u>64,187,000</u>
General Fund--Federal Appropriation \$	((142,955,000))
	<u>145,897,000</u>
General Fund--Private/Local Appropriation \$	9,729,000
TOTAL APPROPRIATION \$	((279,872,000))

285,090,000

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

(a) With the funds appropriated in this subsection, the secretary of social and health services shall develop an eight-bed program at Yakima valley school specifically for the purpose of providing respite services to all eligible individuals on a state-wide basis, with an emphasis on those residing in central Washington.

(b) \$112,000 of the general fund--state appropriation for fiscal year 1998, \$113,000 of the general fund--state appropriation for fiscal year 1999, and \$75,000 of the general fund--federal appropriation are provided solely for a nursing community outreach project at Yakima valley school. Registered nursing staff are to provide nursing assessments, consulting services, training, and quality assurance on behalf of individuals residing in central Washington.

(c) \$200,000 of the general fund--state appropriation for fiscal year 1998, \$200,000 of the general fund--state appropriation for fiscal year 1999, and \$400,000 of the general fund--federal appropriation are provided solely for the development of a sixteen-bed program at Yakima valley school specifically for the purpose of providing respite services to all eligible individuals on a state-wide basis, with an emphasis on those residing in central Washington.

(3) PROGRAM SUPPORT

General Fund--State Appropriation (FY 1998) \$	((2,543,000))
	<u>2,530,000</u>
General Fund--State Appropriation (FY 1999) \$	((2,517,000))
	<u>2,501,000</u>
General Fund--Federal Appropriation \$	((1,645,000))
	<u>1,637,000</u>
TOTAL APPROPRIATION \$	((6,705,000))

6,668,000

(4) SPECIAL PROJECTS

General Fund--Federal Appropriation \$	12,030,000
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Sec. 207, 1997 c 149 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--AGING AND ADULT SERVICES PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((392,045,000))
	<u>409,547,000</u>
General Fund--State Appropriation (FY 1999) \$	((416,304,000))
	<u>415,166,000</u>
General Fund--Federal Appropriation \$	((878,169,000))
	<u>902,881,000</u>
<u>General Fund--Local Appropriation</u> \$	1,026,000
Health Services Account Appropriation \$	((6,087,000))
	<u>2,232,000</u>
TOTAL APPROPRIATION \$	



((1,692,605,000))

1,730,852,000

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

(1) The entire health services account appropriation and ~~((6,076,000))~~ \$2,175,000 of the general fund--federal appropriation are provided solely for the enrollment in the basic health plan of home care workers with family incomes below 200 percent of the federal poverty level who are employed through state contracts. Enrollment in the basic health plan for home care workers with family incomes at or above 200 percent of poverty shall be covered with general fund--state and matching general fund--federal revenues that were identified by the department to have been previously appropriated for health benefits coverage, to the extent that these funds had not been contractually obligated for worker wage increases prior to March 1, 1996.

(2) \$1,277,000 of the general fund--state appropriation for fiscal year 1998 and \$1,277,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for operation of the volunteer chore program.

(3) ~~((107,997,000))~~ \$117,221,000 of the general fund--state appropriation for fiscal year 1998 and ~~((120,397,000))~~ \$128,997,000 of the general fund--state appropriation for fiscal year 1999, ~~((plus any vendor rate increases allocated to these services in accordance with section 213 of this act.))~~ of which no less than forty-nine percent shall be allotted for expenditure during the first six months of fiscal year 1999, are provided solely to deliver chore, COPES, and medicaid personal care services. If the secretary of social and health services determines that total expenditures are likely to exceed these amounts, the secretary shall take action as required by RCW 74.09.520, 74.39A.120, and 74.09.530 to adjust functional eligibility standards and/or service levels sufficiently to maintain expenditures within appropriated levels. Such action may include the adoption of emergency rules, and shall not be taken to the extent that projected over-expenditures are offset by under-expenditures resulting from lower than budgeted nursing home caseloads. Prior to adjusting eligibility standards, the secretary should first exercise all opportunities to manage the average cost per person served, through methods such as promoting the use of informal care; assuring that local offices are effectively and consistently authorizing the least expensive level of care which can meet recipient needs; using waiting lists for reducing authorization of hours for stand-by assistance when unpaid caregivers are available in the home; and reducing on a sliding-scale basis the amount of service authorized per functional need level, with smaller reductions for greater levels of need.

(4) \$1,080,000 of the general fund--state appropriation for fiscal year 1999 is provided to maintain service eligibility for persons receiving services through the chore, COPES, or medicaid personal care programs in the event eligibility adjustments are made in accordance with subsection (3) of this section. The department may use seventy-five percent of amounts not needed for that purpose to implement quality of care enhancements.

(5) \$26,000 of the general fund--state appropriation for fiscal year 1998, \$59,000 of the general fund--state appropriation for fiscal year 1999, and \$85,000 of the general fund--federal appropriation are provided solely to employ registered nurses rather than social workers to fill six of the new field positions to be filled in fiscal year 1998 and seven more of the new positions to be filled in fiscal year 1999. These registered nurses shall conduct assessments, develop and monitor service plans, and consult with social work staff to assure that persons with medical needs are placed in and receive the appropriate level of care.

~~((5))~~ (6) \$425,000 of the general fund--state appropriation for fiscal year 1998 and \$882,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Second Substitute Senate Bill No. 5179 (nursing facility reimbursement). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((6))~~ (7) A maximum of \$2,193,000 of the general fund--state appropriation for fiscal year 1998 and \$2,351,000 of the general fund--federal appropriation for fiscal year 1998 are provided to fund the medicaid share of any new prospective payment rate adjustments as may be necessary in accordance with RCW 74.46.460.

~~((7))~~ (8) \$242,000 of the general fund--state appropriation for fiscal year 1998, \$212,000 of the general fund--state appropriation for fiscal year 1999, and \$498,000 of the general fund--federal appropriation are provided solely for operation of a system for investigating allegations of staff abuse and neglect in nursing homes, as provided in Second Substitute House Bill No. 1850 (long-term care standards of care).

~~((8))~~ \$350,000 of the general fund--state appropriation for fiscal year 1998 and \$382,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to supplement the incomes of disabled legal immigrants who, because of loss of their federal supplemental security income benefit, would otherwise be at risk of placement into a more expensive long-term care setting.)

(9)(a) The department shall establish a shadow case mix payment system to educate facilities about payment system alternatives. The department shall provide shadow rates beginning July 1, 1997, based on the following:

(i) The direct care portion of the rate, usually called "nursing services," shall be set under a case mix methodology that classifies residents under the Resource Utilization Group III (RUG-III) Version 5.10 (or subsequent revision) 44 group index maximizing model based on the Minimum Data Set (MDS) Version 2.0.

(ii) Payment to a facility shall be based on facility weighted average case mix data which provides one rate to a facility reflecting its mix of residents. For purposes of determining the facility's cost per case mix unit, the facility average case mix score will be based on the case mix of all residents. For purposes of determining the facility's payment rate, the facility average case mix score shall be based on the case mix of medicaid residents.

(iii) The direct care rates shall be adjusted prospectively each quarter based on the facility's MDS 2.0 data from the quarter commencing six months preceding the rate effective date. For example, the MDSs for 1/1/97 - 3/31/97 shall be used to establish shadow rates for 7/1/97 - 9/30/97.

(iv) Those costs which currently comprise nursing services as defined by chapter 74.46 RCW, excluding therapies, shall be included in the direct care component for case mix.

(v) Data from 1994 cost reports (allowable and audited costs) shall be used to establish the shadow rates. The costs shall be inflated comparable to fiscal year 1998 payment rates, according to RCW 74.46.420.

(vi) Separate prices, ceilings, and corridors shall be established for the peer groups of metropolitan statistical area and nonmetropolitan statistical area.

(b) The following methods shall be used to establish the shadow case mix rates:

(i) A pricing system in which payment to a facility shall be based on a price multiplied by each facility's medicaid case mix. The price, per peer group, shall be established at the median direct care cost per case mix unit.

(ii) A pricing system in which payment to a facility shall be based on a price multiplied by each facility's medicaid case mix. The price, per peer group, shall be based on the cost per case-mix unit of a group of cost-effective benchmark facilities which meet quality standards.

(iii) A corridor-based system in which payment to a facility shall be the facility's allowable cost per case-mix unit adjusted for case mix up to a ceiling and no less than a floor. The floor, per peer group, shall be established at 90 percent of the cost per case-mix unit of a group of cost-effective benchmark facilities which meet quality standards. The ceiling, per peer group, shall be established at 110 percent of the cost per case-mix unit of the group of benchmark facilities.

(iv) A corridor-based system in which payment to a facility shall be the facility's allowable cost per case-mix unit adjusted for case mix up to a ceiling and no less than a floor. The floor, per peer group, shall be established at 90 percent of the industry-wide median direct care cost per case-mix unit. The ceiling, per peer group, shall be established at 110 percent of the industry-wide median direct care cost per case-mix unit.

(c) The department shall provide all data, information, and specifications of the methods used in establishing the shadow case mix rates to the nursing home provider associations.

(d) It is the legislature's intent that the average state payment for nursing facility services under the new system increase by no more than 175 percent of the health care financing administration nursing home input price index, excluding capital costs. In designing the new payment system, the department shall develop and propose options for the combined direct and indirect rate components that assure this.

(10) \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for payments to any nursing facility licensed under chapter 18.51 RCW which meets all of the following criteria: (a) The nursing home entered into an arm's length agreement for a facility lease prior to January 1, 1980; (b) the lessee purchased the leased nursing home after January 1, 1980; and (c) the lessor defaulted on its loan or mortgage for the assets of the home after January 1, 1991, and prior to January 1, 1992. Payments provided pursuant to this subsection shall not be subject to the settlement, audit, or rate-setting requirements contained in chapter 74.46 RCW.

(11) ~~(\$546,000)~~ \$506,000 of the general fund--state appropriation for fiscal year 1998, ~~(\$583,000)~~ \$502,000 of the general fund--state appropriation for fiscal year 1999, and ~~(\$1,220,000)~~ \$1,095,000 of the general fund--federal appropriation are provided solely for an increase in the state payment rates for adult residential care and enhanced adult residential care.

(12) \$132,000 of the general fund--state appropriation for fiscal year 1999 and \$526,000 of the general fund--local appropriation are provided solely for implementation of House Bill No. 2410 (boarding homes). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

**Sec. 208.** 1997 c 454 s 204 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ECONOMIC SERVICES PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((543,150,000))
	<u>509,743,000</u>
General Fund--State Appropriation (FY 1999) \$	((529,985,000))
	<u>505,354,000</u>
General Fund--Federal Appropriation \$	((952,618,000))
	<u>946,615,000</u>

TOTAL APPROPRIATION \$

((2,025,753,000))

1,961,712,000

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

~~((2))~~ (1) The legislature finds that, with the passage of the federal personal responsibility and work opportunity act and Engrossed House Bill No. 3901, the temporary assistance for needy families is no longer an entitlement. The legislature declares that the currently appropriated level for the program is sufficient for the next few budget cycles. To the extent, however, that currently appropriated amounts exceed costs during the 1997-99 biennium, the department is encouraged to set aside excess federal funds for use in future years.

~~((3))~~ (2) \$485,000 of the general fund--state fiscal year 1998 appropriation, \$3,186,000 of the general fund--state fiscal year 1999 appropriation, and \$3,168,000 of the general fund--federal appropriation are provided solely to continue to implement the previously competitively procured electronic benefits transfer system through the western states EBT alliance for distribution of cash grants and food stamps so as to meet the requirements of P.L. 104-193.

~~((4))~~ (3) \$50,000 of the fiscal year 1998 general fund--state appropriation is provided solely for a study of child care affordability as directed in section 403 of Engrossed House Bill No. 3901 (implementing welfare reform). The study shall be performed by the Washington institute for public policy. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((5))~~ (4) \$500,000 of the fiscal year 1998 general fund--state appropriation and \$500,000 of the fiscal year 1999 general fund--state appropriation are provided solely for an evaluation of the WorkFirst program as directed in section 705 of Engrossed House Bill No. 3901 (implementing welfare reform). The study shall be performed by the joint legislative audit and review committee. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((6))~~ (5) \$73,129,000 of the general fund--federal appropriation is provided solely for child care assistance for low-income families in the WorkFirst program and for low-income working families as authorized in Engrossed House Bill No. 3901 (implementing welfare reform). All child care assistance provided shall be subject to a monthly copay to be paid by the family receiving the assistance.

~~((7))~~ (6) \$7,624,000 of the fiscal year 1998 general fund--state appropriation, \$18,489,000 of the fiscal year 1999 general fund--state appropriation, and \$29,781,000 of the general fund--federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform), including sections 404 and 405. If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse. The level of benefits in the food program for legal immigrants authorized in the bill shall be equivalent to benefits provided by the federal food stamp program.

~~((8) \$89,722,000)~~ (7) \$56,461,000 of the fiscal year 1998 general fund--state appropriation and ~~((75,466,000))~~ \$54,047,000 of the fiscal year 1999 general fund--state appropriation are provided solely for cash assistance to recipients in the general assistance--unemployable program. The department shall take any and all actions necessary to maintain expenditures within these amounts.

~~((9))~~ (8) \$55,995,000 of the fiscal year 1998 general fund--state appropriation, \$55,995,000 of the fiscal year 1999 general fund--state appropriation, and \$184,510,000 of the general fund--federal appropriation are provided solely to administer a low-income child care program as authorized in Engrossed House Bill No. 3901 (implementing welfare reform). The child care program funds shall be allotted as follows:

(a) Each six-month period shall have \$27,997,500 general fund--state and \$46,127,500 general fund--federal funds allotted to be spent during that six-month period for low-income child care assistance.

(b) The department may spend up to the allotted amount for child care assistance during each six-month period. Any funds not spent during the six-month period may be held over and allotted in the next six-month period, subject to the provisions of subsection (6) of this section.

(c) Federal funds allotted for child care but not spent in fiscal year 1998 may be transferred to fiscal year 1999 for allotment but state funds must be spent in the year appropriated.

(9) Within the amounts provided in this section, the department shall implement the study requirements of Engrossed Substitute House Bill No. 2900 (pro rata calculation of temporary assistance for needy families grants).

Sec. 209. 1997 c 454 s 205 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

General Fund--State Appropriation (FY 1998) \$ ((14,466,000))

15,459,000

General Fund--State Appropriation (FY 1999) \$ ((14,334,000))

16,830,000

General Fund--Federal Appropriation \$ ((80,497,000))

General Fund--Private/Local Appropriation	\$	81,112,000
		630,000
Violence Reduction and Drug Enforcement Account Appropriation	\$	((72,900,000))
		74,889,000
TOTAL APPROPRIATION	\$	((182,827,000))
		188,920,000

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

(1) \$2,062,000 of the general fund--federal appropriation and \$7,482,000 of the violence reduction and drug enforcement account appropriation are provided solely for the grant programs for school districts and educational service districts set forth in RCW 28A.170.080 through 28A.170.100, including state support activities, as administered through the office of the superintendent of public instruction.

(2) \$1,902,000 of the general fund--state fiscal year 1998 appropriation, \$1,902,000 of the general fund--state fiscal year 1999 appropriation, and \$1,592,000 of the general fund--federal appropriation are provided solely for alcohol and substance abuse assessment, treatment, including treatment for drug affected infants and toddlers, and child care services for clients of the division of children and family services. Assessment shall be provided by approved chemical dependency treatment programs as requested by child protective services personnel in the division of children and family services. Child care shall be provided as deemed necessary by the division of children and family services while parents requiring alcohol and substance abuse treatment are attending treatment programs.

(3) \$760,000 of the fiscal year 1998 general fund--state appropriation and \$760,000 of the fiscal year 1999 general fund--state appropriation are provided solely to fund a program serving mothers of children affected by fetal alcohol syndrome and related conditions, known as the birth-to-three program. The program may be operated in two cities in the state.

(4) \$1,500,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the expansion of drug courts into additional counties. The department shall contract for the expansion of drug courts in the three counties previously identified by the Washington state association of drug court professionals and the drug court steering committee. At least eighty percent of the funds provided in this section shall be used for direct services to clients, with not more than ten percent to be used for administration and an outcome evaluation, including measures of recidivism and reoffense rates.

(5) Amounts provided in this section are sufficient to implement Engrossed Second Substitute House Bill No. 3008 (drug affected-infants).

**Sec. 210.** 1997 c 149 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE PROGRAM**

General Fund--State Appropriation (FY 1998)	\$	((684,033,000))
		667,302,000
General Fund--State Appropriation (FY 1999)	\$	((684,885,000))
		684,118,000
General Fund--Federal Appropriation	\$	((2,038,101,000))
		2,079,552,000
General Fund--Private/Local Appropriation	\$	((223,900,000))
		302,088,000
Health Services Account Appropriation	\$	((253,004,000))
		254,506,000

Emergency Medical and Trauma Care Services  
Account Appropriation \$

4,600,000

TOTAL APPROPRIATION \$

((3,888,523,000))

3,992,166,000

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

(1) The department shall continue to make use of the special eligibility category created for children through age 18 and in households with incomes below 200 percent of the federal poverty level made eligible for medicaid as of July 1, 1994.

(2) It is the intent of the legislature that Harborview medical center continue to be an economically viable component of the health care system and that the state's financial interest in Harborview medical center be recognized.

(3) Funding is provided in this section for the adult dental program for Title XIX categorically eligible and medically needy persons and to provide foot care services by podiatric physicians and surgeons.

(4) \$1,622,000 of the general fund--state appropriation for fiscal year 1998 and \$1,622,000 of the general fund--state appropriation for fiscal year 1999 are provided for treatment of low-income kidney dialysis patients.

(5) \$80,000 of the general fund--state appropriation for fiscal year 1998, \$80,000 of the general fund--state appropriation for fiscal year 1999, and \$160,000 of the general fund--federal appropriation are provided solely for the prenatal triage clearinghouse to provide access and outreach to reduce infant mortality.

(6) The department shall employ the managed care contracting and negotiation strategies defined in Substitute Senate Bill No. 5125 to assure that the average per-recipient cost of managed care services for temporary assistance to needy families and expansion populations increases by no more than two percent per year in calendar years 1998 and 1999.

(7) The department shall seek federal approval to require adult medicaid recipients who are not elderly or disabled to contribute ten dollars per month toward the cost of their medical assistance coverage. The department shall report on the progress of this effort to the house of representatives and senate health care and fiscal committees by September 1 and November 15, 1997.

(8) \$325,000 of the general fund--state appropriation for fiscal year 1998 and \$325,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to increase rates paid for air ambulance services.

(9) By October 1, 1998, the department shall report to the health care and the fiscal committees of the legislature on the estimated average monthly number of nongrant medical assistance recipients who do not meet the earned income eligibility standards in effect prior to November 1997.

(10) The department shall negotiate with the federal department of health and human services' health care financing administration to obtain and implement a regulatory waiver of provisions of the medical assistance statute, Title XIX of the federal social security act, to permit Washington to provide family planning services under the medical assistance program to women and men with income at or under two hundred percent of the federal poverty level and report to the appropriate committees of the legislature by December 15, 1998. Family planning services means the provision of acceptable and effective risk reduction, education and counseling, preventive medical exams and testing, sexually transmitted disease testing and treatment, contraceptive supplies and devices, and, sterilization counseling and services for women and men. No federal moneys obtained through this waiver may be used for abortion services under any circumstances.

(11) All persons who require blood transfusions paid for by Medicaid funds shall have the opportunity to receive the blood transfusion from directed blood donors. Directed blood donations shall be allowed only if requested by the recipient and if the collection, handling, and transfusion of the blood meets or exceeds federal Food and Drug Administration regulations and/or any other necessary federal regulations. Any and all fees required by blood donor organizations for directed blood donations shall first be approved by the department before any such fees are implemented.

Sec. 211. 1997 c 149 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--VOCATIONAL REHABILITATION PROGRAM**

General Fund--State Appropriation (FY 1998) \$

((8,652,000))

9,046,000

General Fund--State Appropriation (FY 1999) \$

((8,592,000))

8,603,000

General Fund--Federal Appropriation \$

((79,542,000))

General Fund--Private/Local Appropriation	\$	<u>79,080,000</u>
		2,904,000
TOTAL APPROPRIATION	\$	<u>99,633,000</u>
		<del>((99,690,000))</del>

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

(1) The division of vocational rehabilitation shall negotiate cooperative interagency agreements with local organizations, including higher education institutions, mental health regional support networks, and county developmental disabilities programs to improve and expand employment opportunities for people with severe disabilities served by those local agencies.

(2) \$363,000 of the general fund--state appropriation for fiscal year 1998, \$506,000 of the general fund--state appropriation for fiscal year 1999, and \$3,208,000 of the general fund--federal appropriation are provided solely for vocational rehabilitation services for individuals enrolled for services with the developmental disabilities program who complete their high school curriculum in 1997 or 1998.

Sec. 212, 1997 c 454 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund--State Appropriation (FY 1998)	\$	<u>25,818,000</u>
		<del>((24,572,000))</del>

General Fund--State Appropriation (FY 1999)	\$	<u>25,964,000</u>
		<del>((23,956,000))</del>

General Fund--Federal Appropriation	\$	<u>43,411,000</u>
		<del>((40,352,000))</del>

General Fund--Private/Local Appropriation	\$	270,000
TOTAL APPROPRIATION	\$	<u>95,463,000</u>
		<del>((89,150,000))</del>

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

(1) The department may transfer up to \$1,289,000 of the general fund--state appropriation for fiscal year 1998, \$1,757,000 of the general fund--state appropriation for fiscal year 1999, and \$2,813,000 of the general fund--federal appropriation to the administration and supporting services program from various other programs to implement administrative reductions.

(2) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1997, and every six months thereafter on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

~~((4))~~ (3) \$60,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for a welfare fraud pilot program as described by House Bill No. 1822 (welfare fraud investigation).

~~((5))~~ (4) \$55,000 of the fiscal year 1998 general fund--state appropriation, \$64,000 of the fiscal year 1999 general fund--state appropriation, and \$231,000 of the general fund--federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(5) \$393,000 of the general fund--state appropriation for fiscal year 1999 and \$485,000 of the general fund--federal appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(6) The department shall report on the allowance for clothing, personal maintenance, and necessary incidentals provided to persons who receive services funded by state and federal moneys under provisions of Title XIX of the social security act. The report shall discuss the range of allowances granted for different populations and programs and compare the allowances to those provided to similar populations in other

western states. The report shall also evaluate the need for a uniform amount provided to all populations, and, if a uniform allowance is provided, at what level that allowance should be set. In compiling the report, the department shall consult with affected parties and divisions. The report shall be submitted by December 1, 1998, to the chairs and the ranking minority members of the appropriate house of representatives and senate committees.

Sec. 213. 1997 c 454 s 207 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CHILD SUPPORT PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((21,122,000))
	<u>21,344,000</u>
General Fund--State Appropriation (FY 1999) \$	((20,877,000))
	<u>20,965,000</u>
General Fund--Federal Appropriation \$	((145,739,000))
	<u>145,321,000</u>
General Fund--Private/Local Appropriation \$	((33,207,000))
	<u>32,673,000</u>
TOTAL APPROPRIATION \$	((220,945,000))
	<u>220,303,000</u>

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

(1) The department shall contract with private collection agencies to pursue collection of AFDC child support arrearages in cases that might otherwise consume a disproportionate share of the department's collection efforts. The department's child support collection staff shall determine which cases are appropriate for referral to private collection agencies. In determining appropriate contract provisions, the department shall consult with other states that have successfully contracted with private collection agencies to the extent allowed by federal support enforcement regulations.

((3)) (2) The amounts appropriated in this section for child support legal services shall be expended only by means of contracts with local prosecutor's offices.

((4)) (3) \$305,000 of the general fund--state fiscal year 1998 appropriation, \$494,000 of the general fund--state fiscal year 1999 appropriation, and \$1,408,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

Sec. 214. 1997 c 454 s 208 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((47,435,000))
	<u>25,292,000</u>
General Fund--State Appropriation (FY 1999) \$	((47,514,000))
	<u>24,792,000</u>
General Fund--Federal Appropriation \$	((54,366,000))
	<u>18,966,000</u>
TOTAL APPROPRIATION \$	((153,032,000))

69,050,000

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

(1) ~~(\$22,893,000 of the general fund--state appropriation for fiscal year 1998, \$22,835,000 of the general fund--state appropriation for fiscal year 1999, \$35,431,000 of the general fund--federal appropriation, \$2,215,000 of the violence reduction and drug enforcement account appropriation, and \$1,502,000 of the health services account appropriation are provided solely to increase the rates of contracted service providers. The department need not provide all vendors with the same percentage rate increase. Rather, the department is encouraged to use these funds to help assure an adequate supply of qualified vendors. Vendors providing services in markets where recruitment and retention of qualified providers is a problem may receive larger rate increases than other vendors. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery. Any rate increases granted as a result of this section must be implemented so that the carry-forward costs into the 1999-01 biennium do not exceed the amounts provided in this subsection. Within thirty days of granting a vendor rate increase under this section, the department shall report the following information to the fiscal committees of the legislature: (a) The amounts and effective dates of any increases granted; (b) the process and criteria used to determine the increases; and (c) any data used in that process. In accordance with RCW 43.88.110(1), the department and the office of financial management shall allot funds appropriated in this section to the programs and budget units from which the funds will be expended. Such allotments shall be completed no later than September 15, 1997.~~

~~(2))~~ \$263,000 of the fiscal year 1998 general fund--state appropriation, \$349,000 of the fiscal year 1999 general fund--state appropriation, and \$1,186,000 of the general fund--federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~(2) \$113,000 of the fiscal year 1999 general fund--state appropriation and \$31,000 of the general fund--federal appropriation are provided solely for the implementation of Substitute House Bill No. 2556 (child abuse prevention and treatment). If this bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.~~

Sec. 215. 1997 c 454 s 210 (uncodified) is amended to read as follows:

**FOR THE STATE HEALTH CARE AUTHORITY**

General Fund--State Appropriation (FY 1998) \$	6,316,000
General Fund--State Appropriation (FY 1999) \$	6,317,000
State Health Care Authority Administration Account Appropriation \$	((14,719,000))
	<u>14,969,000</u>
Health Services Account Appropriation \$	((330,628,000))
	<u>342,100,000</u>
 TOTAL APPROPRIATION \$	 ((357,980,000))
	 <u>369,702,000</u>

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

(1) The general fund--state appropriations are provided solely for health care services provided through local community clinics.

(2) Within funds appropriated in this section and sections 205 and 206 of chapter 149, Laws of 1997, the health care authority shall continue to provide an enhanced basic health plan subsidy option for foster parents licensed under chapter 74.15 RCW and workers in state-funded homecare programs. Under this enhanced subsidy option, foster parents and homecare workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at a cost of ten dollars per covered worker per month.

(3) Effective ~~((October 1997))~~ July 1998, the health care authority shall require organizations and individuals that are paid to deliver basic health plan services to contribute a minimum of ~~((thirty))~~ twenty dollars per enrollee per month if the organization or individual chooses to sponsor an individual's enrollment in the subsidized basic health plan.

(4) \$150,000 of the health services account appropriation is provided solely to implement Substitute House Bill No. 1805 (health care savings accounts). If ~~((legislation requiring a pilot project of such accounts))~~ the bill is not enacted by June 30, ~~((1997))~~ 1998, the amount provided in this subsection shall lapse.



((6)) (5) \$270,000 of the health services account appropriation is provided solely to pay commissions to agents and brokers in accordance with RCW 70.47.015(5) for application assistance provided to persons on the reservation list as of June 30, 1997, who enroll in the subsidized basic health plan on or after July 1, 1997.

(6) \$250,000 of the state health care authority administrative account appropriation is provided solely to process claims arising from the settlement in *Retired State Employees v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1).

(7) The health care authority administrator is directed to pay claims resulting from a court-approved stipulated settlement in *Retired State Employees et. al v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1) using funds in the public employees' and retirees' insurance account. The legislature recognizes that payment of these claims may reduce premium stabilization reserves below target levels on an interim basis. It is the legislature's intent that the viability of health care authority-administered programs be preserved and that the benefit levels for health care authority-administered programs not be reduced in the event premium stabilization reserves are used to pay such claims.

Sec. 216. 1997 c 149 s 215 (uncodified) is amended to read as follows:

**FOR THE HUMAN RIGHTS COMMISSION**

General Fund--State Appropriation (FY 1998) \$	2,019,000
General Fund--State Appropriation (FY 1999) \$	<del>((2,036,000))</del>
	<u>2,468,000</u>
General Fund--Federal Appropriation \$	1,444,000
General Fund--Private/Local Appropriation \$	259,000
TOTAL APPROPRIATION \$	<del>((5,758,000))</del>
	<u>6,190,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$432,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for elimination of caseload backlog by January 1, 1999, and reduction of case processing time.

Sec. 217. 1997 c 149 s 217 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

General Fund--State Appropriation (FY 1998) \$	<u>15,000</u>
General Fund--State Appropriation (FY 1999) \$	<u>1,000,000</u>
General Fund--Federal Appropriation \$	100,000
Death Investigations Account Appropriation \$	38,000
Public Safety and Education Account Appropriation \$	<del>((13,434,000))</del>
	<u>13,341,000</u>
Violence Reduction and Drug Enforcement Account Appropriation \$	346,000
TOTAL APPROPRIATION \$	<del>((13,918,000))</del>
	<u>14,840,000</u>

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

(1) \$80,000 of the public safety and education account appropriation is provided solely to continue the study of law enforcement and corrections training begun in 1996. In conducting the study, the criminal justice training commission shall consult with the appropriate policy and fiscal committees of the legislature. Specific elements to be addressed in the study include: (a) The feasibility and the rationale for increasing basic law enforcement training from 440 to 600 hours; (b) the feasibility and rationale for creating a certification process for law enforcement officers; (c) the feasibility and rationale for expanding the correctional officers academy; (d) the feasibility and rationale for expanding the juvenile service workers academy and/or the adult services academy; and (e) any other items considered relevant by the commission. Any recommendations made shall include a plan and timeline for how they would be implemented. The board on correctional training standards and education and the board on law enforcement training standards and education shall be actively involved in the study effort. Copies of the study shall be provided to the appropriate policy and fiscal committees of the legislature and the director of financial management by October 1, 1997.

(2) \$50,000 of the public safety and education account appropriation is provided solely to prepare a cost and fee study of the current and proposed criminal justice course offerings. The analysis shall identify total costs and major cost components for: (a) Any current training classes which are considered mandatory; and (b) any proposed or modified training courses which are considered mandatory. Mandatory classes include, but are not limited to, the following: Basic law enforcement academy, correctional officers academy, supervisory and management training of law enforcement officers, supervisory and management training of correctional officers, juvenile service workers academy, and the adult service academy. The study shall also recommend a methodology for estimating the future demand for these classes. The study shall also estimate the cost of implementing any recommendations made pursuant to subsection (1) of this section. The study shall be conducted by a private sector consultant selected by the office of financial management in consultation with the executive director of the criminal justice training commission. The final report shall be completed by January 1, 1998.

(3) \$92,000 of the public safety and education account appropriation is provided solely for the purpose of training law enforcement managers and supervisors.

(4) \$40,000 of the public safety and education account appropriation is provided solely to implement the provisions of Substitute House Bill No. 1423 (criminal justice training commission). If this bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(5) \$225,000 of the general fund--state fiscal year 1999 appropriation is provided solely for information technology upgrades and improvements for the criminal justice training commission.

(6) \$15,000 of the general fund--state fiscal year 1998 appropriation and \$25,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the relocation and new lease costs of the criminal justice training commission's headquarters in Thurston county.

(7) \$500,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the training of law enforcement officers and prosecutors in recent changes in criminal justice statutes, especially those changes related to drunk driving. The training will be delivered state-wide, and moneys provided in this subsection may also be used to develop the infrastructure needed to provide training at locations throughout this state.

(8) \$250,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for deposit into the extraordinary criminal investigations assistance account created by Second Substitute House Bill No. 2929 (extraordinary criminal justice assistance account). If the bill is not enacted by June 30, 1998, the amounts in this subsection shall lapse.

**Sec. 218.** 1997 c 454 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund Appropriation (FY 1998) \$	6,805,000
General Fund Appropriation (FY 1999) \$	((6,848,000))
	<u>7,176,000</u>
Public Safety and Education Account-- State Appropriation \$	((16,246,000))
	<u>16,082,000</u>
Public Safety and Education Account-- Federal Appropriation \$	6,002,000
Public Safety and Education Account-- Private/Local Appropriation \$	

	((2,014,000))
	<u>2,178,000</u>
Electrical License Account Appropriation \$	22,542,000
Farm Labor Revolving Account Appropriation \$	28,000
Worker and Community Right-to-Know Account Appropriation \$	2,187,000
Public Works Administration Account Appropriation \$	((1,975,000))
	<u>2,439,000</u>
Accident Account--State Appropriation \$	((146,901,000))
	<u>152,235,000</u>
Accident Account--Federal Appropriation \$	9,112,000
Medical Aid Account--State Appropriation \$	((155,276,000))
	<u>154,089,000</u>
Medical Aid Account--Federal Appropriation \$	1,592,000
Plumbing Certificate Account Appropriation \$	947,000
Pressure Systems Safety Account Appropriation \$	2,106,000
TOTAL APPROPRIATION \$	((380,581,000))
	<u>385,520,000</u>

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

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "claims service delivery", "electrical permitting and inspection system", and "credentialing information system" are conditioned upon compliance with section 902 of this act.

(2) Pursuant to RCW 7.68.015, the department shall operate the crime victims compensation program within the public safety and education account funds appropriated in this section. In the event that cost containment measures are necessary, the department may (a) institute copayments for services; (b) develop preferred provider and managed care contracts; (c) coordinate with the department of social and health services to use the public safety and education account as matching funds for federal Title XIX reimbursement, to the extent this maximizes total funds available for services to crime victims.

(3) \$54,000 of the general fund appropriation for fiscal year 1998 and \$54,000 of the general fund appropriation for fiscal year 1999 are provided solely for an interagency agreement to reimburse the board of industrial insurance appeals for crime victims appeals.

(4) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1997, and every six months thereafter on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

(5) The expenditures of the elevator, factory assembled structures, and contractors' registration and compliance programs may not exceed the revenues generated by these programs.

(6) \$101,000 of the plumbing certificate account appropriation is provided solely for the implementation of Substitute Senate Bill No. 5749 (pipe installer). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

(7) \$56,000 of the medical aid account appropriation and \$52,000 of the accident account appropriation are provided solely for evaluating agency operational improvements.

(8) \$593,000 of nonappropriated funds from the medical aid account shall be provided solely for allocation to the joint legislative audit and review committee for a performance audit and operations review of the state workers' compensation system pursuant to Substitute Senate Bill No. 6030.

(9) \$464,000 of the public works administration account appropriation is provided solely for implementation of Substitute House Bill No. 3073 (requiring the use of a stratified random sampling survey methodology for determining prevailing wages), and for resolving backlogs in prevailing wage intent and affidavit forms, increasing survey frequency, and supporting the program review and improvement activities currently underway with the department and the prevailing wage advisory committee. The amount provided in this subsection shall be used to meet the following performance objectives:

(a) The department shall process all forms within 13 working days of their receipt; and

(b) The department shall make every reasonable effort to decrease the processing time and the backlog of forms.

The amount provided in this subsection is provided on a one-time basis, and it is the intent of the legislature that ongoing funding for these purposes will not be provided in the future unless the department meets the performance objectives specified in this subsection.

By January 1, 1999, the director shall report to the commerce and labor committees of the legislature on the performance improvements realized in the prevailing wage program, including progress reports on the business plan review project. The department shall examine and report on the prevailing wage survey process, with recommendations for its improvement.

If Substitute House Bill No. 3073 is not enacted by June 30, 1998, this subsection is null and void and the amount provided in this subsection shall lapse.

(10) \$148,000 of the general fund--state appropriation for fiscal year 1999 and \$761,000 of the accident account--state appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(11) \$686,000 of the accident account--state appropriation and \$686,000 of the medical aid account--state appropriation for fiscal year 1999 are provided solely to fund 24 claims manager positions in fiscal year 1999 (12 worker compensation adjudicator 2 and 12 worker compensation adjudicator 3 positions). With these new positions, the department is expected to reduce time-loss duration in claims by 5 percent by June 30, 2000, and an additional 2.5 percent by June 30, 2001. The average caseload for level 2 claims managers should also drop to approximately 190 by June 30, 2000. The director of the department shall report to the appropriate fiscal and policy committees of the legislature and the office of financial management by June 30, 1998, and every year thereafter, on the measurable progress made toward attaining these goals. The 1998 report shall indicate the baseline figures from July 1, 1997. If substantial progress has not been achieved by June 30, 2000, the 24 claims manager positions and the funding associated with these positions shall be discontinued.

**Sec. 219.** 1997 c 454 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

(1) HEADQUARTERS

General Fund Appropriation (FY 1998) \$	((1,409,000))
	<u>1,609,000</u>
General Fund Appropriation (FY 1999) \$	1,404,000
Industrial Insurance Premium Refund Account Appropriation \$	80,000
Charitable, Educational, Penal, and Reformatory Institutions Account Appropriation \$	4,000
TOTAL APPROPRIATION \$	((2,897,000))
	<u>3,097,000</u>

(2) FIELD SERVICES

General Fund--State Appropriation (FY 1998) \$	2,418,000
General Fund--State Appropriation (FY 1999) \$	2,420,000

General Fund--Federal Appropriation	\$	26,000
General Fund--Private/Local Appropriation	\$	85,000
TOTAL APPROPRIATION		\$ 4,949,000

(3) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 1998)	\$	<del>((6,101,000))</del>
		<u>6,576,000</u>
General Fund--State Appropriation (FY 1999)	\$	<del>((5,369,000))</del>
		<u>5,522,000</u>
General Fund--Federal Appropriation	\$	<del>((19,556,000))</del>
		<u>18,950,000</u>
General Fund--Private/Local Appropriation	\$	<del>((14,583,000))</del>
		<u>14,561,000</u>
TOTAL APPROPRIATION		\$ 45,609,000

The appropriations in this subsection are subject to the following conditions and limitations: \$200,000 of the general fund--state appropriation for fiscal year 1998 is provided solely as the state's contribution to the construction of a memorial on the state capitol grounds to the men and women who served in the nation's armed forces during the second world war. The department shall raise the remaining two-thirds of the memorial's cost from individual and corporate contributions.

Sec. 220. 1997 c 454 s 212 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

General Fund--State Appropriation (FY 1998)	\$	<del>((62,996,000))</del>
		<u>63,189,000</u>
General Fund--State Appropriation (FY 1999)	\$	<del>((65,741,000))</del>
		<u>73,258,000</u>
General Fund--Federal Appropriation	\$	<del>((259,139,000))</del>
		<u>262,504,000</u>
General Fund--Private/Local Appropriation	\$	<del>((24,351,000))</del>
		<u>24,333,000</u>
Hospital Commission Account Appropriation	\$	3,089,000
Health Professions Account Appropriation	\$	<del>((36,038,000))</del>
		<u>35,524,000</u>
Emergency Medical and Trauma Care Services Account		

Appropriation \$	21,042,000
Safe Drinking Water Account Appropriation \$	2,494,000
Death Investigations Account Appropriation \$	((1,000,000))
	<u>650,000</u>
Drinking Water Assistance Account--Federal Appropriation \$	5,385,000
Waterworks Operator Certification Appropriation \$	588,000
Water Quality Account Appropriation \$	3,065,000
Violence Reduction and Drug Enforcement Account Appropriation \$	469,000
State Toxics Control Account Appropriation \$	2,854,000
Medical Test Site Licensure Account Appropriation \$	1,624,000
Youth Tobacco Prevention Account Appropriation \$	1,812,000
Health Services Account Appropriation \$	((12,474,000))
	<u>6,115,000</u>
TOTAL APPROPRIATION \$	((504,161,000))
	<u>507,995,000</u>

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

(1) \$2,134,000 of the health professions account appropriation is provided solely for the development and implementation of a licensing and disciplinary management system. Expenditures are conditioned upon compliance with section 902 of this act. These funds shall not be expended without appropriate project approval by the department of information systems.

(2) Funding provided in this section for the drinking water program data management system shall not be expended without appropriate project approval by the department of information systems. Expenditures are conditioned upon compliance with section 902 of this act.

(3) The department is authorized to raise existing fees charged to the nursing professions and midwives, by the pharmacy board, and for boarding home licenses, in excess of the fiscal growth factor established by Initiative Measure No. 601, if necessary, to meet the actual costs of conducting business.

(4) \$1,633,000 of the general fund--state fiscal year 1998 appropriation and \$1,634,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of the Puget Sound water work plan and agency action items, DOH-01, DOH-02, DOH-03, DOH-04, DOH-05, DOH-06, DOH-07, DOH-08, DOH-09, DOH-10, DOH-11, and DOH-12.

(5) \$10,000,000 of the health services account appropriation is provided solely for distribution to local health departments for distribution on a per capita basis. Prior to distributing these funds, the department shall adopt rules and procedures to ensure that these funds are not used to replace current local support for public health programs.

(6) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for operation of a youth suicide prevention program at the state level, including a state-wide public educational campaign to increase knowledge of suicide risk and ability to respond and provision of twenty-four hour crisis hotlines, staffed to provide suicidal youth and caregivers a source of instant help.

(7) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(8) \$259,000 of the health professions account appropriation is provided solely to implement Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(9) \$150,000 of the general fund--state fiscal year 1998 appropriation and \$150,000 of the general fund--state fiscal year 1999 appropriation are provided solely for community-based oral health grants that may fund sealant programs, education, prevention, and other oral health interventions. The grants may be awarded to state or federally funded community and migrant health centers, tribal clinics, or public health jurisdictions. Priority shall be given to communities with established oral health coalitions. Grant applications for oral health education and prevention grants shall include (a) an assessment of the community's oral health education and prevention needs; (b) identification of the population to be served; and (c) a description of the grant program's predicted outcomes.

(10) \$21,042,000 of the emergency medical and trauma care services account appropriation is provided solely for implementation of Substitute Senate Bill No. 5127 (trauma care services). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(11) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for family support and provider training services for children with special health care needs.

(12) \$300,000 of the general fund--federal appropriation is provided solely for an abstinence education program which complies with P.L. 104-193. \$400,000 of the general fund--federal appropriation is provided solely for abstinence education projects at the office of the superintendent of public instruction and shall be transferred to the office of the superintendent of public instruction for the 1998-99 school year. The department shall apply for abstinence education funds made available by the federal personal responsibility and work opportunity act of 1996 and implement a program that complies with the requirements of that act.

(13) \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Second Substitute House Bill No. 1191 (mandated health benefit review). If the bill is not enacted by June 30, 1997, the amounts provided in this section shall lapse.

(14) \$100,000 of the general fund--state appropriation for fiscal year 1998 and \$100,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the volunteer retired provider program. Funds shall be used to increase children's access to dental care services in rural and underserved communities by paying malpractice insurance and professional licensing fees for retired dentists participating in the program.

(15) \$852,000 of the drinking water assistance account--federal appropriation is provided solely for an interagency agreement with the department of community, trade, and economic development to administer, in cooperation with the public works board, loans to local governments and public water systems for projects and activities to protect and improve the state's drinking water facilities and resources.

(16) \$3,347,000 of the fiscal year 1998 general fund--state appropriation and \$3,347,000 of the fiscal year 1999 general fund--state appropriation are provided solely for the AIDS prescription drug program and HIV intervention program. The department shall operate the program within total appropriations. The department shall take such actions as are necessary to control expenditures, including administrative efficiencies such as reductions to provider reimbursement rates, modifications to financial eligibility, modifications to the scope of services, and client cost sharing mechanisms. The department shall identify program policy changes required to manage within the amounts provided.

(17) Funding provided in this section is sufficient to implement section 8 of Engrossed Substitute House Bill No. 2264 (eliminating the health care policy board).

(18) \$2,075,000 of the fiscal year 1998 general fund--state appropriation and \$2,075,000 of the fiscal year 1999 general fund--state appropriation are provided solely for the Washington poison center.

(19) ~~\$(1,000,000)~~ 650,000 of the death investigations account appropriation is provided solely for the implementation of state-wide child mortality reviews. Local health jurisdictions shall coordinate child mortality reviews for children from birth to eighteen years of age, develop local child mortality review protocols, and serve as the appointing authority and lead agency for local child death review teams. The department of health shall develop standard aggregate data elements, collect and analyze local child mortality review data, provide technical assistance to local child mortality review teams, and approve local child death review protocols. If House Bill No. 1269 (death investigations account) is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(20) \$1,125,000 of the fiscal year 1998 general fund--state appropriation and \$1,125,000 of the fiscal year 1999 general fund--state appropriation are provided solely for deposit in the county public health account.

(21) \$60,000 of the general fund--state appropriation for fiscal year 1998 and \$60,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for attorney general services and such other activities not covered by fee revenues as are necessary for implementation of Engrossed Substitute House Bill No. 2264 (health care policy). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(22) \$250,000 of the fiscal year 1998 general fund--state appropriation \$250,000 of the fiscal year 1999 general fund--state appropriation are provided solely for operation of a naturopathic health clinic constructed in 1996.

(23) \$250,000 of the general fund--federal appropriation in this section is provided solely for the purpose of conducting monitoring for thyroid diseases for eligible people exposed to radiation from Hanford between 1945 and 1951, and this amount is contingent upon the execution of an agreement with Oregon that Washington will function as a subrecipient for the Hanford medical monitoring program grant. If such an agreement is not executed by September 30, 1998, the amount provided in this subsection shall lapse.

(24) \$203,000 of the health professions account appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 2462 (surgical technologists registration). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(25) \$54,000 of the general fund--state appropriation for fiscal year 1999 and \$13,000 of the health professions account appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(26) \$1,000,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the breast and cervical cancer screening program.

(27) Amounts provided in this section are sufficient to implement Engrossed Second Substitute House Bill No. 3008 (drug affected-infants).

(28) \$300,000 of the general fund--state appropriation is provided solely for the implementation of a hepatitis A emergency vaccination program. This entire amount shall be passed through to county health districts that have employed a public education effort and have infection rates in excess of 500 per 100,000 population.

Sec. 221. 1997 c 454 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

(1) ADMINISTRATION AND PROGRAM SUPPORT

General Fund Appropriation (FY 1998) \$	13,926,000
General Fund Appropriation (FY 1999) \$	13,910,000
Violence Reduction and Drug Enforcement Account Appropriation \$	500,000
TOTAL APPROPRIATION \$	28,336,000

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

(a) \$187,000 of the general fund fiscal year 1998 appropriation and \$155,000 of the general fund fiscal year 1999 appropriation are provided solely for implementation of Substitute Senate Bill No. 5759 (risk classification). If the bill is not enacted by July 1, 1997, the amounts provided shall lapse.

(b) \$500,000 of the violence reduction and drug enforcement account appropriation is provided solely for a feasibility study regarding the replacement of the department's offender based tracking system. The amount in this subsection is conditioned on satisfying the requirements of section 902, chapter 149, Laws of 1997.

(2) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 1998) \$	((291,745,000))
General Fund--State Appropriation (FY 1999) \$	289,665,000
	((304,000,000))
General Fund--Federal Appropriation \$	305,239,000
Industrial Insurance Premium Rebate Account	18,097,000



Appropriation	\$	673,000
Violence Reduction and Drug Enforcement Account		
Appropriation	\$	1,614,000
TOTAL APPROPRIATION	\$	<del>((616,129,000))</del>
		<u>615,288,000</u>

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

(a) The department shall provide funding for the pet partnership program at the Washington corrections center for women at a level at least equal to that provided in the 1995-97 biennium.

(b) ~~((4,839,000))~~ \$3,978,000 of the general fund--state fiscal year 1998 appropriation and ~~((6,481,000))~~ \$5,081,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the criminal justice costs associated with the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the amounts provided shall lapse.

(c) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

~~((e))~~ (d) \$296,000 of the general fund--state appropriation for fiscal year 1998 and \$297,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to increase payment rates for contracted education providers. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

~~((f))~~ (e) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. If any funds are generated in excess of actual costs, they shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as recovery of costs.

(f) \$240,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of House Bill No. 1129 (eluding a police vehicle). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(g) \$8,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of House Bill No. 2628 (methamphetamine manufacture). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(h) \$79,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Second Substitute House Bill No. 2794 (sentencing conditions). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(i) \$1,496,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to provide educational opportunities to offenders under the age of eighteen.

(3) COMMUNITY CORRECTIONS		
General Fund Appropriation (FY 1998)	\$	<del>((89,377,000))</del>
		<u>88,830,000</u>
General Fund Appropriation (FY 1999)	\$	<del>((90,495,000))</del>
TOTAL APPROPRIATION	\$	<u>90,781,000</u>
		<del>((179,872,000))</del>
		<u>179,611,000</u>

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

(a) \$27,000 of the general fund fiscal year 1998 appropriation and \$185,000 of the general fund fiscal year 1999 appropriation are provided solely for the criminal justice costs associated with the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the amounts provided shall lapse.

(b) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(c) \$467,000 of the general fund appropriation for fiscal year 1998 and \$505,000 of the general fund appropriation for fiscal year 1999 are provided solely to increase payment rates for contracted education providers and contracted work release facilities. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(d) \$156,000 of the general fund fiscal year 1999 appropriation is provided solely for the implementation of Second Substitute House Bill No. 2794 (sentencing conditions). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(e) \$609,000 of the general fund fiscal year 1998 appropriation and \$226,000 of the general fund fiscal year 1999 appropriation are provided solely for costs associated with allowing community corrections officers to carry firearms.

(4) CORRECTIONAL INDUSTRIES

General Fund Appropriation (FY 1998) \$	4,055,000
General Fund Appropriation (FY 1999) \$	4,167,000
TOTAL APPROPRIATION \$	8,222,000

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

(a) \$100,000 of the general fund fiscal year 1998 appropriation and \$100,000 of the general fund fiscal year 1999 appropriation are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(b) \$50,000 of the general fund appropriation for fiscal year 1998 and \$50,000 of the general fund appropriation for fiscal year 1999 are provided solely for the correctional industries board of directors to hire one staff person, responsible directly to the board, to assist the board in fulfilling its duties.

(5) INTERAGENCY PAYMENTS

General Fund Appropriation (FY 1998) \$	((6,945,000))
	<u>6,851,000</u>
General Fund Appropriation (FY 1999) \$	((6,444,000))
	<u>6,538,000</u>
TOTAL APPROPRIATION \$	13,389,000

**Sec. 222.** 1997 c 149 s 224 (uncodified) is amended to read as follows:

**FOR THE SENTENCING GUIDELINES COMMISSION**

General Fund Appropriation (FY 1998) \$	714,000
General Fund Appropriation (FY 1999) \$	713,000
TOTAL APPROPRIATION \$	1,427,000

The appropriations in this section are subject to the following conditions and limitations: The commission shall study the feasibility and desirability of allowing certain older or physically infirm offenders to be released from institutional confinement, with the assumption that these released offenders would remain on community custody for the remainder of their length of confinement. The study shall identify: (1) Groups who would be potential candidates for such a program; (2) how individual offenders in these groups could be screened to maintain public safety; (3) how these offenders, if released, could be supervised in such a way as to maintain public safety; (4) what statutory changes would be necessary to implement such a program; (5) how much savings such a program would generate; and (6) any other items the commission deems relevant. The study shall be transmitted to the chairs and ranking minority members of the appropriate policy and fiscal committees of the legislature not later than December 15, 1998.

**Sec. 223.** 1997 c 454 s 214 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

General Fund--State Appropriation (FY 1998) \$	1,260,000
General Fund--State Appropriation (FY 1999) \$	

General Fund--Federal Appropriation \$	1,261,000
	((173,595,000))
General Fund--Private/Local Appropriation \$	<u>198,628,000</u>
	((24,842,000))
Unemployment Compensation Administration Account-- Federal Appropriation \$	<u>28,650,000</u>
	((181,985,000))
Administrative Contingency Account Appropriation \$	<u>182,312,000</u>
	((12,579,000))
Employment Service Administrative Account Appropriation \$	<u>13,527,000</u>
	((13,176,000))
Employment & Training Trust Account Appropriation \$	<u>14,500,000</u>
	600,000
TOTAL APPROPRIATION \$	<u>440,738,000</u>
	((409,298,000))

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

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "claims and adjudication call centers", "data/wage quality initiative", and "one stop information connectivity" are conditioned upon compliance with section 902 of this act.

(2) \$600,000 of the employment and training trust account appropriation is provided solely for the account's share of unemployment insurance tax collection costs.

(3) \$1,126,000 of the general fund--federal appropriation is provided solely for the continuation of job placement centers colocated on community and technical college campuses.

(4) The employment security department shall spend no more than \$25,049,511 of the unemployment compensation administration account--federal appropriation for the general unemployment insurance development effort (GUIDE) project, except that the department may exceed this amount by up to \$2,600,000 to offset the cost associated with any vendor-caused delay. The additional spending authority is contingent upon the department fully recovering these moneys from any project vendors failing to perform in full. Authority to spend the amount provided by this subsection is conditioned on compliance with section 902 of this act.

(5) \$60,000 of the general fund--state fiscal year 1998 appropriation and \$61,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the King county reemployment support center.

(6) \$1,200,000 of the general fund--state fiscal year 1998 appropriation and \$1,200,000 of the general fund--state fiscal year 1999 appropriation are provided solely for labor market information and employer outreach activities.

(7) \$327,000 of the unemployment compensation administration account--federal appropriation and \$486,000 of the employment service administrative account appropriation are provided solely for the department to replace field office computers that are not compliant with Year 2000 conversion standards.

(8) \$948,000 of the administrative contingency account appropriation and \$838,000 of the employment service administrative account appropriation are provided solely for the department to address deficiencies in the tax information system (TAXIS).

(9) Within the amounts appropriated in this section, the commissioner shall improve the disclosure of information on the employer rate notice for 1999 rate year unemployment contributions. The information disclosed on the notice must be for the 1997 calendar year and for the period used to calculate the employer's experience rating for the 1999 rate year. The notice must include an explanation in plain language of the disclosed information and the disclosed information's relationship to the employer's contributions. The information must include, to the greatest extent possible:

- (a) The contributions paid by the employer;
- (b) The benefits charged to the employer's experience rating account; and
- (c) The dollar amount that represents the difference between (a) and (b) of this subsection.

In addition, the commissioner shall include the following information paid from the unemployment trust fund for each of the three most recently completed calendar years for: Total benefits paid; benefits paid that were in excess of one percent of the base year earnings of all claimants; benefits paid to claimants and not charged to any employer because of a voluntary quit; and benefits paid to a claimant but not charged to any employer because of marginal labor force attachment. The information shall include a generic explanation of why these benefits were paid.

**PART III  
NATURAL RESOURCES**

**Sec. 301.** 1997 c 454 s 301 (uncodified) is amended to read as follows:

**FOR THE COLUMBIA RIVER GORGE COMMISSION**

General Fund--State Appropriation (FY 1998) \$	213,000
General Fund--State Appropriation (FY 1999) \$	222,000
General Fund--Private/Local Appropriation \$	((435,000))
	<u>442,000</u>
TOTAL APPROPRIATION \$	((870,000))
	<u>877,000</u>

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

(1) \$120,000 of the general fund--state appropriation for fiscal year 1998(,) and \$120,000 of the general fund--state appropriation for fiscal year 1999(, and \$240,000 of the general fund--local appropriation) are provided solely for each Washington Columbia river gorge county to receive an \$80,000 grant for the purposes of implementing the scenic area management plan. If a Columbia river gorge county has not adopted an ordinance to implement the scenic area management plan in accordance with the national scenic area act (P.L. 99-663), then the grant funds for that county may be used by the commission to implement the plan for that county.

(2) \$30,000 of the general fund--state appropriation for fiscal year 1998 and \$30,000 of the general fund--state appropriation for fiscal year 1999 provided to Clark county under subsection (1) of this section shall be transferred through an inter-local agreement to Skamania county solely for implementing the national scenic area act.

**Sec. 302.** 1997 c 454 s 302 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund--State Appropriation (FY 1998) \$	((27,748,000))
	<u>26,013,000</u>
General Fund--State Appropriation (FY 1999) \$	((27,795,000))
	<u>25,860,000</u>
General Fund--Federal Appropriation \$	((45,315,000))

General Fund--Private/Local Appropriation \$	<u>46,240,000</u>
	((643,000))
Special Grass Seed Burning Research Account Appropriation \$	<u>1,200,000</u>
	((42,000))
Reclamation Revolving Account Appropriation \$	<u>71,000</u>
	2,441,000
Flood Control Assistance Account Appropriation \$	4,850,000
State Emergency Water Projects Revolving Account Appropriation \$	319,000
Waste Reduction/Recycling/Litter Control Appropriation \$	10,316,000
State and Local Improvements Revolving Account (Waste Facilities) Appropriation \$	601,000
State and Local Improvements Revolving Account (Water Supply Facilities) Appropriation \$	1,366,000
Basic Data Account Appropriation \$	182,000
Vehicle Tire Recycling Account Appropriation \$	((1,194,000))
Water Quality Account Appropriation \$	<u>357,000</u>
	2,892,000
Wood Stove Education and Enforcement Account Appropriation \$	((1,055,000))
Worker and Community Right-to-Know Account Appropriation \$	<u>848,000</u>
	469,000
State Toxics Control Account Appropriation \$	53,715,000
Local Toxics Control Account Appropriation \$	((4,342,000))
	<u>4,759,000</u>

Water Quality Permit Account Appropriation \$	20,378,000
Underground Storage Tank Account Appropriation \$	<u>(2,443,000)</u>
	<u>2,638,000</u>
Solid Waste Management Account Appropriation \$	<u>(1,021,000)</u>
	<u>971,000</u>
Hazardous Waste Assistance Account Appropriation \$	3,615,000
Air Pollution Control Account Appropriation \$	16,224,000
Oil Spill Administration Account Appropriation \$	<u>(6,958,000)</u>
	<u>6,998,000</u>
Air Operating Permit Account Appropriation \$	<u>(4,033,000)</u>
	<u>3,808,000</u>
Freshwater Aquatic Weeds Account Appropriation \$	1,829,000
Oil Spill Response Account Appropriation \$	7,078,000
Metals Mining Account Appropriation \$	42,000
Water Pollution Control Revolving Account--State Appropriation \$	349,000
Water Pollution Control Revolving Account--Federal Appropriation \$	1,726,000
Biosolids Permit Account Appropriation \$	567,000
Environmental Excellence Account Appropriation \$	247,000
TOTAL APPROPRIATION \$	<u>(251,795,000)</u>
	<u>248,969,000</u>

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

(1) \$3,211,000 of the general fund--state appropriation for fiscal year 1998, \$3,211,000 of the general fund--state appropriation for fiscal year 1999, \$394,000 of the general fund--federal appropriation, \$2,017,000 of the oil spill administration account, \$819,000 of the state toxics control account appropriation, and \$3,591,000 of the water quality permit fee account are provided solely for the implementation of the Puget Sound work plan and agency action items DOE-01, DOE-02, DOE-03, DOE-04, DOE-05, DOE-06, DOE-07, DOE-08, and DOE-09.

(2) \$2,000,000 of the state toxics control account appropriation is provided solely for the following purposes:

(a) To conduct remedial actions for sites for which there are no potentially liable persons, for which potentially liable persons cannot be found, or for which potentially liable persons are unable to pay for remedial actions; and

(b) To provide funding to assist potentially liable persons under RCW 70.105D.070(2)(d)(xi) to pay for the cost of the remedial actions; and

(c) To conduct remedial actions for sites for which potentially liable persons have refused to conduct remedial actions required by the department; and

(d) To contract for services as necessary to support remedial actions.

~~((6))~~ (3) \$200,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for the implementation of Engrossed Substitute House Bill No. 1118 (reopening a water rights claim filing period). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((7))~~ (4) \$3,600,000 of the general fund--state appropriation for fiscal year 1998 and \$3,600,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the auto emissions inspection and maintenance program. Expenditures of the amounts provided in this subsection are contingent upon a like amount being deposited in the general fund from the auto emission inspection fees in accordance with RCW 70.120.170(4).

~~((8))~~ (5) \$170,000 of the oil spill administration account appropriation is provided solely for implementation of the Puget Sound work plan action item UW-02 through a contract with the University of Washington's Sea Grant program in order to develop an educational program that targets small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

~~((9))~~ (6) The merger of the office of marine safety into the department of ecology shall be accomplished in a manner that will maintain a priority focus on oil spill prevention, as well as maintain a strong oil spill response capability. The merged program shall be established to provide a high level of visibility and ensure that there shall not be a diminution of the existing level of effort from the merged programs.

~~((10))~~ (7) The entire environmental excellence account appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 1866 (environmental excellence). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse. In implementing the bill, the department shall organize the needed expertise to process environmental excellence applications after an application has been received.

~~((11))~~ (8) \$200,000 of the freshwater aquatic weeds account appropriation is provided solely to address saltcedar weed problems.

~~((12))~~ (9) \$4,498,000 of the waste reduction, recycling, and litter control account appropriation is provided for fiscal year 1998 and \$5,818,000 is provided for fiscal year 1999 to be expended in the following ratios: Fifty percent for a litter patrol program to employ youth and correctional work crews to remove litter from places that are most visible to the public; twenty percent for grants to local governments for litter cleanup under RCW 70.93.250; and thirty percent for public education and awareness programs and programs to foster local waste reduction and recycling efforts. From the amounts provided in this subsection, the department shall provide \$352,000 through an interagency agreement to the department of corrections to hire correctional crews to remove litter in areas that are not accessible to youth crews.

~~((13))~~ (10) The entire biosolids permit account appropriation is provided solely for implementation of Engrossed Senate Bill No. 5590 (biosolids management). If the bill is not enacted by June 30, 1997, the entire appropriation is null and void.

~~((14))~~ (11) \$29,000 of the general fund--state appropriation for fiscal year 1998 and \$99,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((15))~~ (12) \$60,000 of the freshwater aquatic weeds account appropriation is provided solely for a grant to the department of fish and wildlife to control and eradicate purple loosestrife using the most cost-effective methods available, including chemical control where appropriate.

~~((16))~~ (13) \$250,000 of the flood control assistance account appropriation is provided solely as a reappropriation to complete the Skokomish valley flood reduction plan. The amount provided in this subsection shall be reduced by the amount expended from this account for the Skokomish valley flood reduction plan during the biennium ending June 30, 1997.

~~((18))~~ (14) \$600,000 of the flood control assistance account appropriation is provided solely to complete flood control projects that were awarded funds during the 1995-97 biennium. These funds shall be spent only to complete projects that could not be completed during the 1995-97 biennium due to delays caused by weather or delays in the permitting process.

~~((19))~~ (15) \$113,000 of the general fund--state appropriation for fiscal year 1998 and \$112,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5505 (assistance to water applicants). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((20))~~ (16) \$70,000 of the general fund--state appropriation for fiscal year 1998 and \$70,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5785 (consolidation of groundwater rights). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((21))~~ (17) \$20,000 of the general fund--state appropriation for fiscal year 1998 and \$20,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5276 (water right applications). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((23))~~ (18) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the continuation of the southwest Washington coastal erosion study.

(19) It is the intent of the legislature that, within the general fund--state appropriations provided in this section, the department shall prioritize its resources to provide expedited assistance to businesses seeking permitting and technical assistance for rural economic development projects.

(20) Within the amounts provided in this section, the department shall conduct a wetlands technical assistance pilot program in accordance with Second Substitute House Bill No. 2340 (wetlands technical assistance). If the bill is not enacted by June 30, 1998, this subsection is null and void.

(21) Within the amounts provided in this section, the department shall cochair a work group to provide guidance to watershed groups in evaluating how mitigation efforts can support watershed restoration efforts in accordance with Engrossed Second Substitute House Bill No. 3049 (watershed planning/mitigation). If the bill is not enacted by June 30, 1998, this subsection is null and void.

(22) Within the amounts provided in this section, the department shall implement Engrossed Second Substitute House Bill No. 2925 (water systems). If the bill is not enacted by June 30, 1998, this subsection is null and void.

(23) Within the amounts provided in this section, the department shall contract for a scientific review by a panel selected by the society of environmental toxicology and chemistry of the following documents: 1992 Environmental Impact Statement on Aquatic Weeds; the KCM Phase 1 Study of Lake Steilacoom; the conditions and requirements of the first permit issued for the 1997 treatment season for Lake Steilacoom; and, studies done in respect to the listing of Lake Steilacoom as a possible model toxic control act site.

(24) \$195,000 of the underground storage tank account appropriation is provided solely for the implementation of Substitute Senate Bill No. 6130 (underground storage tanks). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(25) \$417,000 of the local toxics account appropriation is provided solely to implement Second Substitute House Bill No. 2618 (fertilizer regulation). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(26) Using up to \$19,000 of the special grass seed burning research account appropriation the department shall provide funding to Washington State University to conduct a grass burning emissions study.

NEW SECTION. Sec. 303. A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund--State Appropriation (FY 1998) \$	3,800,000
General Fund--State Appropriation (FY 1999) \$	3,550,000
General Fund--Federal Appropriation \$	30,000
Water Quality Permit Account Appropriation \$	14,000
Air Pollution Control Account Appropriation \$	12,000
TOTAL APPROPRIATION \$	7,406,000

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

(1) \$3,500,000 of the general fund--state appropriation for fiscal year 1998 and \$2,652,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement sections 4 through 16 of Engrossed Substitute House Bill No. 2514 (integrated watershed management). If any of sections 4 through 16 of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse. Of the amounts in this subsection, \$3,500,000 of the general fund--state appropriation for fiscal year 1998 and \$1,500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for grants to local watershed planning units, and \$1,152,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for technical assistance to local watershed planning groups.

(2) \$400,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement sections 3 through 19 of Engrossed Second Substitute House Bill No. 2915 (dairy nutrients). If any of sections 3 through 19 of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse.



(3) \$300,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for the department to conduct a preconstruction analysis of Pine Hollow, located near the communities of Wiley City and Tampico in Yakima county, regarding its suitability as a site for the construction of a retainment dam and water storage reservoir and the reservoir site's potential to enhance and maintain anadromous fish and other aquatic life and agriculture. The analysis shall include, but is not limited to, a hydrologic and water rights assessment of the Ahtanum Creek watershed to determine water availability to Pine Hollow, an analysis of the geology and hydrology of the site and appropriate dam design and dynamics, its impact on water-related issues, and on Yakama Indian Nation and other water rights. Using amounts appropriated in this section and the associated local match, the department shall conduct portions of its analysis through contracts with private entities and through contracts with, or by providing grant moneys to, the Yakama Indian Nation and other public entities, which may include other state agencies, irrigation districts local to the area, cities, Yakima county, and federal agencies. The department shall consult with stakeholders before conducting this preconstruction analysis. The analysis shall be completed by June 30, 1999. The amount provided in this subsection is contingent upon the provision of an equal cash match from the Ahtanum irrigation district, and if such a match is not received the amount provided in this subsection shall lapse.

(4) \$268,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Substitute House Bill No. 2924 (water rights). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(5) \$196,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Engrossed Second Substitute House Bill No. 2339 (wetlands mitigation banking). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(6) \$34,000 of the general fund--state appropriation for fiscal year 1999, \$30,000 of the general fund--federal appropriation, \$14,000 of the water quality permit account appropriation, and \$12,000 of the air pollution control account appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

**Sec. 304.** 1997 c 454 s 303 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund--State Appropriation (FY 1998) \$	((20,526,000))
	<u>20,489,000</u>
General Fund--State Appropriation (FY 1999) \$	((20,335,000))
	<u>20,595,000</u>
General Fund--Federal Appropriation \$	((2,428,000))
	<u>3,122,000</u>
General Fund--Private/Local Appropriation \$	59,000
Winter Recreation Program Account Appropriation \$	((759,000))
	<u>779,000</u>
Off Road Vehicle Account Appropriation \$	251,000
Snowmobile Account Appropriation \$	((2,290,000))
	<u>3,260,000</u>
Aquatic Lands Enhancement Account Appropriation \$	321,000
Public Safety and Education Account Appropriation \$	48,000
Industrial Insurance Premium Refund	

Appropriation \$		10,000
Waste Reduction/Recycling/Litter Control		
Appropriation \$		34,000
Water Trail Program Account Appropriation \$		14,000
Parks Renewal and Stewardship Account		
Appropriation \$		((25,344,000))
		<u>25,894,000</u>
TOTAL APPROPRIATION \$		((72,419,000))
		<u>74,876,000</u>

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

(1) \$189,000 of the aquatic lands enhancement account appropriation is provided solely for the implementation of the Puget Sound work plan agency action items P&RC-01 and P&RC-03.

(2) \$264,000 of the general fund--federal appropriation is provided for boater programs state-wide and for implementation of the Puget Sound work plan.

(3) \$45,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for a feasibility study of a public/private effort to establish a reserve for recreation and environmental studies in southwest Kitsap county.

(4) Within the funds provided in this section, the state parks and recreation commission shall provide to the legislature a status report on implementation of the recommendations contained in the 1994 study on the restructuring of Washington state parks. This status report shall include an evaluation of the campsite reservation system including the identification of any incremental changes in revenues associated with implementation of the system and a progress report on other enterprise activities being undertaken by the commission. The report may also include recommendations on other revenue generating options. In preparing the report, the commission is encouraged to work with interested parties to develop a long-term strategy to support the park system. The commission shall provide this report by December 1, 1997.

(5) ((~~\$85,000~~)) \$48,000 of the general fund--state appropriation for fiscal year 1998 and ((~~\$165,000~~)) \$202,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for development of underwater park programs and facilities. The department shall work with the underwater parks program task force to develop specific plans for the use of these funds.

(6) Pursuant to RCW 43.135.055, during the 1997-99 fiscal biennium, the department is authorized to increase the following fees in excess of the fiscal growth factor: Group campsite fees from \$15.00 to \$23.00; Fort Worden conference center and recreational housing user fees up to 14.5 percent on average for all fees increased; special groomed trail permits from \$20.00 to \$40.00; and, wood debris collection from \$10.00 to \$25.00.

(7) \$20,000 of the winter recreation program account appropriation and \$20,000 of the snowmobile account appropriation are provided solely for a grant for the operation of the Northwest avalanche center.

Sec. 305. 1997 c 149 s 304 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Firearms Range Account Appropriation \$		46,000
Recreation Resources Account--State		
Appropriation \$		2,352,000
Recreation Resources Account--Federal		
Appropriation \$		11,000
NOVA Program Account Appropriation \$		590,000
TOTAL APPROPRIATION \$		((2,988,000))
		<u>2,999,000</u>

The appropriations in this section are subject to the following conditions and limitations: Any proceeds from the sale of the PRISM software system shall be deposited into the recreation resources account.

**Sec. 306.** 1997 c 149 s 306 (uncodified) is amended to read as follows:

**FOR THE CONSERVATION COMMISSION**

General Fund Appropriation (FY 1998) \$	838,000
General Fund Appropriation (FY 1999) \$	<del>((840,000))</del>
	<u>3,840,000</u>
Water Quality Account Appropriation \$	440,000
TOTAL APPROPRIATION \$	<del>((2,118,000))</del>
	<u>5,118,000</u>

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

(1) \$181,000 of the general fund appropriation for fiscal year 1998, \$181,000 of the general fund appropriation for fiscal year 1999, and \$130,000 of the water quality account appropriation are provided solely for the implementation of the Puget Sound work plan agency action item CC-01.

(2) \$1,000,000 of the general fund appropriation for fiscal year 1999 is provided solely for grants to conservation districts to provide technical assistance to landowners enrolling in the conservation reserve enhancement program.

(3) \$200,000 of the general fund appropriation for fiscal year 1999 is provided solely for technical assistance for dairy farmers to implement sections 3 through 19 of Engrossed Second Substitute House Bill No. 2915 (dairy nutrients). If any of sections 3 through 19 of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(4) \$800,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to conduct limiting factor analysis in accordance with sections 7 through 11 of Engrossed Substitute House Bill No. 2496 (salmon recovery planning). If these sections of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse. To the extent possible, the commission shall establish partnerships with the federal natural resources conservation service and other entities conducting watershed or limiting factor analysis. Of this amount: (a) \$150,000 is provided for limiting factor analysis in the lower Columbia evolutionarily significant unit; (b) \$150,000 is provided for limiting factor analysis in the Snake river evolutionarily significant unit; and (c) \$500,000 is provided for limiting factor analysis in the Puget Sound area.

(5) \$1,000,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a contract with a nonprofit entity on a pilot program basis to develop and implement a volunteer habitat initiative. Approximately one-third of the initiative shall be implemented in the lower Columbia evolutionarily significant unit. The initiative must include: A training program for volunteers; a public outreach and education program; and a program to encourage landowners and land managers to use volunteers in salmon habitat improvement projects.

**Sec. 307.** 1997 c 454 s 304 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

General Fund--State Appropriation (FY 1998) \$	<del>((36,049,000))</del>
	<u>35,852,000</u>
General Fund--State Appropriation (FY 1999) \$	<del>((36,571,000))</del>
	<u>42,150,000</u>
General Fund--Federal Appropriation \$	<del>((73,015,000))</del>
	<u>75,037,000</u>
General Fund--Private/Local Appropriation \$	<del>((26,758,000))</del>
	<u>26,983,000</u>

Off Road Vehicle Account Appropriation \$	488,000
Aquatic Lands Enhancement Account Appropriation \$	5,593,000
Public Safety and Education Account Appropriation \$	<del>((590,000))</del>
	<u>586,000</u>
Industrial Insurance Premium Refund Appropriation \$	120,000
Recreational Fisheries Enhancement Appropriation \$	2,387,000
Warm Water Game Fish Account Appropriation \$	2,419,000
Wildlife Account Appropriation \$	<del>((52,372,000))</del>
	<u>51,622,000</u>
Game Special Wildlife Account--State Appropriation \$	1,911,000
Game Special Wildlife Account--Federal Appropriation \$	10,844,000
Game Special Wildlife Account--Private/Local Appropriation \$	350,000
Oil Spill Administration Account Appropriation \$	843,000
Environmental Excellence Account Appropriation \$	20,000
Eastern Washington Pheasant Enhancement Account Appropriation \$	547,000
<u>Regional Fisheries Enhancement--State</u> <u>Appropriation \$</u>	500,000
<u>Regional Fisheries Enhancement--Federal</u> <u>Appropriation \$</u>	750,000
TOTAL APPROPRIATION \$	<del>((250,877,000))</del>
	<u>259,002,000</u>

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

(1) \$1,181,000 of the general fund--state appropriation for fiscal year 1998 and \$1,181,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action items DFW-01, DFW-03, DFW-04, and DFW-8 through DFW-15.

(2) \$188,000 of the general fund--state appropriation for fiscal year 1998 and \$155,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for a maintenance and inspection program for department-owned dams. The department shall submit a report

to the governor and the appropriate legislative committees by October 1, 1998, on the status of department-owned dams. This report shall provide a recommendation, including a cost estimate, on whether each facility should continue to be maintained or should be decommissioned.

(3) \$832,000 of the general fund--state appropriation for fiscal year 1998 and \$825,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement salmon recovery activities and other actions required to respond to federal listings of salmon species under the endangered species act.

(4) \$350,000 of the wildlife account appropriation, \$72,000 of the general fund--state appropriation for fiscal year 1998, and \$73,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for control and eradication of class B designate weeds on department owned and managed lands. The amounts from the general fund--state appropriations are provided solely for control of spartina.

(5) \$140,000 of the wildlife account appropriation is provided solely for a cooperative effort with the department of agriculture for research and eradication of purple loosestrife on state lands.

(6) In controlling weeds on state-owned lands, the department shall use the most cost-effective methods available, including chemical control where appropriate, and the department shall report to the appropriate committees of the legislature by January 1, 1998, on control methods, costs, and acres treated during the previous year.

~~(7) ((A maximum of \$1,000,000 is provided from the wildlife fund for fiscal year 1998. The amount provided in this subsection is for the emergency feeding of deer and elk that may be starving and that are posing a risk to private property due to severe winter conditions during the winter of 1997-98. The amount expended under this subsection must not exceed the amount raised pursuant to section 3 of Substitute House Bill No. 1478. Of the amount expended under this subsection, not more than fifty percent may be from fee revenue generated pursuant to section 3 of Substitute House Bill No. 1478. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.~~

~~(8))~~ (8) \$193,000 of the general fund--state appropriation for fiscal year 1998, \$194,000 of the general fund--state appropriation for fiscal year 1999, and \$300,000 of the wildlife account appropriation are provided solely for the design and development of an automated license system.

~~((9))~~ (8) The department is directed to offer for sale its Cessna 421 aircraft by June 30, 1998. Proceeds from the sale shall be deposited in the wildlife account.

~~((10))~~ (9) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to continue the department's habitat partnerships program during the 1997-99 biennium.

~~((11))~~ (10) \$350,000 of the general fund--state appropriation for fiscal year 1998 and \$350,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for purchase of monitoring equipment necessary to fully implement mass marking of coho salmon.

~~((12))~~ (11) \$238,000 of the general fund--state appropriation for fiscal year 1998 and \$219,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((13))~~ (12) \$150,000 of the general fund--state appropriation for fiscal year 1998 and \$150,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for a contract with the United States department of agriculture to carry out animal damage control projects throughout the state related to cougars, bears, and coyotes.

~~((14))~~ (13) \$97,000 of the general fund--state appropriation for fiscal year 1998 and \$98,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement animal damage control programs for Canada geese in the lower Columbia river basin.

~~((15))~~ (14) \$170,000 of the general fund--state appropriation for fiscal year 1998, \$170,000 of the general fund--state appropriation for fiscal year 1999, and \$360,000 of the wildlife account appropriation are provided solely to hire additional enforcement officers to address problem wildlife throughout the state.

~~((17))~~ (15) \$133,000 of the general fund--state appropriation for fiscal year 1998 and \$133,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5442 (flood control permitting). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((18))~~ (16) \$100,000 of the aquatic lands enhancement account appropriation is provided solely for grants to the regional fisheries enhancement groups.

~~((19))~~ (17) \$547,000 of the eastern Washington pheasant enhancement account appropriation is provided solely for implementation of Substitute Senate Bill No. 5104 (pheasant enhancement program). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((20))~~ (18) \$150,000 of the general fund--state appropriation for fiscal year 1998 and \$150,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to hire Washington conservation corps crews to maintain department-owned and managed lands.

~~((21))~~ (19) The entire environmental excellence account appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1866 (environmental excellence). If the bill is not enacted by June 30, 1997, the entire appropriation is null and void.

~~((22))~~ (20) \$156,000 of the recreational fisheries enhancement appropriation is provided solely for Substitute Senate Bill No. 5102 (fishing license surcharge). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((23))~~ (21) \$25,000 of the general fund--state appropriation for fiscal year 1998 and \$25,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for staffing and operation of the Tennant Lake interpretive center.

(22) It is the intent of the legislature that, within the general fund--state appropriations provided in this section, the department shall prioritize its resources to provide expedited assistance to businesses seeking permitting and technical assistance for rural economic development projects.

(23) Within the amounts provided in this section, the department shall expedite permitting for fish habitat enhancement projects in accordance with Second Substitute House Bill No. 2879 (fish enhancement projects). If the bill is not enacted by June 30, 1998, this subsection is null and void.

(24) \$750,000 of the regional fisheries enhancement--federal appropriation is provided solely for the regional fisheries enhancement groups. The amount in this section may be spent for project identification, design, permitting, and implementation; volunteer coordination; and administrative costs as approved under RCW 75.50.100 and 75.50.115(1)(d). All amounts not committed to approved project, volunteer coordination, or administrative costs by May 31, 1998, shall be made available to any of the regional fisheries enhancement groups that have submitted project approval requests that exceed their available funding from the regional fisheries enhancement group account and the regional fisheries enhancement salmonid recovery account. Redistribution of the moneys shall be based on the criteria established in RCW 75.50.115(1)(e), and shall ensure to the greatest extent possible that the funds are spent during the 1998 in-stream season.

(25) \$700,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for grants to regional councils formed in accordance with sections 7 through 11 of Engrossed Substitute House Bill No. 2496 (salmon recovery planning). If these sections of the bill are not enacted by June 30, 1998, the amounts provided in this subsection shall lapse. Of this amount: (a) \$100,000 is provided as a grant to the regional committee lead entity in the lower Columbia evolutionarily significant unit; (b) \$100,000 is provided as a grant to the regional committee lead entity for administrative activities in the Snake river evolutionarily significant unit; and (c) \$500,000 is provided for five separate grants to lead entities for restoration activities in the Puget Sound region.

(26) \$75,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for implementation of the salmon recovery office in accordance with sections 7 through 11 of Engrossed Substitute House Bill No. 2496 (salmon recovery planning). If these sections of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(27) \$25,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for operation of the independent science panel in accordance with section 6 of Engrossed Substitute House Bill No. 2496 (salmon recovery planning). If this section of the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(28) \$450,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for fish passage technical assistance in accordance with sections 7 through 11 of Engrossed Substitute House Bill No. 2496 (salmon recovery planning). The department shall contract with the department of transportation to train staff at the department of transportation to become proficient in providing fish passage technical assistance. If these sections of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(29) \$250,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for excessive deer and elk damage claims.

(30) \$200,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for development and implementation of a remote site incubator program. The funding is solely for activities in the tributaries of the lower Columbia river in accordance with Substitute Senate Bill No. 6324 (fish remote site incubators). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(31) \$775,000 of the general fund--state appropriation for fiscal year 1999, \$400,000 of the general fund--federal appropriation, and \$225,000 of the general fund--local appropriation are provided solely to contract for the mass marking of all appropriate state-wide department chinook salmon hatchery production in accordance with Second Substitute Senate Bill No. 6264 (chinook salmon mass marking). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(32) \$500,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for implementation of sections 7 through 11 of Second Substitute House Bill No. 2496 (salmon recovery planning). The entire amount shall be used for regional fisheries enhancement group projects located in the Puget Sound region.

(33) \$546,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for implementation of sections 7 through 11 of Second Substitute House Bill No. 2496 (salmon recovery planning). The entire amount shall be used for salmonid restoration projects located in the Puget Sound region.

(34) \$2,204,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for implementation of sections 7 through 11 of Second Substitute House Bill No. 2496 (salmon recovery planning). Of these amounts: (a) \$1,454,000 is provided solely for salmon restoration projects located in the Puget Sound region; (b) \$250,000 is provided solely to the lead entity in the lower Columbia evolutionarily significant unit for salmon restoration projects and administration; and (c) \$500,000 is provided solely for salmon restoration projects ready to be implemented located in the Snake river evolutionarily significant unit. If these sections of the bill are not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(35) \$50,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the department to: (a) Establish a more accurate annual population estimate for elk and deer herds, particularly those herds in areas where conservation restrictions have been

imposed in recent history; and (b) determine as accurately as possible annual elk or deer mortality from: Cougar and bear predation, hunting, poaching, starvation, and all other sources of harvest or depredation.

(36) \$500,000 of the general fund--state appropriation for fiscal year 1999 and \$3,500,000 of the general fund--federal appropriation are provided solely to implement a license buy-back program for commercial fishing licenses.

**Sec. 308.** 1997 c 454 s 305 (uncodified) is each amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund--State Appropriation (FY 1998) \$	23,767,000
General Fund--State Appropriation (FY 1999) \$	((24,168,000))
	<u>24,340,000</u>
General Fund--Federal Appropriation \$	1,156,000
General Fund--Private/Local Appropriation \$	422,000
Forest Development Account Appropriation \$	((49,923,000))
	<u>49,953,000</u>
Off Road Vehicle Account Appropriation \$	3,628,000
Surveys and Maps Account Appropriation \$	2,088,000
Aquatic Lands Enhancement Account Appropriation \$	4,869,000
Resources Management Cost Account Appropriation \$	((89,613,000))
	<u>89,759,000</u>
Waste Reduction/Recycling/Litter Control Appropriation \$	450,000
Surface Mining Reclamation Account Appropriation \$	1,420,000
Aquatic Land Dredged Material Disposal Site Account Appropriation \$	751,000
Natural Resources Conservation Areas Stewardship Account Appropriation \$	77,000
Air Pollution Control Account Appropriation \$	890,000
Metals Mining Account Appropriation \$	62,000
<u>Natural Resources Equipment Account Appropriation \$</u>	750,000
TOTAL APPROPRIATION \$	((203,284,000))

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

(1) \$7,017,000 of the general fund--state appropriation for fiscal year 1998 and \$6,900,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for emergency fire suppression.

(2) \$18,000 of the general fund--state appropriation for fiscal year 1998, \$18,000 of the general fund--state appropriation for fiscal year 1999, and \$957,000 of the aquatic lands enhancement account appropriation are provided solely for the implementation of the Puget Sound work plan agency action items DNR-01, DNR-02, and DNR-04.

(3) \$450,000 of the resource management cost account appropriation is provided solely for the control and eradication of class B designate weeds on state lands. The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1998, on control methods, costs, and acres treated during the previous year.

(4) \$1,332,000 of the general fund--state appropriation for fiscal year 1998 and \$1,713,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for fire protection activities.

(5) \$541,000 of the general fund--state appropriation for fiscal year 1998 and \$549,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the stewardship of natural area preserves, natural resource conservation areas, and the operation of the natural heritage program.

(6) \$2,300,000 of the aquatic lands enhancement account appropriation is provided for the department's portion of the Eagle Harbor settlement.

(7) \$195,000 of the general fund--state appropriation for fiscal year 1998 and \$220,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(8) \$600,000 of the general fund--state appropriation for fiscal year 1998 and \$600,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the cooperative monitoring, evaluation, and research projects related to implementation of the timber-fish-wildlife agreement.

(9) \$6,568,000 of the forest development account appropriation is provided solely for silviculture activities on forest board lands. To the extent that forest board counties apply for reconveyance of lands pursuant to Substitute Senate Bill No. 5325 (county land transfers), the amount provided in this subsection shall be reduced by an amount equal to the estimated silvicultural expenditures planned in each county that applies for reconveyance.

(10) The entire natural resources equipment account appropriation is provided solely for replacement of equipment and development of infrastructure necessary to meet new federal communications commission regulations.

(11) \$55,000 of the general fund--state appropriation for fiscal year 1999, \$25,000 from the resource management cost account appropriation, and \$30,000 from the forest development account appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(12) \$71,000 of the resource management cost account appropriation is provided solely for a study of the current method for determining water-dependent rents in accordance with Second Substitute Senate Bill No. 6156 (state aquatic lands leases). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(13) \$117,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a geographic information systems inventory of Washington sand, gravel, and construction rock resources.

(14) \$50,000 of the resource management cost account appropriation is provided solely for a field study of biological control methods for eradication of spartina.

**Sec. 309.** 1997 c 149 s 309 (uncodified) is each amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund--State Appropriation (FY 1998) \$

((7,596,000))

7,605,000

General Fund--State Appropriation (FY 1999) \$

((7,008,000))

7,982,000

General Fund--Federal Appropriation \$

((4,716,000))



General Fund--Private/Local Appropriation	\$	5,077,000
Aquatic Lands Enhancement Account Appropriation	\$	405,000
Industrial Insurance Premium Refund Appropriation	\$	806,000
State Toxics Control Account Appropriation	\$	184,000
<u>Local Toxics Control Account Appropriation</u>	\$	1,338,000
		<u>303,000</u>
TOTAL APPROPRIATION	\$	((22,053,000))
		<u>23,700,000</u>

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

(1) \$35,000 of the general fund--state appropriation for fiscal year 1998 and \$36,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for technical assistance on pesticide management including the implementation of the Puget Sound work plan agency action item DOA-01.

(2) \$461,000 of the general fund--state appropriation for fiscal year 1998, ~~\$421,000 of the general fund--state appropriation for fiscal year 1999~~, and ~~(((\$361,000))~~ \$722,000 of the general fund--federal appropriation are provided solely to monitor and eradicate the Asian gypsy moth.

(3) \$138,000 of the general fund--state appropriation for fiscal year 1998 and \$138,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for two additional staff positions in the plant protection program.

(4) \$12,000 of the general fund--state appropriation for fiscal year 1998 and \$13,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute Senate Bill No. 5077 (integrated pest management). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(5) \$303,000 of the local toxics account appropriation is provided solely to implement Second Substitute House Bill No. 2618 (fertilizer regulation). The amount provided in this subsection shall be used to conduct a comprehensive study of plant uptake of metals and to implement new fertilizer registration requirements. If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(6) \$60,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(7) \$95,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for deposit into the livestock identification account for implementation of Engrossed Substitute House Bill No. 2887 (livestock identification). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

**Sec. 310.** 1997 c 149 s 310 (uncodified) is each amended to read as follows:

**FOR THE WASHINGTON POLLUTION LIABILITY REINSURANCE PROGRAM**

Pollution Liability Insurance Program Trust Account

Appropriation \$

((909,000))

1,009,000

**PART IV  
TRANSPORTATION**

**Sec. 401.** 1997 c 149 s 401 (uncodified) is each amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

General Fund Appropriation (FY 1998) \$

((4,536,000))

4,686,000

General Fund Appropriation (FY 1999) \$	((4,409,000))
	<u>4,532,000</u>
Architects' License Account Appropriation \$	((857,000))
	<u>829,000</u>
Cemetery Account Appropriation \$	((188,000))
	<u>232,000</u>
Professional Engineers' Account Appropriation \$	((2,674,000))
	<u>2,700,000</u>
Real Estate Commission Account Appropriation \$	((6,708,000))
	<u>7,062,000</u>
Master License Account Appropriation \$	((6,998,000))
	<u>6,963,000</u>
Uniform Commercial Code Account Appropriation \$	((4,291,000))
	<u>3,521,000</u>
Real Estate Education Account Appropriation \$	606,000
Funeral Directors And Embalmers Account Appropriation \$	((409,000))
	<u>418,000</u>
TOTAL APPROPRIATION \$	((31,676,000))
	<u>31,549,000</u>

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

(1) \$21,000 of the general fund fiscal year 1998 appropriation and \$22,000 of the general fund fiscal year 1999 appropriation are provided solely to implement House Bill No. 1827 or Senate Bill No. 5754 (boxing, martial arts, wrestling). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(2) \$40,000 of the master license account appropriation is provided solely to implement Substitute Senate Bill No. 5483 (whitewater river outfitters). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(3) \$229,000 of the general fund fiscal year 1998 appropriation and \$195,000 of the general fund fiscal year 1999 appropriation are provided solely for the implementation of Senate Bill No. 5997 (cosmetology inspections). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(4) \$31,000 of the general fund fiscal year 1998 appropriation, \$1,000 of the general fund fiscal 1999 appropriation, \$7,000 of the architects' license account appropriation, \$18,000 of the professional engineers' account appropriation, \$14,000 of the real estate commission account appropriation, \$40,000 of the master license account appropriation, and \$3,000 of the funeral directors and embalmers account appropriation are provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(5) \$17,000 of the professional engineers' account appropriation is provided solely to implement Senate Bill No. 5266 (engineers/land surveyors). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(6) \$110,000 of the general fund fiscal year 1998 appropriation is provided solely to implement Senate Bill No. 5998 (cosmetology advisory board). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(7) ~~(\$74,000 of the uniform commercial code account appropriation is provided solely to implement Engrossed Senate Bill No. 5163 (UCC filing). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.~~

(8)) \$11,000 of the general fund fiscal year 1998 appropriation and \$2,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Substitute House Bill No. 1748 or Substitute Senate Bill No. 5513 (vessel registration). If neither bill is enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(8)(a) Pursuant to RCW 43.135.055, during the 1997-99 fiscal biennium, the department may increase fees in excess of the fiscal growth factor in the appraisers and camp resorts programs; however, such increases shall not exceed an annual increase of eight percent.

(b) Pursuant to RCW 43.135.055, during the 1997-99 fiscal biennium, the department may increase fees in excess of the fiscal growth factor in the professional athletics, employment agencies, and security guards programs to the extent necessary to defray the costs of the administration of these programs as set forth in RCW 43.24.086.

(c) Before raising fees in excess of the fiscal growth factor pursuant to this subsection, the department shall notify the chairs and ranking minority members of the appropriate fiscal committees of the legislature.

(9) Within the funds provided in this section, the department shall provide information detailing each specific component of the overhead costs allocated to each program within the business and professions division. The department shall establish procedures to allow each program within the business and professions division to review and modify its business processes in order to reduce administrative costs. The department of licensing shall provide a report to the fiscal committees of the legislature by October 1, 1998, detailing the specific procedures established pursuant to the requirements of this subsection.

**Sec. 402.** 1997 c 149 s 402 (uncodified) is each amended to read as follows:

**FOR THE STATE PATROL**

General Fund--State Appropriation (FY 1998) \$	((7,712,000))
	<u>8,380,000</u>
General Fund--State Appropriation (FY 1999) \$	((7,850,000))
	<u>19,366,000</u>
General Fund--Federal Appropriation \$	((3,990,000))
	<u>5,784,000</u>
General Fund--Private/Local Appropriation \$	
Public Safety and Education Account	
Appropriation \$	((4,652,000))
	<u>4,483,000</u>
County Criminal Justice Assistance Account	
Appropriation \$	3,905,000
Municipal Criminal Justice Assistance Account	
Appropriation \$	1,573,000
Fire Service Trust Account Appropriation \$	92,000
Fire Service Training Account Appropriation \$	((1,762,000))
	<u>2,295,000</u>
State Toxics Control Account Appropriation \$	

Violence Reduction and Drug Enforcement Account	439,000
Appropriation    \$	<del>((310,000))</del>
	<u>570,000</u>
Fingerprint Identification Account	
Appropriation    \$	<del>((3,082,000))</del>
	<u>3,220,000</u>
TOTAL APPROPRIATION \$	<del>((35,708,000))</del>
	<u>50,448,000</u>

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

(1) \$254,000 of the fingerprint identification account appropriation is provided solely for an automated system that will facilitate the access of criminal history records remotely by computer or telephone for preemployment background checks and other non-law enforcement purposes. The agency shall submit an implementation status report to the office of financial management and the legislature by September 1, 1997.

(2) \$264,000 of the general fund--federal appropriation is provided solely for a feasibility study to develop a criminal investigation computer system. The study will report on the feasibility of developing a system that uses incident-based reporting as its foundation, consistent with FBI standards. The system will have the capability of connecting with local law enforcement jurisdictions as well as fire protection agencies conducting arson investigations. The study will report on the system requirements for incorporating case management, intelligence data, imaging, and geographic information. The system will also provide links to existing crime information databases such as WASIS and WACIC. The agency shall submit a copy of the proposed study workplan to the office of financial management and the department of information services for approval prior to expenditure. A final report shall be submitted to the appropriate committees of the legislature, the office of financial management, and the department of information services no later than June 30, 1998.

(3) Pursuant to chapter 43.135 RCW, during the 1997-99 fiscal biennium, the Washington state patrol is authorized to raise existing fees charged for background fingerprint checks on current and potential school district and educational service district employees by six dollars.

(4) \$166,000 of the general fund--state appropriation for fiscal year 1998 and \$499,000 of the general fund--state appropriation for fiscal year 1999 are provided solely as state matching funds required to complete changes to the WACIC and WASIS systems.

(5) To address year 2000 concerns about the automated fingerprint identification system (AFIS), the Washington state patrol may contract with an intergovernmental consortium for the use of a year 2000 compatible AFIS system. Under this approach, the state patrol would begin paying a monthly usage fee starting in fiscal year 2000.

## PART V EDUCATION

NEW SECTION. Sec. 501. A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR A STUDY OF K-12 FINANCE.** A study of the system of finance of the Washington common schools shall be conducted by the joint legislative audit and review committee subject to the following conditions and limitations:

(1) The study shall address:

(a) The revenue and expenditure practices of local school districts. To the extent data is available, the study shall identify patterns of resource allocations to selected districts, buildings, and classrooms. The study shall document the extent to which meaningful analysis of resource allocations is limited by data currently available and shall identify means necessary to obtain information necessary to analyze the efficiency and effectiveness of common school expenditures. The study shall also seek to identify districts that have financial data available in a form that facilitates understanding by persons without specialized expertise in public finance.

(b) The ratio of students to teachers and other personnel in selected districts, buildings, and classrooms. To the extent data is obtainable, class-size shall include analysis of the use of certificated and noncertificated classroom instructors and assistants, the education and experience of instructional staff, the composition of students in classrooms by status including students who qualify for special education, learning assistance, bilingual education, gifted education, free and reduced lunch and other characteristics, including educational outcomes relevant to understanding the nature of class-size and the nature of students and teachers in those classes.

(2) The final report shall be presented no later than June 30, 1999. Before the final report is presented, an interim briefing shall be presented to the fiscal committees of the legislature for review and comment.

(3) Funds appropriated to the joint legislative audit and review committee for the study specified in this section may be used for consulting services as deemed necessary, including, but not limited to, review of studies of a similar nature and consultation with experts in the field of public school finance on the feasibility and best approaches to a state fiscal study with the objectives specified in this section.

**Sec. 502.** 1997 c 454 s 501 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR STATE ADMINISTRATION**

General Fund--State Appropriation (FY 1998) \$	((20,758,000))
	<u>21,408,000</u>
General Fund--State Appropriation (FY 1999) \$	((40,775,000))
	<u>61,156,000</u>
General Fund--Federal Appropriation \$	49,439,000
Public Safety and Education Account Appropriation \$	2,598,000
Violence Reduction and Drug Enforcement Account Appropriation \$	3,672,000
Education Savings Account Appropriation \$	39,312,000
TOTAL APPROPRIATION \$	((156,554,000))
	<u>177,585,000</u>

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

(1) AGENCY OPERATIONS

(a) \$394,000 of the general fund--state appropriation for fiscal year 1998 and \$394,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(b)(i) \$250,000 of the general fund--state appropriation for fiscal year 1998 and \$250,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for enhancing computer systems and support in the office of superintendent of public instruction. These amounts shall be used to: Make a database of school information available electronically to schools, state government, and the general public; reduce agency and school district administrative costs through more effective use of technology; and replace paper reporting and publication to the extent feasible with electronic media. The superintendent, in cooperation with the commission on student learning, shall develop a state student record system including elements reflecting student achievement. The system shall be made available to the office of financial management and the legislature with suitable safeguards of student confidentiality. The superintendent shall report to the office of financial management and the legislative fiscal committees by December 1 of each year of the biennium on the progress and plans for the expenditure of these amounts.

(ii) The superintendent, in cooperation with the commission on student learning, shall develop a feasibility plan for a state student record system, including elements reflecting student academic achievement on goals 1 and 2 under RCW 28A.150.210. The feasibility plan shall be made available to the office of financial management and the fiscal and education committees of the legislature for approval before a student records database is established, and shall identify data elements to be collected and suitable safeguards of student confidentiality and proper use of database records, with particular attention to eliminating unnecessary and intrusive data about nonacademic related information.

(c) \$348,000 of the public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

(d) \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5394 (school audit resolutions).

(e) The superintendent shall conduct a study and make recommendations to the 1999 legislature regarding a definition of and standards for skills centers. The standards shall be related to the cost differential of skills centers as compared to secondary vocational education allocations provided in the appropriations act. The study shall also address proposals for new skills centers known as of August 31, 1998, and

compare and analyze, insofar as possible, the proposals with the recommended standards. The study shall be submitted to the governor and the appropriate committees of the legislature by November 25, 1998.

(2) STATE-WIDE PROGRAMS

(a) \$2,174,000 of the general fund--state appropriation is provided for in-service training and educational programs conducted by the Pacific Science Center.

(b) \$63,000 of the general fund--state appropriation is provided for operation of the Cispus environmental learning center.

(c) \$2,754,000 of the general fund--state appropriation is provided for educational centers, including state support activities. \$100,000 of this amount is provided to help stabilize funding through distribution among existing education centers that are currently funded by the state at an amount less than \$100,000 a biennium.

(d) \$100,000 of the general fund--state appropriation is provided for an organization in southwest Washington that received funding from the Spokane educational center in the 1995-97 biennium and provides educational services to students who have dropped out.

(e) ~~(\$2,500,000)~~ \$2,150,000 of the general fund--state fiscal year 1998 appropriation and ~~(\$2,500,000)~~ \$2,150,000 of the general fund--state fiscal year 1999 appropriation are provided solely for implementation of reading initiatives to improve reading in early grades as enacted by the 1997 legislature. Of this amount ~~(--(ii))~~, \$4,300,000 is provided solely to implement Engrossed Substitute House Bill No. 2042. Funds shall be used solely for the selection and purchase of the second grade reading tests in accordance with section 2 of the bill, scoring costs associated with the administration of the tests in the 1998-99 school year in accordance with section 5 of the bill, and grants to school districts in accordance with sections 4 and 7 of the bill.

(f) \$3,672,000 of the violence reduction and drug enforcement account appropriation and \$2,250,000 of the public safety education account appropriation are provided solely for matching grants to enhance security in schools. Not more than seventy-five percent of a district's total expenditures for school security in any school year may be paid from a grant under this subsection. The grants shall be expended solely for the costs of employing or contracting for building security monitors in schools during school hours and school events. Of the amount provided in this subsection, at least \$2,850,000 shall be spent for grants to districts that, during the 1988-89 school year, employed or contracted for security monitors in schools during school hours. However, these grants may be used only for increases in school district expenditures for school security over expenditure levels for the 1988-89 school year.

(g) \$200,000 of the general fund--state appropriation for fiscal year 1998, \$200,000 of the general fund--state appropriation for fiscal year 1999, and \$400,000 of the general fund--federal appropriation transferred from the department of health are provided solely for a program that provides grants to school districts for media campaigns promoting sexual abstinence and addressing the importance of delaying sexual activity, pregnancy, and childbearing until individuals are ready to nurture and support their children. Grants to the school districts shall be for projects that are substantially designed and produced by students. The grants shall require a local private sector match equal to one-half of the state grant, which may include in-kind contribution of technical or other assistance from consultants or firms involved in public relations, advertising broadcasting, and graphics or video production or other related fields.

(h) \$1,500,000 of the general fund--state appropriation for fiscal year 1998 and \$1,500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for school district petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. Allocation of this money to school districts shall be based on the number of petitions filed.

(i) \$300,000 of the general fund--state appropriation is provided for alcohol and drug prevention programs pursuant to RCW 66.08.180.

(j)(i) \$19,656,000 of the education savings account appropriation for fiscal year 1998 and \$19,656,000 of the education savings account appropriation for fiscal year 1999 are provided solely for matching grants and related state activities to provide school district consortia with programs utilizing technology to improve learning. A maximum of ~~(\$100,000)~~ \$150,000 each fiscal year of this amount is provided for administrative support and oversight of the K-20 network by the superintendent of public instruction. The superintendent of public instruction shall convene a technology grants committee representing private sector technology, school districts, and educational service districts to recommend to the superintendent grant proposals that have the best plans for improving student learning through innovative curriculum using technology as a learning tool and evaluating the effectiveness of the curriculum innovations. After considering the technology grants committee recommendations, the superintendent shall make matching grant awards, including granting at least fifteen percent of funds on the basis of criteria in (ii)(A) through (C) of this subsection (2)(j).

(ii) Priority for award of funds will be to (A) school districts most in need of assistance due to financial limits, (B) school districts least prepared to take advantage of technology as a means of improving student learning, and (C) school districts in economically distressed areas. The superintendent of public instruction, in consultation with the technology grants committee, shall propose options to the committee for identifying and prioritizing districts according to criteria in (i) and (ii) of this subsection (2)(j).

(iii) Options for review criteria to be considered by the superintendent of public instruction include, but are not limited to, free and reduced lunches, levy revenues, ending fund balances, equipment inventories, and surveys of technology preparedness. An "economically distressed area" is (A) a county with an unemployment rate that is at least twenty percent above the state-wide average for the previous three years; (B) a county that has experienced sudden and severe or long-term and severe loss of employment, or erosion of its economic base resulting in decline of its dominant industries; or (C) a district within a county which (I) has at least seventy percent of its families and unrelated

individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (II) has an unemployment rate which is at least forty percent higher than the county's unemployment rate.

(k) \$50,000 of the general fund--state appropriations is provided as matching funds for district contributions to provide analysis of the efficiency of school district business practices. The superintendent of public instruction shall establish criteria, make awards, and provide a report to the fiscal committees of the legislature by December 15, 1997, on the progress and details of analysis funded under this subsection (2)(k).

(l) (~~(\$19,977,000)~~) \$24,797,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the purchase of classroom instructional materials and supplies. The superintendent shall allocate the funds at a maximum rate of \$20.82 per full-time equivalent student, beginning September 1, 1998, and ending June 30, 1999. The expenditure of the funds shall be determined at each school site by the ~~((school building staff, parents, and the community))~~ individual teacher. School districts shall distribute all funds received to school buildings without deduction. \$5,000,000 of the amount in this subsection is provided solely for a classroom collection of books selected by classroom teachers at a maximum rate of \$102.22 per teacher. Funds shall be provided to teachers without deduction.

(m) \$15,000 of the general fund--state appropriation is provided solely to assist local districts vocational education programs in applying for low frequency FM radio licenses with the federal communications commission.

(n) \$35,000 of the general fund--state appropriation is provided solely to the state board of education to design a program to encourage high school students and other adults to pursue careers as vocational education teachers in the subject matter of agriculture.

(o) \$25,000 of the general fund--state appropriation for fiscal year 1998 and \$25,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for allocation to the primary coordinators of the state geographic alliance to improve the teaching of geography in schools.

(p) (~~(\$1,000,000)~~) \$2,000,000 of the general fund--state appropriation is provided for state administrative costs and start-up grants for alternative programs and services that improve instruction and learning for at-risk and expelled students consistent with the objectives of Engrossed House Bill No. 1581 (disruptive students/offenders). Each grant application shall contain proposed performance indicators and an evaluation plan to measure the success of the program and its impact on improved student learning. Applications shall contain the applicant's plan for maintaining the program and/or services after the grant period, shall address the needs of students who cannot be accommodated within the framework of existing school programs or services and shall address how the applicant will serve any student within the proposed program's target age range regardless of the reason for truancy, suspension, expulsion, or other disciplinary action. Up to \$50,000 per year may be used by the superintendent of public instruction for grant administration. The superintendent shall submit an evaluation of the alternative program start-up grants provided under this section, and section 501(2)(q), chapter 283, Laws of 1996, to the fiscal and education committees of the legislature by November 15, 1998. Grants shall be awarded to applicants showing the greatest potential for improved student learning for at-risk students including:

- (i) Students who have been suspended, expelled, or are subject to other disciplinary actions;
- (ii) Students with unexcused absences who need intervention from community truancy boards or family support programs;
- (iii) Students who have left school; and
- (iv) Students involved with the court system.

A minimum of \$200,000 is provided solely for a pilot program for junior high school students who have received out of school suspensions. The program shall include the formal participation of local law enforcement, senior citizen organizations, local youth organizations, and city government.

The office of the superintendent of public instruction shall prepare a report describing student recruitment, program offerings, staffing practices, and available indicators of program effectiveness of alternative education programs funded with state and, to the extent information is available, local funds. The report shall contain a plan for conducting an evaluation of the educational effectiveness of alternative education programs.

(q) \$1,600,000 of the general fund--state appropriation is provided for grants for magnet schools to be distributed as recommended by the superintendent of public instruction pursuant to chapter 232, section 516(13), Laws of 1992.

(r) \$4,300,000 of the general fund--state appropriation is provided for complex need grants. Grants shall be provided according to amounts shown in LEAP Document 30C as developed on April 27, 1997, at 03:00 hours.

(s) \$216,000 of the general fund--state appropriation is provided solely for development of assessments of teaching reading and other costs necessary to implement Substitute House Bill No. 2418 (reading improvement). The office of superintendent of public instruction shall provide these funds to the state board of education without deductions. If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(t) \$14,100,000 of the general fund--state appropriation is provided solely for costs necessary to implement a reading improvement program in accordance with Engrossed Second Substitute Senate Bill No. 6509. If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(i) A maximum of \$9,000,000 of the amount in this subsection is provided for professional development, purchase of instructional materials, and related costs necessary to implement section 2(1) and section 2(2) of the bill.

(ii) A maximum of \$100,000 of the amount in this subsection is provided for professional development materials for school principals and interested volunteers in accordance with section 2(3) of the bill.

(iii) A maximum of \$5,000,000 of the amount in this subsection is provided for teacher training in the use of volunteer tutors and mentors and related costs in accordance with section 2(7) of the bill. Funds may be spent on programs that include kindergarten through 6th grade students.

(u) \$85,000 of the general fund--state appropriation is provided solely for a study and recommendations on parent participation, school-to-home communication, and parental management in the education of children from prekindergarten through higher education in accordance with Second Substitute House Bill No. 2604 (parental involvement in education). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(v) \$115,000 of the general fund--state appropriation is provided solely for a study and recommendations related to education of offenders prosecuted as adults in accordance with Substitute House Bill No. 2793 (offender education). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(w) \$375,000 of the general fund--state appropriation is provided solely for increased costs of providing a norm-referenced test to all third grade students and retests of certain third grade students and other costs in accordance with Second Substitute House Bill No. 2849 (student achievement). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(x) \$69,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for membership dues in the education commission for the states. The funds shall be provided to the state board of education without deductions and the state board shall provide a report on the benefits of membership to the appropriate committees of the legislature by January 15, 1999.

(y) \$50,000 of the general fund--state appropriation is provided solely for development and operation of a skills center in Port Angeles, contingent on meeting the standard for qualifying for skills center funding as developed by the superintendent of public instruction in subsection (1)(e) of this section.

(z) \$100,000 of the general fund--state appropriation is provided solely for coordination of vocational student organizations, including expansion of efforts of coordinators, additional student professional development activities, workshops and training, and reduction or subsidization of dues for disadvantaged students.

**Sec. 503.** 1997 c 149 s 502 (uncodified) is each amended to read as follows:

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

General Fund Appropriation (FY 1998) \$	((3,429,727,000))
	<u>3,405,645,000</u>
General Fund Appropriation (FY 1999) \$	((3,511,157,000))
	<u>3,473,603,000</u>
TOTAL APPROPRIATION \$	((6,940,884,000))
	<u>6,879,248,000</u>

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

(1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) Allocations for certificated staff salaries for the 1997-98 and 1998-99 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (d) through (f) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) 49 certificated instructional staff units per thousand full-time equivalent students in grades K-3;

(iii) An additional 5.3 certificated instructional staff units for grades K-3. Any funds allocated for these additional certificated units shall not be considered as basic education funding;

(A) Funds provided under this subsection (2)(a)(iii) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3. For any school district documenting a lower certificated



instructional staff ratio, the allocation shall be based on the district's actual grades K-3 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-3 may dedicate up to 1.3 of the 54.3 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-3. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3 may use allocations generated under this subsection (2)(a)(iii) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 4-6. Funds allocated under this subsection (2)(a)(iii) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants; and

(iv) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12;

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

(c) On the basis of full-time equivalent enrollment in:

(i) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 18.3 full-time equivalent vocational students for the 1997-98 school year and for each 19.5 full-time equivalent vocational students in the 1998-99 school year. Beginning with the 1998-99 school year, districts documenting staffing ratios of less than 1 certificated staff per ~~((18.3))~~ 19.5 students shall be allocated the greater of the total ratio in subsections (2)(a)(i) and (iv) of this section or the actual documented ratio;

(ii) Skills center programs approved by the superintendent of public instruction for skills centers approved prior to September 1, 1997, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(iii) Indirect cost charges, as defined by the superintendent of public instruction, to vocational-secondary programs shall not exceed 10 percent; and

(iv) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support.

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students.

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

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

(3) Allocations for classified salaries for the 1997-98 and 1998-99 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each sixty average annual full-time equivalent students; and

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

(4) Fringe benefit allocations shall be calculated at a rate of 20.22 percent in the 1997-98 and 1998-99 school years for certificated salary allocations provided under subsection (2) of this section, and a rate of 18.65 percent in the 1997-98 and 1998-99 school years for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$7,950 per certificated staff unit in the 1997-98 school year and a maximum of ~~(\$8,165)~~ \$8,053 per certificated staff unit in the 1998-99 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c) of this section, there shall be provided a maximum of \$15,147 per certificated staff unit in the 1997-98 school year and a maximum of ~~(\$15,556)~~ \$19,775 per certificated staff unit in the 1998-99 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(ii) of this section, there shall be provided a maximum of \$15,147 per certificated staff unit in the 1997-98 school year and a maximum of \$15,344 per certificated staff unit in the 1998-99 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$354.64 per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported state-wide for the 1996-97 school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) The superintendent may distribute a maximum of ~~(\$6,124,000)~~ \$6,114,000 outside the basic education formula during fiscal years 1998 and 1999 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$447,000 may be expended in fiscal year 1998 and a maximum of ~~(\$459,000)~~ \$453,000 may be expended in fiscal year 1999;

(b) For summer vocational programs at skills centers, a maximum of \$1,948,000 may be expended each fiscal year;

(c) A maximum of ~~(\$321,000)~~ \$318,000 may be expended for school district emergencies; and

(d) A maximum of \$500,000 per fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(10) For the purposes of RCW 84.52.0531, the increase per full-time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 2.5 percent from the 1996-97 school year to the 1997-98 school year, and 1.1 percent from the 1997-98 school year to the 1998-99 school year.

(11) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

**Sec. 504.** 1997 c 454 s 503 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

General Fund Appropriation (FY 1998) \$

((79,966,000))

79,412,000

General Fund Appropriation (FY 1999) \$

((116,310,000))

115,149,000

TOTAL APPROPRIATION \$

((196,276,000))

194,561,000

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

(1) ((~~\$176,525,000~~)) \$174,999,000 is provided for a cost of living adjustment of 3.0 percent effective September 1, 1997, for state formula staff units. The appropriations include associated incremental fringe benefit allocations at rates of 19.58 percent for certificated staff and 15.15 percent for classified staff.

(a) The appropriations in this section include the increased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Salary adjustments for state employees in the office of superintendent of public instruction and the education reform program are provided in part VII of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in section 502 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in section 502 of this act.

(b) The appropriations in this section provide salary increase and incremental fringe benefit allocations based on formula adjustments as follows:

(i) For pupil transportation, an increase of \$0.60 per weighted pupil-mile for the 1997-98 school year and maintained for the 1998-99 school year;

(ii) For education of highly capable students, an increase of \$6.81 per formula student for the 1997-98 school year and maintained for the 1998-99 school year; and

(iii) For transitional bilingual education, an increase of \$17.69 per eligible bilingual student for the 1997-98 school year and maintained for the 1998-99 school year; and

(iv) For learning assistance, an increase of \$8.74 per entitlement unit for the 1997-98 school year and maintained for the 1998-99 school year.

(c) The appropriations in this section include ((~~\$912,000~~)) \$903,000 for salary increase adjustments for substitute teachers at a rate of \$10.64 per unit in the 1997-98 school year and maintained in the 1998-99 school year.

(2) ((~~\$19,751,000~~)) \$19,600,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$314.51 per month for the 1997-98 and 1998-99 school years. The appropriations in this section provide ((~~increases of \$2.83~~)) for a rate increase to \$317.34 per month for the 1997-98 school year and ((~~\$18.41~~)) \$335.75 per month for the 1998-99 school year at the following rates:

(a) For pupil transportation, an increase of \$0.03 per weighted pupil-mile for the 1997-98 school year and \$0.19 for the 1998-99 school year;

(b) For education of highly capable students, an increase of \$0.20 per formula student for the 1997-98 school year and \$1.35 for the 1998-99 school year;

(c) For transitional bilingual education, an increase of \$.46 per eligible bilingual student for the 1997-98 school year and \$3.44 for the 1998-99 school year; and

(d) For learning assistance, an increase of \$.36 per funded unit for the 1997-98 school year and \$2.70 for the 1998-99 school year.

(3) The rates specified in this section are subject to revision each year by the legislature.

(4)((a)) For the 1997-98 school year, the superintendent shall prepare a report showing the allowable derived base salary for certificated instructional staff in accordance with RCW 28A.400.200 and LEAP Document 12D, and the actual derived base salary paid by each school district as shown on the S-275 report and shall make the report available to the fiscal committees of the legislature no later than February 15, 1998.

**Sec. 505.** 1997 c 149 s 505 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PUPIL TRANSPORTATION**

General Fund Appropriation (FY 1998) \$

((174,344,000))

175,168,000

General Fund Appropriation (FY 1999) \$

((179,560,000))

179,439,000

TOTAL APPROPRIATION \$

((353,904,000))

354,607,000

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

(1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) A maximum of ((~~\$1,451,000~~)) \$1,441,000 may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) \$30,000 of the fiscal year 1998 appropriation and \$40,000 of the fiscal year 1999 appropriation are provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(4) Allocations for transportation of students shall be based on reimbursement rates of \$34.47 per weighted mile in the 1997-98 school year and ((~~\$34.76~~)) \$34.61 per weighted mile in the 1998-99 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction times the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school times the per mile reimbursement rate for the school year times 1.29.

**Sec. 506.** 1997 c 149 s 506 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL FOOD SERVICE PROGRAMS**

General Fund--State Appropriation (FY 1998) \$

3,075,000

General Fund--State Appropriation (FY 1999) \$

((3,075,000))

3,100,000

General Fund--Federal Appropriation \$

194,483,000

TOTAL APPROPRIATION \$

((200,633,000))

200,658,000

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

(1) \$6,000,000 of the general fund--state appropriations are provided for state matching money for federal child nutrition programs.

(2) ((~~\$150,000~~)) \$175,000 of the general fund--state appropriations are provided for summer food programs for children in low-income areas.

**Sec. 507.** 1997 c 149 s 507 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SPECIAL EDUCATION PROGRAMS**

General Fund--State Appropriation (FY 1998) \$	((370,486,000))
	<u>371,687,000</u>
General Fund--State Appropriation (FY 1999) \$	((374,327,000))
	<u>378,405,000</u>
General Fund--Federal Appropriation \$	((135,106,000))
	<u>143,106,000</u>
TOTAL APPROPRIATION \$	((879,919,000))
	<u>893,198,000</u>

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

- (1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.
- (2) The superintendent of public instruction shall distribute state funds to school districts based on two categories, the optional birth through age two program for special education eligible developmentally delayed infants and toddlers, and the mandatory special education program for special education eligible students ages three to twenty-one. A "special education eligible student" means a student receiving specially designed instruction in accordance with a properly formulated individualized education program.
- (3) For the 1997-98 and 1998-99 school years, the superintendent shall distribute state funds to each district based on the sum of:
  - (a) A district's annual average headcount enrollment of developmentally delayed infants and toddlers ages birth through two, times the district's average basic education allocation per full-time equivalent student, times 1.15; and
  - (b) A district's annual average full-time equivalent basic education enrollment times the funded enrollment percent determined pursuant to subsection (4)(c) of this section, times the district's average basic education allocation per full-time equivalent student times 0.9309.
- (4) The definitions in this subsection apply throughout this section.
  - (a) "Average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 (i.e., 49/1000 certificated instructional staff in grades K-3, and 46/1000 in grades 4-12) and shall not include enhancements for K-3, secondary vocational education, or small schools.
  - (b) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).
  - (c) "Enrollment percent" means the district's resident special education annual average enrollment including those students counted under the special education demonstration projects, excluding the birth through age two enrollment, as a percent of the district's annual average full-time equivalent basic education enrollment. For the 1997-98 and the 1998-99 school years, each district's funded enrollment percent shall be:
    - (i) For districts whose enrollment percent for 1994-95 was at or below 12.7 percent, the lesser of the district's actual enrollment percent for the school year for which the allocation is being determined or 12.7 percent.
    - (ii) For districts whose enrollment percent for 1994-95 was above 12.7 percent, the lesser of:
      - (A) The district's actual enrollment percent for the school year for which the special education allocation is being determined; or
      - (B) The district's actual enrollment percent for the school year immediately prior to the school year for which the special education allocation is being determined if greater than 12.7 percent; or
      - (C) For 1997-98, the 1994-95 enrollment percent reduced by 75 percent of the difference between the district's 1994-95 enrollment percent and 12.7 percent and for 1998-99, 12.7 percent.
- (5) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be 12.7, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection (4) of this section, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(6) A maximum of \$12,000,000 of the general fund--state appropriation for fiscal year 1998 and a maximum of \$12,000,000 of the general fund--state appropriation for fiscal year 1999 are provided as safety net funding for districts with demonstrated needs for state special education funding beyond the amounts provided in subsection (3) of this section. Safety net funding shall be awarded by the state safety net oversight committee.

(a) The safety net oversight committee shall first consider the needs of districts adversely affected by the 1995 change in the special education funding formula. Awards shall be based on the amount required to maintain the 1994-95 state special education excess cost allocation to the school district in aggregate or on a dollar per funded student basis.

(b) The committee shall then consider unusual needs of districts due to a special education population which differs significantly from the assumptions of the state funding formula. Awards shall be made to districts that convincingly demonstrate need due to the concentration and/or severity of disabilities in the district. Differences in program costs attributable to district philosophy or service delivery style are not a basis for safety net awards.

(7) Prior to June 1st of each year, the superintendent shall make available to each school district from available data the district's maximum funded enrollment percent for the coming school year.

(8) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules in place for the 1996-97 school year, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(9) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) Staff of the office of superintendent of public instruction;

(b) Staff of the office of the state auditor;

(c) Staff from the office of the financial management; and

(d) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(10) A maximum of \$4,500,000 of the general fund--federal appropriation shall be expended for safety net funding to meet the extraordinary needs of one or more individual special education students.

(11) A maximum of \$678,000 may be expended from the general fund--state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(12) A maximum of \$1,000,000 of the general fund--federal appropriation is provided for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

(13) A school district may carry over up to 10 percent of general fund--state funds allocated under this program; however, carry over funds shall be expended in the special education program.

(14) Beginning in the 1997-98 school year, the superintendent shall increase the percentage of federal flow-through to school districts to at least 84 percent. In addition to other purposes, school districts may use increased federal funds for high cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(15) Up to one percent of the general fund--federal appropriation shall be expended by the superintendent for projects related to use of inclusion strategies by school districts for provision of special education services. The superintendent shall prepare an information database on laws, best practices, examples of programs, and recommended resources. The information may be disseminated in a variety of ways, including workshops and other staff development activities.

(16) Amounts appropriated within this section are sufficient to fund ~~((section 5 of Second Substitute House Bill No. 1709 (mandate on school districts)))~~ the provisions of House Bill No. 2682 (school medicaid incentive payments).

**Sec. 508.** 1997 c 149 s 508 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR TRAFFIC SAFETY EDUCATION PROGRAMS**

Public Safety and Education Account

Appropriation \$

~~((17,179,000))~~

16,883,000

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

(1) The appropriation includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) A maximum of \$507,000 shall be expended for regional traffic safety education coordinators.

(3) The maximum basic state allocation per student completing the program shall be \$137.16 in the 1997-98 and 1998-99 school years.

(4) Additional allocations to provide tuition assistance for students from low-income families who complete the program shall be a maximum of \$66.81 per eligible student in the 1997-98 and 1998-99 school years.

**Sec. 509.** 1997 c 454 s 504 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR LOCAL EFFORT ASSISTANCE**

General Fund Appropriation (FY 1998) \$	((84,347,000))
	<u>82,079,000</u>
General Fund Appropriation (FY 1999) \$	((89,605,000))
	<u>86,272,000</u>
TOTAL APPROPRIATION \$	((173,952,000))
	<u>168,351,000</u>

**Sec. 510.** 1997 c 454 s 505 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund--State Appropriation (FY 1998) \$	((18,026,000))
	<u>16,897,000</u>
General Fund--State Appropriation (FY 1999) \$	((18,983,000))
	<u>17,400,000</u>
General Fund--Federal Appropriation \$	8,548,000
TOTAL APPROPRIATION \$	((45,557,000))
	<u>42,845,000</u>

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

(1) The general fund--state appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

~~((4) \$341,000 of the general fund--state fiscal year 1998 appropriation and \$407,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.))~~

**Sec. 511.** 1997 c 149 s 513 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund Appropriation (FY 1998) \$	((5,752,000))
	<u>5,701,000</u>
General Fund Appropriation (FY 1999) \$	((6,176,000))
	<u>6,121,000</u>

TOTAL APPROPRIATION \$

((11,928,000))

11,822,000

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

- (1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.
- (2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$311.12 per funded student for the 1997-98 school year and ((~~\$311.58~~) \$311.35) per funded student for the 1998-99 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of two percent of each district's full-time equivalent basic education enrollment.
- (3) \$350,000 of the appropriation is for the centrum program at Fort Worden state park.
- (4) \$186,000 of the appropriation is for the odyssey of the mind and future problem-solving programs.

**Sec. 512.** 1997 c 454 s 506 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--EDUCATION REFORM PROGRAMS**

General Fund Appropriation (FY 1998) \$

((18,905,000))

18,605,000

General Fund Appropriation (FY 1999) \$

((21,868,000))

21,218,000

TOTAL APPROPRIATION \$

((40,773,000))

39,823,000

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

- (1) ((~~\$18,103,000~~) \$17,153,000) is provided for the operation of the commission on student learning and the development and implementation of student assessments. The commission shall cooperate with the superintendent of public instruction in defining measures of student achievement to be included in the student record system developed by the superintendent pursuant to section 501(1)(b) of this act.
- (2) \$2,190,000 is provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.
- (3) \$2,970,000 is provided for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260. Funds for the teacher assistance program shall be allocated to school districts based on the number of beginning teachers.
- (4) \$4,050,000 is provided for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW.
- (5) \$7,200,000 is provided for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.
- (6) \$5,000,000 is provided solely for the meals for kids program under RCW 28A.235.145 through 28A.235.155.
- (7) \$1,260,000 is provided for technical assistance related to education reform through the office of the superintendent of public instruction, in consultation with the commission on student learning, as specified in RCW 28A.300.130 (center for the improvement of student learning).

(8) Amounts provided in Engrossed House Bill No. 2432 (educator internships) are sufficient to implement the bill.

**Sec. 513.** 1997 c 454 s 507 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund Appropriation (FY 1998) \$

((31,146,000))

30,712,000

General Fund Appropriation (FY 1999) \$

((33,414,000))



32,184,000

TOTAL APPROPRIATION \$

((64,560,000))

62,896,000

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

- (1) The appropriation for fiscal year 1998 provides such funds as are necessary for the remaining months of the 1996-97 school year.
- (2) The superintendent of public instruction shall study the formula components proposed for the 1998-99 school year and prepare a report to the legislature no later than January 15, 1998.
- (3) The superintendent shall distribute a maximum of \$643.78 per eligible bilingual student in the 1997-98 and 1998-99 school years, exclusive of salary and benefit adjustments provided in section 503 of this act.

**Sec. 514.** 1997 c 149 s 516 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund Appropriation (FY 1998) \$

((60,309,000))

60,224,000

General Fund Appropriation (FY 1999) \$

((60,862,000))

61,000,000

TOTAL APPROPRIATION \$

((121,171,000))

121,224,000

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

- (1) The appropriation for fiscal year 1998 provides such funds as are necessary for the remaining months of the 1996-97 school year.
- (2) For making the calculation of the percentage of students scoring in the lowest quartile as compared with national norms, beginning with the 1991-92 school year, the superintendent shall multiply each school district's 4th and 8th grade test results by 0.86.
- (3) Funding for school district learning assistance programs shall be allocated at maximum rates of \$378.33 per funded unit for the 1997-98 school year and ((~~\$379.47~~) \$378.88) per funded unit for the 1998-99 school year exclusive of salary and benefit adjustments provided in section 504 of this act. School districts may carryover up to 10 percent of funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.
  - (a) A school district's funded units for the 1997-98 and 1998-99 school years shall be the sum of the following:
    - (i) The district's full-time equivalent enrollment in kindergarten through 6th grade, times the 5-year average 4th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and
    - (ii) The district's full-time equivalent enrollment in grades 7 through 9, times the 5-year average 8th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and
    - (iii) If in the prior school year the district's percentage of October headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeded the state average, subtract the state average percentage of students eligible for free and reduced price lunch from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the current school year times 22.30 percent.

**Sec. 515.** 1997 c 454 s 508 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--LOCAL ENHANCEMENT FUNDS**

General Fund Appropriation (FY 1998) \$

((49,815,000))

49,493,000

General Fund Appropriation (FY 1999) \$

((56,962,000))

56,457,000

TOTAL APPROPRIATION \$

((106,777,000))

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

(1) A maximum of (~~(\$50,841,000)~~) \$50,418,000 is provided for learning improvement allocations to school districts to enhance the ability of instructional staff to teach and assess the essential academic learning requirements for reading, writing, communication, and math in accordance with the timelines and requirements established under RCW 28A.630.885. However, special emphasis shall be given to the successful teaching of reading. Allocations under this section shall be subject to the following conditions and limitations:

(a) In accordance with the timetable for the implementation of the assessment system by the commission on student learning, the allocations for the 1997-98 and 1998-99 school years shall be at a maximum annual rate per full-time equivalent student of \$36.69 for students enrolled in grades K-4, \$30.00 for students enrolled in grades 5-7, and \$22.95 for students enrolled in grades 8-12. Allocations shall be made on the monthly apportionment schedule provided in RCW 28A.510.250.

(b) A district receiving learning improvement allocations shall:

(i) Develop and keep on file at each building a student learning improvement plan to achieve the student learning goals and essential academic learning requirements and to implement the assessment system as it is developed. The plan shall delineate how the learning improvement allocations will be used to accomplish the foregoing. The plan shall be made available to the public upon request;

(ii) Maintain a policy regarding the involvement of school staff, parents, and community members in instructional decisions;

(iii) File a report by October 1, 1998, and October 1, 1999, with the office of the superintendent of public instruction, in a format developed by the superintendent that: Enumerates the activities funded by these allocations; the amount expended for each activity; describes how the activity improved understanding, teaching, and assessment of the essential academic learning requirements by instructional staff; and identifies any amounts expended from this allocation for supplemental contracts; and

(iv) Provide parents and the local community with specific information on the use of this allocation by including in the annual performance report required in RCW 28A.320.205, information on how funds allocated under this subsection were spent and the results achieved.

(c) The superintendent of public instruction shall compile and analyze the school district reports and present the results to the office of financial management and the appropriate committees of the legislature no later than November 15, 1998, and November 15, 1999.

(2) (~~(\$55,937,000)~~) \$55,533,000 is provided for local education program enhancements to meet educational needs as identified by the school district, including alternative education programs. This amount includes such amounts as are necessary for the remainder of the 1996-97 school year. Allocations for the 1997-98 and 1998-99 school years shall be at a maximum annual rate of \$29.86 per full-time equivalent student as determined pursuant to subsection (3) of this section. Allocations shall be made on the monthly apportionment payment schedule provided in RCW 28A.510.250.

(3) Allocations provided under this section shall be based on school district annual average full-time equivalent enrollment in grades kindergarten through twelve: PROVIDED, That for school districts enrolling not more than one hundred average annual full-time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be as follows:

(a) Enrollment of not more than 60 average annual full-time equivalent students in grades kindergarten through six shall generate funding based on sixty full-time equivalent students;

(b) Enrollment of not more than 20 average annual full-time equivalent students in grades seven and eight shall generate funding based on twenty full-time equivalent students; and

(c) Enrollment of not more than 60 average annual full-time equivalent students in grades nine through twelve shall generate funding based on sixty full-time equivalent students.

(4) Funding provided pursuant to this section does not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(5) Receipt by a school district of one-fourth of the district's allocation of funds under this section, shall be conditioned on a finding by the superintendent that:

(a) The district is enrolled as a medicaid service provider and is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to RCW 74.09.5241 through 74.09.5256 (Title XIX funding); and

(b) The district is filing truancy petitions as required under chapter 312, Laws of 1995 and RCW 28A.225.030.

## PART VI HIGHER EDUCATION

**Sec. 601.** 1997 c 454 s 601 (uncodified) is amended to read as follows:

The appropriations in sections 603 through 609 of this act are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 603 through 609 of this act.

(2)(a) The salary increases provided or referenced in this subsection shall be the allowable salary increases provided at institutions of higher education, excluding increases associated with normally occurring promotions and increases related to faculty and professional staff

retention, and excluding increases associated with employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015.

(b) Each institution of higher education shall provide to each classified staff employee as defined by the office of financial management a salary increase of 3.0 percent on July 1, 1997. Each institution of higher education shall provide to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants as classified by the office of financial management, and all other nonclassified staff, including those employees under RCW 28B.16.015, an average salary increase of 3.0 percent on July 1, 1997. For employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015, distribution of the salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated. To collect consistent data for use by the legislature, the office of financial management, and other state agencies for policy and planning purposes, institutions of higher education shall report personnel data to be used in the department of personnel's human resource data warehouse in compliance with uniform reporting procedures established by the department of personnel.

(c) Each institution of higher education receiving appropriations under sections 604 through 609 of this act may provide to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015, an additional average salary increase of 1.0 percent on July 1, 1997, and an average salary increase of 2.0 percent on July 1, 1998. Any salary increases authorized under this subsection (2)(c) shall not be included in an institution's salary base. It is the intent of the legislature that general fund--state support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (2)(c).

(d) Specific salary increases authorized in sections 603 through 609 of this act are in addition to any salary increase provided in this subsection.

(3)(a) Each institution receiving appropriations under sections 604 through 609 of this act shall submit plans for achieving measurable and specific improvements in academic years 1997-98 and 1998-99 to the higher education coordinating board. The plans, to be prepared at the direction of the board, shall be submitted by August 15, 1997 (for academic year 1997-98) and June 30, 1998 (for academic year 1998-99). The following measures and goals will be used for the 1997-99 biennium:

	Goal
(i) Undergraduate graduation efficiency index:	
For students beginning as freshmen	95
For transfer students	90
(ii) Undergraduate student retention, defined as the percentage of all undergraduate students who return for the next year at the same institution, measured from fall to fall:	
Research universities	95%
Comprehensive universities and college	90%
(iii) Graduation rates, defined as the percentage of an entering freshmen class at each institution that graduates within five years:	
Research universities	65%
Comprehensive universities and college	55%

(iv) A measure of faculty productivity, with goals and targets in accord with the legislative intent to achieve measurable and specific improvements, to be determined by the higher education coordinating board, in consultation with the institutions receiving appropriations under sections 604 through 609 of this act.

(v) An additional measure and goal to be selected by the higher education coordinating board for each institution, in consultation with each institution.

(b) Academic year 1995-96 shall be the baseline year against which performance in academic year 1997-98 shall be measured. Academic year 1997-98 shall be the baseline year against which performance in academic year 1998-99 shall be measured. The difference

between each institution's baseline year and the state-wide performance goals shall be calculated and shall be the performance gap for each institution for each measure for each year. The higher education coordinating board shall set performance targets for closing the performance gap for each measure for each institution. Performance targets shall be set at levels that reflect meaningful and substantial progress towards the state-wide performance goals. Each institution shall report to the higher education coordinating board on its actual performance achievement for each measure for academic year 1997-98 by ~~((June 30, 1998, except that performance reporting for the student retention measure shall be completed by October 15, 1998))~~ November 1, 1998.

(4) The state board for community and technical colleges shall develop an implementation plan for measurable and specific improvements in productivity, efficiency, and student retention in academic years 1997-98 and 1998-99 consistent with the performance management system developed by the work force training and education coordinating board and for the following long-term performance goals:

	Goal
(a) Hourly wages for vocational graduates	\$12/hour
(b) Academic students transferring to Washington higher education institutions	67%
(c) Core course completion rates	85%
(d) Graduation efficiency index	95

(5) The state's public institutions of higher education increasingly are being called upon to become more efficient in conducting the business operations necessary to support the carrying out of their academic missions. The legislature recognizes that state laws and regulations may have the unintended effect of acting as barriers to efficient operation in some instances, and desires to encourage the institutions of higher education to think beyond the constraints of current law in identifying opportunities for improved efficiency. Accordingly, the legislature requests that the institutions of higher education, working together through the council of presidents' office and the state board for community and technical colleges, identify opportunities for changes in state law that would form the basis for a new efficiency compact with the state, for consideration no later than the 1999 legislative session.

(6) Pursuant to RCW 43.135.055, institutions of higher education receiving appropriations under sections 603 through 609 of this act are authorized to increase summer term tuition in excess of the fiscal growth factor during the 1997-99 fiscal biennium. Tuition levels increased pursuant to this subsection shall not exceed the per credit hour rate calculated from the academic year tuition levels established by the legislature in RCW 28B.15.067.

**Sec. 602.** 1997 c 454 s 602 (uncodified) is amended to read as follows:

~~((+))~~ The appropriations in sections 603 through 609 of this act provide state general fund support or employment and training trust account support for full-time equivalent student enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institution assumed in this act.

	1997-98	1998-99
	Annual	Annual
	Average	Average
University of Washington		
Main campus	31,297	31,527
Bothell branch	775	895
Tacoma branch	847	992
Washington State University		

Main campus	17,403		((17,723))
			<u>17,272</u>
Spokane branch	352		442
Tri-Cities branch	754		((814))
			<u>754</u>
Vancouver branch	851		971
			7,446
Central Washington University	7,346		7,739
Eastern Washington University	7,739		7,739
The Evergreen State College	3,496		3,576
Western Washington University	10,188		10,338
State Board for Community and Technical Colleges	116,426		118,526
Higher Education Coordinating Board	50		50

**Sec. 603.** 1997 c 454 s 603 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

General Fund--State Appropriation (FY 1998)	\$		((382,891,000))
			<u>380,445,000</u>
General Fund--State Appropriation (FY 1999)	\$		((420,961,000))
			<u>420,853,000</u>
General Fund--Federal Appropriation	\$		11,404,000
Employment and Training Trust Account Appropriation	\$		((26,346,000))
			<u>29,114,000</u>
TOTAL APPROPRIATION	\$		((841,602,000))
			<u>841,816,000</u>

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

(1) \$2,718,000 of the general fund--state appropriation for fiscal year 1998 and \$4,079,000 of the general fund--state appropriation for fiscal year 1999 shall be held in reserve by the board. These funds are provided for improvements in productivity, efficiency, and student retention. The board may approve the fiscal year 1998 allocation of funds under this subsection upon completion of an implementation plan. The implementation plan shall be submitted by the board to the appropriate legislative committees and the office of financial management in

accordance with section 601(4) of this act by September 1, 1997. The board may approve the fiscal year 1999 allocation of funds under this subsection based on the board's evaluation of:

(a) College performance compared to the goals for productivity, efficiency, and student retention as submitted in the plan required in section 601(4) of this act; and

(b) The quality and effectiveness of the strategies the colleges propose to achieve continued improvement in quality and efficiency during the 1998-99 academic year.

(2) (~~(\$2,553,000 of the general fund--state appropriation for fiscal year 1998, \$28,761,000)~~ \$28,546,000 of the general fund--state appropriation for fiscal year 1999(;;)) and the entire employment and training trust account appropriation are provided solely as special funds for training and related support services, including financial aid, child care, and transportation, as specified in chapter 226, Laws of 1993 (employment and training for unemployed workers) and Substitute House Bill No. 2214.

(a) Funding is provided to support up to 7,200 full-time equivalent students in each fiscal year.

(b) The state board for community and technical colleges shall submit a plan for the allocation of the full-time equivalent students provided in this subsection to the workforce training and education coordinating board for review and approval.

(3) \$1,441,000 of the general fund--state appropriation for fiscal year 1998 and \$1,441,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for 500 FTE enrollment slots to implement RCW 28B.50.259 (timber-dependent communities).

(4) \$1,862,500 of the general fund--state appropriation for fiscal year 1998 and \$1,862,500 of the general fund--state appropriation for fiscal year 1999 are provided solely for assessment of student outcomes at community and technical colleges.

(5) \$706,000 of the general fund--state appropriation for fiscal year 1998 and \$706,000 of general fund--state appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(6) Up to \$1,035,000 of the general fund--state appropriation for fiscal year 1998 and up to \$2,102,000 of the general fund--state appropriation for fiscal year 1999 may be used in combination with salary and benefit savings from faculty turnover to provide faculty salary increments and associated benefits. To the extent general salary increase funding is used to pay faculty increments, the general salary increase shall be reduced by the same amount.

(7) To address part-time faculty salary disparities and to increase the ratio of full-time to part-time faculty instructors, the board shall provide salary increases to part-time instructors or hire additional full-time instructional staff under the following conditions and limitations: (a) The amount used for such purposes shall not exceed an amount equivalent to an additional salary increase of 1.0 percent on July 1, 1997, and an additional salary increase of 2.0 percent on July 1, 1998, for instructional faculty as classified by the office of financial management; and (b) at least \$2,934,000 shall be spent for the purposes of this subsection.

(8) \$83,000 of the general fund--state appropriation for fiscal year 1998 and (~~(\$1,567,000)~~ \$867,000) of the general fund--state appropriation for fiscal year 1999 are provided for personnel and expenses to develop curricula, library resources, and operations of Cascadia Community College. It is the legislature's intent to use the opportunity provided by the establishment of the new institution to conduct a pilot project of budgeting based on instructional standards and outcomes. The college shall use a portion of the available funds to develop a set of measurable standards and outcomes as the basis for budget development in the 1999-01 biennium.

(9) The technical colleges may increase tuition and fees to conform with the percentage increase in community college operating fees enacted by the 1997 legislature. The community colleges may charge up to the maximum level authorized for services and activities fees in RCW 28B.15.069.

(10) Community and technical colleges with below-average faculty salaries may use funds identified by the state board in the 1997-98 and 1998-99 operating allocations to increase faculty salaries no higher than the system-wide average.

(11) \$1,000,000 of the general fund--state appropriation for fiscal year 1998 and \$1,000,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for tuition support for students enrolled in work-based learning programs.

(12) \$700,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a technology equipment matching program for community and technical colleges. Each college district shall match its allocation of this appropriation with an equal amount of cash donations from private sources.

**Sec. 604.** 1997 c 454 s 604 (uncodified) is amended to read as follows:

**FOR UNIVERSITY OF WASHINGTON**

General Fund Appropriation (FY 1998) \$

~~(283,923,000)~~

283,948,000

General Fund Appropriation (FY 1999) \$

~~(289,807,000)~~

293,542,000

Death Investigations Account Appropriation \$

	((1,810,000))
	<u>2,162,000</u>
Industrial Insurance Premium Refund Account Appropriation \$	514,000
Accident Account Appropriation \$	4,969,000
Medical Aid Account Appropriation \$	4,989,000
TOTAL APPROPRIATION \$	((586,012,000))
	<u>590,124,000</u>

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

(1) \$2,019,000 of the general fund appropriation for fiscal year 1998 and \$3,029,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$800,000 of the general fund appropriation for fiscal year 1998 and \$1,896,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Tacoma branch campus above the 1996-97 budgeted FTE level.

(3) \$593,000 of the general fund appropriation for fiscal year 1998 and \$1,547,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Bothell branch campus above the 1996-97 budgeted FTE level.

(4) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(5) \$324,000 of the general fund appropriation for fiscal year 1998 and \$324,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(6) \$130,000 of the general fund appropriation for fiscal year 1998 and \$130,000 of the general fund appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action item UW-01.

(7) \$1,200,000 of the general fund appropriation for fiscal year 1998 and \$1,200,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(8) \$47,000 of the fiscal year 1998 general fund appropriation and \$47,000 of the fiscal year 1999 general fund appropriation are provided solely to employ a fossil preparator/educator in the Burke Museum. The entire amounts provided in this subsection shall be provided directly to the Burke Museum.

(9) \$75,000 of the general fund appropriation for fiscal year 1998 and \$75,000 of the general fund appropriation for fiscal year 1999 are provided solely for enhancements to research capabilities at the Olympic natural resources center.

(10) \$150,000 of the general fund appropriation for fiscal year 1999 is provided solely for remodeling and equipment necessary to accommodate enrollment growth at the Bothell branch campus.

(11) \$560,000 of the general fund appropriation for fiscal year 1999 is provided solely for the disabilities, opportunities, internetworking, and technology program.

(12) \$3,000,000 of the general fund appropriation for fiscal year 1999 is provided solely to establish a high speed internet-2 hub.

(13) \$150,000 of the general fund appropriation for fiscal year 1999 is provided solely to support the physician's assistant program in Spokane.

(14) \$352,000 of the death investigations account appropriation is provided solely for staff and equipment for the state toxicology laboratory to support implementation of quality control procedures and laboratory certification, and for enhanced screening of sexual assault victims, blood alcohol and volatile intoxicants analysis, and blood tests for marijuana in driving cases.

(15) \$25,000 of the general fund--state appropriation for fiscal year 1998 and \$25,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to the health policy analysis program of the University of Washington to organize a task force of the key parties, including consumer and family advocates, and facilitate a study of the design and implementation of managed care in the public mental health system. The health policy analysis program through the study shall make recommendations to the appropriate committees of the legislature by December 1, 1998, regarding actions necessary to: (i) Develop the managed public mental health care system based on established

principles for effective managed mental health care and best business practices for efficiency; (ii) establish performance and outcome standards; (iii) provide for consumer protection, consumer rights, and consumer and family involvement; and (iv) meet the needs of vulnerable populations, including the requirement to promote early identification of and services to mentally ill children, and ensure system accountability as required by chapter 71.24 RCW.

**Sec. 605.** 1997 c 454 s 605 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

General Fund Appropriation (FY 1998) \$	((166,644,000))
	<u>169,894,000</u>
General Fund Appropriation (FY 1999) \$	((172,819,000))
	<u>170,164,000</u>
Air Pollution Control Account Appropriation \$	206,000
<b>TOTAL APPROPRIATION \$</b>	<b>((339,669,000))</b>
	<u>340,264,000</u>

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

(1) \$1,204,000 of the general fund appropriation for fiscal year 1998 and \$1,807,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$1,059,000 of the general fund appropriation for fiscal year 1999 is provided solely to support additional upper-division and graduate level enrollments at the Vancouver branch campus above the 1996-97 budgeted FTE level.

(3) \$263,000 of the general fund appropriation for fiscal year 1998 and ~~(((\$789,000))~~ \$263,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Tri-Cities branch campus above the 1996-97 budgeted FTE level.

(4) \$971,000 of the general fund appropriation for fiscal year 1999 is provided solely to support additional upper-division and graduate level enrollments at the Spokane branch campus above the 1996-97 budgeted FTE level.

(5) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(6) \$140,000 of the general fund appropriation for fiscal year 1998 and \$140,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(7) \$157,000 of the general fund appropriation for fiscal year 1998 and \$157,000 of the general fund appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action item WSU-01.

(8) \$600,000 of the general fund appropriation for fiscal year 1998 and \$600,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(9) \$50,000 of the general fund appropriation for fiscal year 1998 and \$50,000 of the general fund appropriation for fiscal year 1999 are provided solely for yellow star thistle research.

(10) \$55,000 of the general fund appropriation for fiscal year 1998 and \$55,000 of the general fund appropriation for fiscal year 1999 are provided solely for the Goldendale distance learning center.

(11) \$3,250,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for legal costs and settlement payments associated with construction claims for the Vancouver branch campus and the veterinary teaching hospital capital projects.

(12) Pursuant to RCW 28B.15.910 and within current appropriation levels, the waiver limit for Washington State University is increased from 20 percent to 21 percent during the 1997-99 fiscal biennium. The increased waiver authority is provided solely for nonresident students participating in the western interstate commission for higher education undergraduate exchange program and attending the Washington State University in Spokane.

**Sec. 606.** 1997 c 454 s 606 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998) \$



General Fund Appropriation (FY 1999) \$	39,211,000
	39,489,000
TOTAL APPROPRIATION \$	78,700,000

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

(1) \$285,000 of the general fund appropriation for fiscal year 1998 and \$428,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$93,000 of the general fund appropriation for fiscal year 1998 and \$93,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$53,000 of the general fund--state appropriation for fiscal year 1998 and \$54,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(5) \$3,188,000 of the general fund appropriation for fiscal year 1998 and \$3,188,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve pending attainment of budgeted enrollments of 6,942 FTEs. The office of financial management shall approve the allotment of funds under this subsection at the annual rate of \$4,000 for annual student FTEs in excess of 6,942 based on tenth day quarterly enrollment and the office of financial management's quarterly budget driver report. In addition, allotments of reserve funds in this section shall be approved by the office of financial management upon approval by the higher education coordinating board for (a) actions that will result in additional enrollment growth, and (b) contractual obligations in fiscal year 1998 to the extent such funds are required.

(6) Pursuant to RCW 28B.15.910 and within current appropriation levels, the waiver limit for Eastern Washington University is increased from 11 percent to 14 percent during the 1997-99 fiscal biennium. The increased waiver authority is provided solely for nonresident students participating in the western interstate commission for higher education undergraduate exchange program and attending Eastern Washington University.

**Sec. 607.** 1997 c 454 s 607 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998) \$	((37,214,000))
	<u>37,244,000</u>
General Fund Appropriation (FY 1999) \$	((38,616,000))
	<u>38,676,000</u>
TOTAL APPROPRIATION \$	((75,830,000))
	<u>75,920,000</u>

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

(1) \$269,000 of the general fund appropriation for fiscal year 1998 and \$403,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$70,000 of the general fund appropriation for fiscal year 1998 and \$70,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$51,000 of the general fund appropriation for fiscal year 1998 and \$51,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The college shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

**Sec. 608.** 1997 c 454 s 608 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund Appropriation (FY 1998) \$	((20,151,000))
	<u>20,401,000</u>
General Fund Appropriation (FY 1999) \$	((20,518,000))
	<u>20,603,000</u>
TOTAL APPROPRIATION \$	((40,669,000))
	<u>41,004,000</u>

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

(1) \$144,000 of the general fund appropriation for fiscal year 1998 and \$217,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$47,000 of the general fund appropriation for fiscal year 1998 and \$47,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$29,000 of the general fund appropriation for fiscal year 1998 and \$29,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The college shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(5) \$35,000 of the general fund appropriation for fiscal year 1999 is provided solely to the Washington state institute for public policy for a study of college students' employment. The study shall include, but need not be limited to, matching student enrollment information with unemployment insurance information. The study shall be conducted in collaboration with the office of financial management, higher education coordinating board, state board for community and technical colleges and the employment security department. Results of the study are to be reported to the legislature by January 15, 1999.

(6) \$250,000 of the general fund appropriation for fiscal year 1998 is provided solely for equipment and expenses necessary to accommodate enrollment growth.

(7) \$50,000 of the general fund--state for fiscal year 1999 is provided solely to the Washington state institute for public policy for a study of the state's requirements to provide special education as a result of federal law and the Washington basic education act. A preliminary report will be provided the policy and fiscal committees of the legislature by October 15, 1998, and a final report will be provided by December 15, 1998.

**Sec. 609.** 1997 c 454 s 610 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD--POLICY COORDINATION AND ADMINISTRATION**

General Fund--State Appropriation (FY 1998) \$	2,734,000
General Fund--State Appropriation (FY 1999) \$	((2,615,000))
	<u>3,510,000</u>
General Fund--Federal Appropriation \$	((693,000))
	<u>704,000</u>
TOTAL APPROPRIATION \$	((6,042,000))
	<u>6,948,000</u>

The appropriations in this section are provided to carry out the accountability, performance measurement, policy coordination, planning, studies and administrative functions of the board and are subject to the following conditions and limitations:

(1) The board shall set performance targets, review, recommend changes if necessary, and approve plans defined in section 601(3)(a) of this act for achieving measurable and specific improvements in academic years 1997-98 and 1998-99. By October 1, 1997, the board shall notify the office of financial management to allot institutions' fiscal year 1998 performance funds held in reserve, based upon the adequacy of plans prepared by the institutions.

(2) The board shall develop criteria to assess institutions' performance and shall use those criteria in determining the allotment of performance and accountability funds. The board shall evaluate each institution's achievement of performance targets for the 1997-98 academic year and, by ~~((August 1))~~ November 15, 1998, the board shall notify the office of financial management to allot institutions' fiscal year 1999 performance funds held in reserve, based upon each institution's performance ~~((, except for performance funds held for achievement of the student retention measure. For the student retention measure, the board shall notify the office of financial management by November 1, 1998, to allot institutions' fiscal year 1999 performance funds held in reserve, based upon each institution's performance))~~.

(3) By January, 1999, the board shall recommend to the office of financial management and appropriate legislative committees any recommended additions, deletions, or revisions to the performance and accountability measures in sections 601(3) of this act as part of the next master plan for higher education. The recommendations shall be developed in consultation with the institutions of higher education and may include additional performance indicators to measure successful student learning and other student outcomes for possible inclusion in the 1999-01 operating budget. The recommendations shall include measures of performance demonstrating specific and measurable improvements related to distance education and education provided primarily through technology, to be determined by the board, in consultation with the institutions of higher education.

(4) \$280,000 of the general fund--state appropriation for fiscal year 1998 and \$280,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for enrollment to implement RCW 28B.80.570 through 28B.80.585 (rural natural resources impact areas). The number of students served shall be 50 full-time equivalent students per fiscal year. The board shall ensure that enrollments reported under this subsection meet the criteria outlined in RCW 28B.80.570 through 28B.80.585.

(5) \$70,000 of the general fund--state appropriation for fiscal year 1998 and \$70,000 of the general fund--state appropriation for fiscal year 1999 are provided to develop a competency based admissions system for higher education institutions. The board shall complete the competency based admissions system and issue a report outlining the competency based admissions system by January 1999.

(6) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for activities related to higher education facilities planning, project monitoring, and access issues related to capital facilities. Of this amount, \$50,000 is provided for a study of higher education needs of Okanogan county and surrounding communities with consideration given to alternative approaches to educational service delivery, facility expansion, relocation or partnership, and long-term growth and future educational demands of the region.

(7) \$150,000 of the general fund--state appropriation for fiscal year 1998 is provided solely as one-time funding for computer upgrades.

(8) \$85,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for implementation of Substitute Senate Bill No. 6655 (changing the Spokane intercollegiate research and technology institute) or Substitute Senate Bill No. 6717 (providing for the transfer of the Spokane riverpoint campus to Washington State University and eliminating the joint center for higher education), or both. If neither bill is enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(9) \$810,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to complete the cooperative library project for the four year public higher education institutions. Moneys shall be transferred to the University of Washington for one-time equipment acquisition, ongoing support of the system, and acquisition of shared electronic journals for use by all the member institutions.

**Sec. 610.** 1997 c 454 s 611 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD--FINANCIAL AID AND GRANT PROGRAMS**

General Fund--State Appropriation (FY 1998) \$	((89,369,000))
	<u>89,781,000</u>
General Fund--State Appropriation (FY 1999) \$	((96,209,000))
	<u>97,232,000</u>
General Fund--Federal Appropriation \$	((8,255,000))
	<u>8,278,000</u>
<u>Advanced College Tuition Payment Program</u>	
<u>Account Appropriation \$</u>	

TOTAL APPROPRIATION \$

1,198,000

((193,833,000))

196,489,000

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

(1) \$527,000 of the general fund--state appropriation for fiscal year 1998 and \$526,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the displaced homemakers program.

(2) \$216,000 of the general fund--state appropriation for fiscal year 1998 and \$220,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the western interstate commission for higher education.

(3) \$118,000 of the general fund--state appropriation for fiscal year 1998 and \$118,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the health personnel resources plan.

(4) \$1,000,000 of the general fund--state appropriation for fiscal year 1998 and \$1,000,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the scholarships and loans program under chapter 28B.115 RCW, the health professional conditional scholarship program. This amount shall be deposited to the health professional loan repayment and scholarship trust fund to carry out the purposes of the program.

(5) \$86,783,000 of the general fund--state appropriation for fiscal year 1998 and \$93,728,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for student financial aid, including all administrative costs. The amounts in (a), (b), and (c) of this subsection are sufficient to implement Second Substitute House Bill No. 1851 (higher education financial aid). Of these amounts:

(a) \$67,266,000 of the general fund--state appropriation for fiscal year 1998 and \$73,968,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the state need grant program. ~~((iii))~~ After April 1 of each fiscal year, up to one percent of the annual appropriation for the state need grant program may be transferred to the state work study program.

(b) \$15,350,000 of the general fund--state appropriation for fiscal year 1998 and \$15,350,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the state work study program. After April 1 of each fiscal year, up to one percent of the annual appropriation for the state work study program may be transferred to the state need grant program;

(c) \$2,420,000 of the general fund--state appropriation for fiscal year 1998 and \$2,420,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for educational opportunity grants. For the purpose of establishing eligibility for the equal opportunity grant program for placebound students under RCW 28B.101.020, Thurston county lies within the branch campus service area of the Tacoma branch campus of the University of Washington;

(d) A maximum of 2.1 percent of the general fund--state appropriation for fiscal year 1998 and 2.1 percent of the general fund--state appropriation for fiscal year 1999 may be expended for financial aid administration, excluding the four percent state work study program administrative allowance provision;

(e) \$230,000 of the general fund--state appropriation for fiscal year 1998 and \$201,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the educator's excellence awards. Any educator's excellence moneys not awarded by April 1st of each year may be transferred by the board to either the Washington scholars program or, in consultation with the workforce training and education coordinating board, to the Washington award for vocational excellence;

(f) \$1,011,000 of the general fund--state appropriation for fiscal year 1998 and \$1,265,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement the Washington scholars program. Any Washington scholars program moneys not awarded by April 1st of each year may be transferred by the board to either the educator's excellence awards or, in consultation with the workforce training and education coordinating board, to the Washington award for vocational excellence;

(g) \$456,000 of the general fund--state appropriation for fiscal year 1998 and \$474,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Washington award for vocational excellence program. Any Washington award for vocational program moneys not awarded by April 1st of each year may be transferred by the board to either the educator's excellence awards or the Washington scholars program;

(h) \$51,000 of the general fund--state appropriation for fiscal year 1998 and \$51,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for community scholarship matching grants of \$2,000 each. To be eligible for the matching grant, a nonprofit community organization organized under section 501(c)(3) of the internal revenue code must demonstrate that it has raised \$2,000 in new moneys for college scholarships after the effective date of this act. No organization may receive more than one \$2,000 matching grant; and

(6) ~~(\$175,000 of the general fund--state appropriation for fiscal year 1998 and \$175,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Engrossed Second Substitute House Bill No. 1372 or Second Substitute Senate Bill No. 5106 (Washington advanced college tuition payment program). If neither Engrossed Second Substitute House Bill No. 1372 nor Second Substitute Senate Bill No. 5106 is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.)~~ \$587,000 of the general fund--state appropriation for fiscal year 1998 and \$1,198,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for working capital for the advanced tuition payment program. The amounts provided in this subsection may be expended only to the extent that revenues

from application fees and interest earnings deposited in the Washington advanced college tuition payment program account are insufficient to support program operation. Prior to the end of fiscal year 1999 there shall be a transfer of expenditures between general fund--state and the Washington advanced college tuition payment program account to the extent that program application fees and interest earnings are available to minimize the expenditure from the general fund.

(7) \$187,000 of the general fund--state appropriation for fiscal year 1998 and \$188,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for a demonstration project in the 1997-99 biennium to provide undergraduate fellowships based upon the graduate fellowship program.

(8) Funding is provided in this section for the development of three models for tuition charges for distance learning programs. Institutions involved in distance education or extended learning shall provide information to the board on the usage, cost, and revenue generated by such programs.

**Sec. 611.** 1997 c 149 s 614 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE LIBRARY**

General Fund--State Appropriation (FY 1998) \$	((7,483,000))
	<u>7,533,000</u>
General Fund--State Appropriation (FY 1999) \$	((7,281,000))
	<u>7,631,000</u>
General Fund--Federal Appropriation \$	((4,847,000))
	<u>6,817,000</u>
TOTAL APPROPRIATION \$	((19,611,000))
	<u>21,981,000</u>

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

(1) At least \$2,524,000 shall be expended for a contract with the Seattle public library for library services for the Washington book and braille library.

(2) \$198,000 of the general fund--state appropriation for fiscal year 1998 ~~(is)~~ and \$200,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the state library to continue the government information locator service in accordance with chapter 171, Laws of 1996. The state library, in consultation with interested parties, shall prepare an evaluation of the government information locator service by October 1, 1997. The evaluation shall include a cost-benefit analysis, a determination of fiscal impacts to the state, and programmatic information. The evaluation report shall be provided to the appropriate legislative fiscal committees.

**Sec. 612.** 1997 c 149 s 616 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation (FY 1998) \$	((2,502,000))
	<u>2,658,000</u>
General Fund Appropriation (FY 1999) \$	((2,531,000))
	<u>2,745,000</u>
TOTAL APPROPRIATION \$	((5,033,000))
	<u>5,403,000</u>

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

(1) \$216,200 of the general fund appropriation for fiscal year 1998 and \$216,200 of the general fund appropriation for fiscal year 1999 are provided solely for exhibit and educational programming.

(2) \$156,000 of the general fund appropriation for fiscal year 1998 and \$164,000 of the general fund appropriation for fiscal year 1999 are provided solely for temporary relocation of research center operations.

(3) \$50,000 of the general fund appropriation for fiscal year 1999 is provided solely for activities related to the Lewis and Clark Bicentennial.

**Sec. 613.** 1997 c 149 s 618 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE BLIND**

General Fund--State Appropriation (FY 1998) \$	((3,714,000))
	<u>3,723,000</u>
General Fund--State Appropriation (FY 1999) \$	((3,738,000))
	<u>3,747,000</u>
General Fund--Private/Local Appropriation \$	((192,000))
	<u>418,000</u>
TOTAL APPROPRIATION \$	((7,644,000))
	<u>7,888,000</u>

**Sec. 614.** 1997 c 149 s 619 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE DEAF**

General Fund Appropriation (FY 1998) \$	((6,458,000))
	<u>6,467,000</u>
General Fund Appropriation (FY 1999) \$	((6,459,000))
	<u>6,468,000</u>
TOTAL APPROPRIATION \$	((12,917,000))
	<u>12,935,000</u>

**PART VII  
SPECIAL APPROPRIATIONS**

**Sec. 701.** 1997 c 149 s 701 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL FUND BOND DEBT**

General Fund Appropriation (FY 1998) \$	((447,283,000))
	<u>448,355,000</u>
General Fund Appropriation (FY 1999) \$	((485,077,000))
	<u>484,005,000</u>
General Fund Bonds Subject to the Limit Bond Retirement Account Appropriation \$	932,360,000

TOTAL APPROPRIATION \$

\$1,864,720,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the general fund bonds subject to the limit bond retirement account.

**Sec. 702.** 1997 c 149 s 703 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE**

General Fund Appropriation (FY 1998) \$	((23,096,000))
	<u>23,186,000</u>
General Fund Appropriation (FY 1999) \$	((25,603,000))
	<u>25,642,000</u>
General Fund Bonds Excluded from the Limit Bond Retirement Account Appropriation \$	((48,699,000))
	<u>48,828,000</u>
Reimbursable Bonds Excluded from the Limit Bond Retirement Account Appropriation \$	104,933,000
Reimbursable Bonds Subject to the Limit Bond Retirement Account Appropriation \$	((402,000))
	<u>2,264,000</u>
TOTAL APPROPRIATION \$	((202,733,000))
	<u>204,853,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the general fund bonds excluded from the limit bond retirement account.

**Sec. 703.** 1997 c 149 s 705 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES**

General Fund Appropriation (FY 1998) \$	475,000
General Fund Appropriation (FY 1999) \$	475,000
Higher Education Construction Account Appropriation \$	((215,000))
	<u>440,000</u>
State Building Construction Account Appropriation \$	((6,374,000))
	<u>7,683,000</u>
Public Safety Reimbursable Bond Account Appropriation \$	((8,000))

	<u>23,000</u>
TOTAL APPROPRIATION \$	((7,547,000))
	<u>9,096,000</u>
Total Bond Retirement and Interest Appropriations contained in sections 701 through 705 of this act \$	((2,121,748,000))
	<u>2,125,417,000</u>
<b>NEW SECTION. Sec. 704.</b> A new section is added to 1997 c 149 (uncodified) to read as follows:	
<b>FOR THE OFFICE OF FINANCIAL MANAGEMENT--FOR PAYMENT OF TORT CLAIM</b>	
General Fund Appropriation (FY 1999) \$	6,733,000
<b>Sec. 705.</b> 1997 c 149 s 710 (uncodified) is amended to read as follows:	
<b>FOR THE OFFICE OF FINANCIAL MANAGEMENT--YEAR 2000 ALLOCATIONS</b>	
<del>((General Fund--State Appropriation (FY 1998) -- \$</del>	<del>3,380,000</del>
<del>General Fund--State Appropriation (FY 1999) -- \$</del>	<del>1,960,000))</del>
General Fund--Federal Appropriation \$	2,883,000
Liquor Revolving Account Appropriation \$	131,000
Health Care Authority Administrative Account Appropriation \$	631,000
Accident Account Appropriation \$	1,102,000
Medical Aid Account Appropriation \$	1,102,000
Unemployment Compensation Administration Account-- Federal Appropriation \$	1,313,000
<del>((Administrative Contingency Account Appropriation -- \$</del>	<del>948,000))</del>
Employment Services Administrative Account Appropriation \$	((500,000))
	<u>461,000</u>
Forest Development Account Appropriation \$	156,000
Off Road Vehicle Account Appropriation \$	7,000
Surveys and Maps Account Appropriation \$	1,000
Aquatic Lands Enhancement Account Appropriation	8,000
Resource Management Cost Account Appropriation \$	348,000
TOTAL APPROPRIATION \$	



((14,470,000))

8,143,000

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

(1) The appropriations will be allocated by the office of financial management to agencies to complete Year 2000 date conversion maintenance on their computer systems. Agencies shall submit their estimated costs of conversion to the office of financial management by July 1, 1997.

(2) Up to \$10,000,000 of the cash balance of the data processing revolving account may be expended on agency Year 2000 date conversion costs. The \$10,000,000 will be taken from the cash balances of the data processing revolving account's two major users, as follows: \$7,000,000 from the department of information services and \$3,000,000 from the office of financial management. The office of financial management in consultation with the department of information services shall allocate these funds as needed to complete the date conversion projects.

(3) Agencies receiving these allocations shall report at a minimum to the information services board and to the governor every six months on the progress of Year 2000 maintenance efforts.

NEW SECTION. Sec. 706. A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--YEAR 2000 CONVERSION**

General Fund Appropriation (FY 1998) \$	233,000
General Fund Appropriation (FY 1999) \$	33,000
Hospital Commission Account Appropriation \$	115,000
Architects' License Account Appropriation \$	3,000
Professional Engineers' Account Appropriation \$	9,000
Real Estate Commission Account Appropriation \$	24,000
Health Professions Account Appropriation \$	275,000
Master License Account Appropriation \$	70,000
Safe Drinking Water Account Appropriation \$	50,000
Uniform Commercial Code Account Appropriation \$	11,000
Unemployment Compensation Administration Account-- Federal Appropriation \$	3,245,000
Department of Retirement Systems Expense Account Appropriation \$	890,000
Health Services Account Appropriation \$	254,000
<b>TOTAL APPROPRIATION \$</b>	<b>5,212,000</b>

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

(1) The appropriations will be allocated by the office of financial management to agencies to perform Year 2000 date conversion maintenance on their computer systems and are provided solely for these purposes.

(2) Agencies receiving these allocations shall report at a minimum to the information services board and to the governor every six months on the progress of Year 2000 maintenance efforts.

NEW SECTION. Sec. 707. A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--YEAR 2000 CONTINGENCY POOL**

General Fund Appropriation (FY 1998) \$

General Fund Appropriation (FY 1999) \$	800,000
Year 2000 Contingency Revolving Account Appropriation \$	4,200,000
	5,000,000
TOTAL APPROPRIATION \$	10,000,000

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

(1) The appropriations will be allocated by the office of financial management, in consultation with the department of information systems, to agencies to perform Year 2000 maintenance on their computer systems and are provided solely for these purposes.

(2) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the Year 2000 contingency revolving account, hereby created in the state treasury, in accordance with schedules provided by the office of financial management for additional Year 2000 maintenance on their computer systems.

(3) All agencies that receive these allocations will report upon request throughout the biennium to the information services board and to the governor on the progress of Year 2000 maintenance efforts.

**Sec. 708.** 1997 c 149 s 712 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR--COMPENSATION--INSURANCE BENEFITS**

General Fund--State Appropriation (FY 1998) \$	823,000
General Fund--State Appropriation (FY 1999) \$	<del>((6,257,000))</del>
	<u>10,185,000</u>
General Fund--Federal Appropriation \$	<del>((2,431,000))</del>
	<u>3,153,000</u>
General Fund--Private/Local Appropriation \$	<del>((146,000))</del>
	<u>190,000</u>
Salary and Insurance Increase Revolving Account Appropriation \$	<del>((5,465,000))</del>
	<u>7,084,000</u>
TOTAL APPROPRIATION \$	<del>((15,122,000))</del>

21,435,000

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

(1)(a) The monthly ~~((contribution))~~ employer funding rate for insurance benefit premiums shall not exceed \$312.35 per eligible employee for fiscal year 1998, and ~~(((\$331.31))~~ \$338.21 for fiscal year 1999.

(b) The monthly ~~((contribution))~~ employer funding rate for the operating costs of the health care authority shall not exceed \$4.99 per eligible employee for fiscal year 1998, and ~~(((\$4.44))~~ \$4.67 for fiscal year 1999.

(c) The fiscal year 1999 monthly employer funding rate for insurance benefit premiums includes \$1.12 per eligible employee to increase life insurance coverage, contingent on court approval by August 1, 1998, of the stipulated settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8).

(d) The fiscal year 1999 monthly employer funding rate for insurance benefit premiums includes \$5.78 per eligible employee to begin repaying the public employees' and retirees' insurance account for any claims paid as a result of a court-approved stipulated settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1).

(e) Surplus moneys accruing to the public employees' and retirees' insurance account due to lower-than-projected insurance costs may not be reallocated by the health care authority to increase the actuarial value of public employee insurance plans. Such funds shall be held in reserve in the public employees' and retirees' insurance account and may not be expended without prior legislative authorization.

((~~(d)~~)) (f) In order to achieve the level of funding provided for health benefits, the public employees' benefits board may require employee premium co-payments, increase point-of-service cost sharing, and/or implement managed competition.

(2) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special fund salary and insurance contribution increase revolving fund in accordance with schedules provided by the office of financial management.

(3) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for parts A and B of medicare, pursuant to RCW 41.05.085. From January 1, 1998, through December 31, 1998, the subsidy shall be \$41.26 per month. Starting January 1, 1999, the subsidy shall be \$43.16 per month.

(4) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit in the public employees' and retirees' insurance account established in RCW 41.05.120:

(a) For each full-time employee, \$14.80 per month beginning September 1, 1997;

(b) For each part-time employee who, at the time of the remittance, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$14.80 each month beginning September 1, 1997, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives.

The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

(5) The salary and insurance increase revolving account appropriation includes amounts sufficient to fund health benefits for ferry workers at the premium levels specified in subsection (1) of this section, consistent with the 1997-99 transportation appropriations act.

**NEW SECTION. Sec. 709.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE STATE TREASURER--FOR THE PUBLIC EMPLOYEES' AND RETIREES' INSURANCE ACCOUNT**

Pension Funding Account Appropriation	\$	25,000,000
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The appropriation in this section is provided solely to pay claims resulting from a court-approved stipulated agreement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1).

**Sec. 710.** 1997 c 454 s 704 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--COMPENSATION ACTIONS OF PERSONNEL RESOURCES BOARD**

General Fund--State Appropriation (FY 1998)	\$	5,289,000
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General Fund--State Appropriation (FY 1999)	\$	10,642,000
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<u>General Fund--Federal Appropriation</u>	\$	<u>2,777,000</u>
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Salary and Insurance Increase Revolving Account Appropriation	\$	<del>((8,862,000))</del>
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TOTAL APPROPRIATION	\$	<u>6,085,000</u>
		24,793,000

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations in this section.

(1) Funding is provided to fully implement the recommendations of the Washington personnel resources board consistent with the provisions of chapter 319, Laws of 1996.

(2) Implementation of the salary adjustments for the various clerical classes, physicians, dental classifications, pharmacists, maintenance custodians, medical records technicians, fish/wildlife biologists, fish/wildlife enforcement, habitat technicians, and fiscal technician classifications will be effective July 1, 1997. Implementation of the salary adjustments for safety classifications, park rangers, park aides, correctional officers/sergeants, community corrections specialists, tax information specialists, industrial relations specialists, electrical classifications at the department of labor and industries, fingerprint technicians, some labor relations classifications, health benefits specialists, foresters/land managers, and liquor enforcement officers will be effective July 1, 1998.

**NEW SECTION. Sec. 711.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR SUNDRY CLAIMS.** The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of general administration, except as otherwise provided, as follows:

(1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110:

(a) Steven M. Lauritz, claim number SCJ 97-11 \$	2,534
(b) George Greenland, claim number SCJ 97-13 \$	16,235
(c) Edwin H. Evans, claim number SCJ 97-14 \$	3,997
(d) Bryan E. Vance, claim number SCJ 97-16 \$	14,866
(e) Jesse L. Smith, claim number SCJ 97-17 \$	23,027
(f) Thomas N. Klein, claim number SCJ 97-18 \$	14,338
(g) John F. Richards, claim number SCJ 97-19 \$	7,335
(h) Anthony C. Otto, claim number SCJ 97-09 \$	16,962
(i) Eric C. Swanson, claim number SCJ 97-21 \$	86,152
(j) Mark J. Campbell, claim number SCJ 98-01 \$	7,218
(2) Payment from the state wildlife account for damage to crops by wildlife, pursuant to RCW 77.36.040:	
(a) D.F. Spurgeon, claim number SCG 97-03 \$	980
(b) Kenneth Kunes, claim number SCG 97-06 \$	2,288

NEW SECTION. **Sec. 712.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE STATE TREASURER--FOR THE COUNTY CRIMINAL JUSTICE ASSISTANCE ACCOUNT**

General Fund Appropriation (FY 1999) \$ 1,240,000

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed in accordance with RCW 82.14.310. This funding is provided to counties for the costs of implementing criminal justice legislation including, but not limited to, Second Substitute House Bill No. 3070 (DUI penalties), Second Substitute House Bill No. 3089 (deferred prosecution), and Second Substitute House Bill No. 2962 (criminal mistreatment).

NEW SECTION. **Sec. 713.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE STATE TREASURER--FOR THE MUNICIPAL CRIMINAL JUSTICE ASSISTANCE ACCOUNT**

General Fund Appropriation (FY 1999) \$ 760,000

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed in accordance with RCW 82.14.320. This funding is provided to cities for the costs of implementing criminal justice legislation including, but not limited to, Second Substitute House Bill No. 3070 (DUI penalties), Second Substitute House Bill No. 3089 (deferred prosecution), and Second Substitute House Bill No. 2962 (criminal mistreatment).

NEW SECTION. **Sec. 714.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE STATE TREASURER--FOR THE MOTOR VEHICLE FUND**

General Fund Appropriation (FY 1999) \$ 3,000,000

**PART VIII  
OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 801.** 1997 c 454 s 801 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance premiums distribution \$	6,617,250
General Fund Appropriation for public utility district excise tax distribution \$	35,183,803
General Fund Appropriation for prosecuting attorneys salaries \$	2,960,000
General Fund Appropriation for motor vehicle excise tax distribution \$	84,721,573
General Fund Appropriation for local mass transit assistance \$	383,208,166
General Fund Appropriation for camper and travel trailer excise tax distribution \$	3,904,937
General Fund Appropriation for boating safety/education and law enforcement distribution \$	3,616,000
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution \$	142,000
Liquor Excise Tax Account Appropriation for liquor excise tax distribution \$	22,287,746
Liquor Revolving Fund Appropriation for liquor profits distribution \$	36,989,000
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties \$	107,146,000
Municipal Sales and Use Tax Equalization Account Appropriation \$	66,860,014
County Sales and Use Tax Equalization Account Appropriation \$	11,843,224
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies \$	1,266,000
County Criminal Justice Account Appropriation \$	((80,634,471))
	<u>81,874,471</u>
Municipal Criminal Justice Account Appropriation \$	((32,042,450))
	<u>32,802,450</u>

County Public Health Account Appropriation \$	43,773,588
TOTAL APPROPRIATION \$	923,196,222

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**Sec. 802.** 1997 c 454 s 802 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--TRANSFERS**

General Fund: For transfer to the Water Quality Account \$	((26,607,000))
	<u>28,595,900</u>
General Fund: For transfer to the Flood Control Assistance Account \$	4,000,000
State Convention and Trade Center Account: For transfer to the State Convention and Trade Center Operations Account \$	3,877,000
Water Quality Account: For transfer to the Water Pollution Control Account. Transfers shall be made at intervals coinciding with deposits of federal capitalization grant money into the account. The amounts transferred shall not exceed the match required for each federal deposit \$	21,688,000
State Treasurer's Service Account: For transfer to the general fund on or before June 30, 1999 an amount up to \$3,600,000 in excess of the cash requirements of the State Treasurer's Service Account \$	3,600,000
Public Works Assistance Account: For transfer to the Drinking Water Assistance Account \$	9,949,000
County Sales and Use Tax Equalization Account: For transfer to the County Public Health Account \$	((1,686,000))
	<u>1,767,000</u>

**PART IX  
MISCELLANEOUS**

**Sec. 901.** RCW 50.24.014 and 1994 c 187 s 3 are each amended to read as follows:

(1)(a) A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, at a basic rate of two one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

(b) For the first calendar quarter of 1994 only, the basic two one-hundredths of one percent contribution payable under (a) of this subsection shall be increased by one-hundredth of one percent to a total rate of three one-hundredths of one percent. The proceeds of this

incremental one-hundredth of one percent shall be used solely for the purposes described in section 22, chapter 483, Laws of 1993, and for the purposes described in RCW 50.40.060. During the 1997-1999 fiscal biennium, any surplus from contributions payable under this subsection (b) ((will)) may be deposited in the unemployment compensation trust fund, used to support tax and wage automated systems projects that simplify and streamline employer reporting, or both.

(2)(a) Contributions under this section shall become due and be paid by each employer under rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

(b) In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) If the commissioner determines that federal funding has been increased to provide financing for the services specified in chapter 50.62 RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st.

**Sec. 902.** 1997 c 149 s 905 (uncodified) is amended to read as follows:

**STATUTORY APPROPRIATIONS.** In addition to the amounts appropriated in this act for revenues for distribution, state contributions to the law enforcement officers' and fire fighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under chapters 39.94 and 39.96 RCW or any proper bond covenant made under law.

**Sec. 903.** RCW 70.105D.070 and 1997 c 406 s 5 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

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

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

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

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

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

(vii) Hazardous materials emergency response training;

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

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

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

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority: (i) Remedial actions; (ii) hazardous waste plans and programs under chapter 70.105 RCW; and (iii) solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW. Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW. During the 1997-1999 fiscal biennium, moneys in the account may also be used for the following activities: Conducting a study of whether dioxins occur in fertilizers, soil amendments, and soils; reviewing applications for registration of fertilizers; and conducting a study of plant uptake of metals.

(b) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation.

(7) The department shall adopt rules for grant or loan issuance and performance.

**Sec. 904.** RCW 69.50.520 and 1997 c 451 s 2 and 1997 c 338 s 69 are each reenacted and amended to read as follows:

The violence reduction and drug enforcement account is created in the state treasury. All designated receipts from RCW 9.41.110(8), 66.24.210(4), 66.24.290(2), 69.50.505(h)(1), 82.08.150(5), 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989 shall be deposited into the account. Expenditures from the account may be used only for funding services and programs under chapter 271, Laws of 1989 and chapter 7, Laws of 1994 sp. sess., including state incarceration costs. Funds from the account may also be appropriated to reimburse local governments for costs associated with implementing criminal justice legislation including chapter 338, Laws of 1997. During the 1997-1999 biennium, funds from the account may also be used for costs associated with conducting a feasibility study of the department of corrections' offender-based tracking system and providing grants to local governments in accordance with chapter 338, Laws of 1997. After July 1, 1999, at least seven and one-half percent of expenditures from the account shall be used for providing grants to community networks under chapter 70.190 RCW by the family policy council.

**NEW SECTION. Sec. 905.** This act shall not be construed as affecting any right or cause of action asserted in *Washington State Legislature v. State of Washington* (Thurston county superior court cause no. 98-2-00105-1).

**Sec. 906.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**Sec. 907.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

On page 1, line 1 of the title, after "matters;" strike the remainder of the title and insert "amending RCW 50.24.014 and 70.105D.070; amending 1997 c 149 ss 101, 102, 104, 110, 111, 112, 113, 114, 116, 117, 120, 121, 122, 123, 124, 129, 130, 134, 136, 141, 142, 145, 146, 148, 152, 201, 204, 205, 206, 209, 210, 215, 217, 224, 304, 306, 309, 310, 401, 402, 502, 505, 506, 507, 508, 513, 516, 614, 616, 618, 619, 701, 703, 705, 710, 712, and 905 (uncodified); amending 1997 c 454 ss 101, 103, 104, 105, 202, 203, 204, 205, 206, 207, 208, 210, 211, 209, 212, 213, 214, 301, 302, 303, 304, 305, 501, 503, 504, 505, 506, 507, 508, 601, 602, 603, 604, 605, 606, 607, 608, 610, 611, 704, 801, and 802 (uncodified); reenacting and amending RCW 69.50.520; adding new sections to 1997 c 149 (uncodified); creating new sections; making appropriations; and declaring an emergency.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Johnson, the Senate refuses to concur in the House amendments to Engrossed Substitute Senate Bill No. 6108 and requests of the House a conference thereon.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 6108 and the House amendment(s) thereto: Senators Strannigan, Spanel and West.

#### MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

#### MOTION

At 12:08 p.m., on motion of Senator Johnson the Senate recessed until 3:00 p.m.



The Senate was called to order at 3:00 p.m. by President Owen.

There being no objection, the President advanced the Senate to the sixth order of business.

SECOND READING  
GUBERNATORIAL APPOINTMENT

MOTION

On motion of Senator Oke, Gubernatorial Appointment No. 9179, Donna M. Mason, as Chair of the Interagency Committee for Outdoor Recreation, was confirmed.

Senators Oke and Jacobsen spoke to the confirmation of Donna M. Mason, as Chair of the Interagency Committee for Outdoor Recreation.

APPOINTMENT OF DONNA M. MASON

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Haugen - 1. Excused: Senator Benton - 1.

MOTION

On motion of Senator Oke, Gubernatorial Appointment No. 9215, Christine Wakefield, as a member of the Interagency Committee for Outdoor Recreation, was confirmed.

Senators Oke and Jacobsen spoke to the confirmation of Christine Wakefield, as a member of the Interagency Committee for Outdoor Recreation.

APPOINTMENT OF CHRISTINE WAKEFIELD

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 3; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senators Haugen, Horn and West - 3.

MOTION

On motion of Senator Hargrove, Gubernatorial Appointment No. 9291, Dan C. Wilder, as a member of the Board of Trustees for Peninsula Community College District No. 1, was confirmed.

APPOINTMENT OF DAN C. WILDER

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5305,

SENATE BILL NO. 5622,  
SUBSTITUTE SENATE BILL NO. 5636,  
SENATE BILL NO. 6113,  
SUBSTITUTE SENATE BILL NO. 6208,  
SECOND SUBSTITUTE SENATE BILL NO. 6214,  
SECOND SUBSTITUTE SENATE BILL NO. 6264,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6293,  
ENGROSSED SENATE BILL NO. 6305,  
SUBSTITUTE SENATE BILL NO. 6324,  
SECOND SUBSTITUTE SENATE BILL NO. 6330,  
SENATE BILL NO. 6348,  
SUBSTITUTE SENATE BILL NO. 6420,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6421,  
SUBSTITUTE SENATE BILL NO. 6439,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6445,  
SUBSTITUTE SENATE BILL NO. 6474,  
SUBSTITUTE SENATE BILL NO. 6550,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6560,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6562,  
SUBSTITUTE SENATE BILL NO. 6565,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6600,  
SUBSTITUTE SENATE BILL NO. 6603,  
SUBSTITUTE SENATE BILL NO. 6655,  
SENATE BILL NO. 6698,  
SENATE BILL NO. 6729,  
SUBSTITUTE SENATE BILL NO. 6746.

#### MOTION

On motion of Senator Johnson, the Senate reverted the first order of business.

#### REPORTS OF STANDING COMMITTEES

March 10, 1998

SB 5776 Prime Sponsor, McCaslin: Revising the public disclosure law. Reported by Committee on Ways and Means

MAJORITY Recommendation: That Substitute Senate Bill No. 5776 as recommended by Committee on Government Operations be substituted therefor, and the substitute bill do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, Swecker, Winsley and Zarelli.

Referred to Committee on Ways and Means.

March 10, 1998

EHB 1042 Prime Sponsor, Representative Dyer: Changing the taxation of dental appliances, devices, restorations, and substitutes. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 10, 1998

SHB 1184 Prime Sponsor, House Committee on Finance: Repealing the sales tax on coin-operated laundromats in apartments, rooming houses, and mobile home communities. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, Roach, Rossi, Schow, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 10, 1998

E2SHB 1328 Prime Sponsor, House Committee on Finance: Revising the business and occupation tax on the handling of hay, alfalfa, and seed. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 10, 1998

SHB 1447 Prime Sponsor, House Committee on Finance: Providing tax exemptions related to thoroughbred horses. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 10, 1998

HB 2278 Prime Sponsor, Representative Honeyford: Exempting electric generating facilities powered by landfill gas from sales and use taxes. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, B. Sheldon, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 10, 1998

HB 2335 Prime Sponsor, Representative B. Thomas: Consolidating business and occupation tax rates into fewer categories. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, B. Sheldon, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 10, 1998

E2SHB 2342 Prime Sponsor, House Committee on Finance: Providing tax exemptions for businesses in community empowerment zones that provide selected international services.

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, McDonald, Roach, Rossi, Schow, B. Sheldon, Swecker, Thibaudeau, and Winsley.

Passed to Committee on Rules for second reading.

March 10, 1998

ESHB 2933 Prime Sponsor, House Committee on Finance: Prescribing the taxation of business warehousing and selling pharmaceutical drugs. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Sheldon, B., Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 10, 1998

E2SHB 2935 Prime Sponsor, House Committee on Appropriations: Adopting a new system for establishing nursing home payment rates. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass as amended. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 10, 1998

SHB 3015 Prime Sponsor, House Committee on Transportation Policy and Budget: Providing tax exemptions for the state route number 16 corridor. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Hochstatter, Long, McDonald, Roach, Rossi, Schow, B. Sheldon, Swecker, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

March 10, 1998

2SHB 3058 Prime Sponsor, House Committee on Appropriations: Changing statutes for waste reduction, recycling, and litter control. Reported by Committee on Ways and Means

MAJORITY Recommendation: Do pass. Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Long, McDonald, Roach, Rossi, Schow, Spanel, Winsley and Zarelli.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Johnson, Senate Bill No. 5776 was returned to the Committee on Ways and Means.

MOTION

On motion of Senator Johnson, the Senate returned to the fourth order of business.

MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House has granted the request of the Senate for a conference on SUBSTITUTE SENATE BILL NO. 6181. The Speaker has appointed the following members as conferees: Representatives Sheahan, Carlson and Costa.

TIMOTHY A. MARTIN, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House has granted the request of the Senate for a conference on SECOND SUBSTITUTE SENATE BILL NO. 6544. The Speaker has appointed the following members as conferees: Representatives Dyer, Backlund and Cody.

TIMOTHY A. MARTIN, Chief Clerk

There being no objection, the President reverted the Senate to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENT

March 10, 1998

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment subject to your confirmation.

H. George Morton, appointed March 10, 1998, for a term ending at the pleasure of the Governor, as Director of the Department of Printing.

Sincerely,

GARY LOCKE, Governor

Referred to the Committee on Government Operations.

There being no objection, the President advanced the Senate to the fourth order of business.

MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6161 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.64.005 and 1993 c 221 s 1 are each amended to read as follows:

The legislature finds that there is a need to establish a clear and understandable process that provides for the proper and effective management of dairy ((waste)) nutrients that affect((s)) the quality of surface or ground waters in the state of Washington. The legislature finds that there is a need for a program that will provide a stable and predictable business climate upon which dairy farms may base future investment decisions.

The legislature finds that federal regulations require a permit program for dairies ((with)) with over seven hundred head of mature cows and, other specified dairy farms that directly discharge into waters or are otherwise significant contributors of pollution. The legislature

finds that significant work has been ongoing over a period of time and that the intent of this chapter is to take the consensus that has been developed and place it into statutory form.

It is also the intent of this chapter to establish an inspection and technical assistance program for dairy farms to address the discharge of pollution to surface and ground waters of the state that will lead to water quality compliance by the industry. A further purpose is to create a balanced program involving technical assistance, regulation, and enforcement with coordination and oversight of the program by a committee composed of industry, agency, and other representatives. Furthermore, it is the objective of this chapter to maintain the administration of the water quality program as it relates to dairy operations at the state level.

It is also the intent of this chapter to recognize the existing working relationships between conservation districts, the conservation commission, and the department of ecology in protecting water quality of the state. A further purpose of this chapter is to provide statutory recognition of the coordination of the functions of conservation districts, the conservation commission, and the department of ecology pertaining to development of dairy waste management plans for the protection of water quality.

**Sec. 2.** RCW 90.64.010 and 1993 c 221 s 2 are each amended to read as follows:

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

(1) "Advisory and oversight committee" means a balanced committee of agency, dairy farm, and interest group representatives convened to provide oversight and direction to the dairy nutrient management program.

(2) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(3) "Catastrophic" means a tornado, hurricane, earthquake, flood, or other extreme condition that causes an overflow from a required waste retention structure.

(4) "Certification" means:

(a) The acknowledgment by a local conservation district that a dairy producer has constructed or otherwise put in place the elements necessary to implement his or her dairy nutrient management plan; and

(b) The acknowledgment by a dairy producer that he or she is managing dairy nutrients as specified in his or her approved dairy nutrient management plan.

(5) "Chronic" means a series of wet weather events that precludes the proper operation of a dairy nutrient management system that is designed for the current herd size.

(6) "Conservation commission" or "commission" means the conservation commission under chapter 89.08 RCW.

~~((2))~~ (7) "Conservation districts" or "district" means a subdivision of state government organized under chapter 89.08 RCW.

~~((3))~~ (8) "Concentrated dairy animal feeding operation" means a dairy animal feeding operation subject to regulation under this chapter which the director designates under RCW ~~((90.64.030))~~ 90.64.020 or meets the following criteria:

(a) Has more than seven hundred mature dairy cows, whether milked or dry cows, that are confined; or

(b) Has more than two hundred head of mature dairy cattle, whether milked or dry cows, that are confined and either:

(i) From which pollutants are discharged into navigable waters through a manmade ditch, flushing system, or other similar manmade device; or

(ii) From which pollutants are discharged directly into surface or ground waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

~~((4))~~ (9) "Dairy animal feeding operation" means a lot or facility where the following conditions are met:

(a) Dairy animals that have been, are, or will be stabled or confined and fed for a total of forty-five days or more in any twelve-month period; and

(b) Crops, vegetation forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more dairy animal feeding operations under common ownership are considered, for the purposes of this chapter, to be a single dairy animal feeding operation if they adjoin each other or if they use a common area for land application of wastes.

~~((5))~~ (10) "Dairy farm" means any farm that is licensed to produce milk under chapter 15.36 RCW.

(11) "Dairy nutrient" means any organic waste produced by dairy cows or a dairy farm operation.

(12) "Dairy nutrient management plan" means a plan meeting the requirements established under section 6 of this act.

(13) "Dairy nutrient management technical assistance team" means one or more professional engineers and local conservation district employees convened to serve one of four distinct geographic areas in the state.

(14) "Dairy producer" means a person who owns or operates a dairy farm.

(15) "Department" means the department of ecology under chapter 43.21A RCW.

~~((6))~~ (16) "Director" means the director of the department of ecology, or his or her designee.

(17) "Upset" means an exceptional incident in which there is an unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the dairy. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(18) "Violation" means the following acts or omissions:

(a) A discharge of pollutants into the waters of the state, except those discharges that are due to a chronic or catastrophic event, or to an upset as provided in 40 C.F.R. Sec. 122.41, or to a bypass as provided in 40 C.F.R. Sec. 122.41, and that occur when:

(i) A dairy producer has a current national pollutant discharge elimination system permit with a wastewater system designed, operated, and maintained for the current herd size and that contains all process-generated wastewater plus average annual precipitation minus evaporation plus contaminated storm water runoff from a twenty-five year, twenty-four hour rainfall event for that specific location, and the dairy producer has complied with all permit conditions, including dairy nutrient management plan conditions for appropriate land application practices; or

(ii) A dairy producer does not have a national pollutant discharge elimination system permit, but has complied with all of the elements of a dairy nutrient management plan that: Prevents the discharge of pollutants to waters of the state, is commensurate with the dairy producer's current herd size, and is approved and certified under section 6 of this act:

(b) Failure to register as required under section 3 of this act; or

(c) The lack of an approved dairy nutrient management plan by July 1, 2002; or

(d) The lack of a certified dairy nutrient management plan for a dairy farm after December 31, 2003.

**NEW SECTION. Sec. 3.** (1) Every dairy producer licensed under chapter 15.36 RCW shall register with the department by September 1, 1998, and shall reregister with the department by September 1st of every even-numbered year. Every dairy producer licensed after September 1, 1998, shall register with the department within sixty days of licensing. The purpose of registration is to provide and update baseline information for the dairy nutrient management program.

(2) To facilitate registration, the department shall obtain from the food safety and animal health division of the department of agriculture a current list of all licensed dairy producers in the state and mail a registration form to each licensed dairy producer no later than July 15, 1998.

(3) At a minimum, the form shall require the following information as of the date the form is completed:

(a) The name and address of the operator of the dairy farm;

(b) The name and address of the dairy farm;

(c) The telephone number of the dairy farm;

(d) The number of cows in the dairy farm;

(e) The number of young stock in the dairy farm;

(f) The number of acres owned and rented in the dairy farm;

(g) Whether the dairy producer, to the best of his or her knowledge, has a plan for managing dairy nutrient discharges that is commensurate with the size of his or her herd, and whether the plan is being fully implemented; and

(h) If the fields where dairy nutrients are being applied belong to someone other than the dairy producer whose farm operation generated the nutrients, the name, address, and telephone number of the owners of the property accepting the dairy nutrients.

(4) In the mailing to dairy producers containing the registration form, the department shall also provide clear and comprehensive information regarding the requirements of this chapter.

(5) The department shall require the registrant to provide only information that is not already available from other sources accessible to the department, such as dairy licensing information.

**NEW SECTION. Sec. 4.** Before October 1, 1998, the department and conservation commission shall jointly sponsor and hold an educational workshop for conservation districts from around the state. The purpose of the workshop is to inform local conservation districts about the requirements of this chapter, and for local conservation districts, the conservation commission, and the department to clearly understand their respective roles and responsibilities in carrying out these requirements.

**NEW SECTION. Sec. 5.** (1) By October 1, 1998, the department shall initiate an inspection program of all dairy farms in the state. The purpose of the inspections is to:

(a) Survey for evidence of violations;

(b) Identify corrective actions for actual or imminent discharges that violate or could violate the state's water quality standards;

(c) Monitor the development and implementation of dairy nutrient management plans; and

(d) Identify dairy producers who would benefit from technical assistance programs.

(2) Local conservation district employees may, at their discretion, accompany department inspectors on any scheduled inspection of dairy farms except random, unannounced inspections.

(3) Follow-up inspections shall be conducted by the department to ensure that corrective and other actions as identified in the course of initial inspections are being carried out. The department shall also conduct such additional inspections as are necessary to ensure compliance with state and federal water quality requirements, provided that all licensed dairy farms shall be inspected once within two years of the start of this program. The department, in consultation with the advisory and oversight committee established in section 8 of this act, shall develop performance-based criteria to determine the frequency of inspections.

(4) Dairy farms shall be prioritized for inspection based on the development of criteria that include, but are not limited to, the following factors:

(a) Existence or implementation of a dairy nutrient management plan;

(b) Proximity to impaired waters of the state; and  
(c) Proximity to all other waters of the state. The criteria developed to implement this subsection (4) shall be reviewed by the advisory and oversight committee.

**NEW SECTION. Sec. 6.** (1) Except for those producers who already have a certified dairy nutrient management plan as required under the terms and conditions of an individual or general national pollutant discharge elimination system permit, all dairy producers licensed under chapter 15.36 RCW, regardless of size, shall prepare a dairy nutrient management plan. If at any time a dairy nutrient management plan fails to prevent the discharge of pollutants to waters of the state, it shall be required to be updated.

(2) By November 1, 1998, the conservation commission, in conjunction with the advisory and oversight committee established under section 8 of this act shall develop a document clearly describing the elements that a dairy nutrient management plan must contain to gain local conservation district approval.

(3) In developing the elements that an approved dairy nutrient management plan must contain, the commission may authorize the use of other methods and technologies than those developed by the natural resources conservation service when such alternatives have been evaluated by the advisory and oversight committee. Alternative methods and technologies shall meet the standards and specifications of:

(a) The natural resources conservation service as modified by the geographically based standards developed under section 10 of this act; or

(b) A professional engineer with expertise in the area of dairy nutrient management.

(4) In evaluating alternative technologies and methods, the principal objectives of the committee's evaluation shall be determining:

(a) Whether there is a substantial likelihood that, once implemented, the alternative technologies and methods would not violate water quality requirements;

(b) Whether more cost-effective methods can be successfully implemented in some or all categories of dairy operations; and

(c) Whether the technologies and methods approved or provided by the natural resources conservation service for use by confined animal feeding operations are necessarily required for other categories of dairy operations.

In addition, the committee shall encourage the conservation commission and the conservation districts to apply in dairy nutrient management plans technologies and methods that are appropriate to the needs of the specific type of operation and the specific farm site and to avoid imposing requirements that are not necessary for the specific dairy producer to achieve compliance with water quality requirements.

(5) Such plans shall be submitted for approval to the local conservation district where the dairy farm is located, and shall be approved by conservation districts no later than by July 1, 2002. The conservation commission, in conjunction with conservation districts, shall develop a state-wide schedule of plan development and approval to ensure adequate resources are available to have all plans approved by July 1, 2002.

(6) If a dairy producer leases land for dairy production from an owner who has prohibited the development of capital improvements, such as storage lagoons, on the leased property, the dairy producer shall indicate in his or her dairy nutrient management plan that such improvements are prohibited by the landowner and shall describe other methods, such as land application, that will be employed by the dairy producer to manage dairy nutrients.

(7) Notwithstanding the timelines in this section, any dairy farm licensed after September 1, 1998, shall have six months from the date of licensing to develop a dairy nutrient management plan and another eighteen months to fully implement that plan.

(8) If a plan contains the elements identified in subsection (2) of this section, a conservation district shall approve the plan no later than ninety days after receiving the plan. If the plan does not contain the elements identified in subsection (2) of this section, the local conservation district shall notify the dairy producer in writing of modifications needed in the plan no later than ninety days after receiving the plan. The dairy producer shall provide a revised plan that includes the needed modifications within ninety days of the date of the local conservation district notification. If the dairy producer does not agree with, or otherwise takes exception to, the modifications requested by the local conservation district, the dairy producer may initiate the appeals process described in section 7 of this act within thirty days of receiving the letter of notification.

(9) An approved plan shall be certified by a conservation district and a dairy producer when the elements necessary to implement the plan have been constructed or otherwise put in place, and are being used as designed and intended. A certification form shall be developed by the conservation commission for use state-wide and shall provide for a signature by both a conservation district representative and a dairy producer. Certification forms shall be signed by December 31, 2003, and a copy provided to the department for recording in the data base established in section 9 of this act.

(10) The ability of dairy producers to comply with the planning requirements of this chapter depends, in many cases, on the availability of federal and state funding to support technical assistance provided by local conservation districts. Dairy producers shall not be held responsible for noncompliance with the planning requirements of this chapter if conservation districts are unable to perform their duties under this chapter because of insufficient funding.

**NEW SECTION. Sec. 7.** (1) Conservation district decisions pertaining to denial of approval or denial of certification of a dairy nutrient management plan; modification or amendment of a plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and the failure to adhere to plan review and approval timelines



identified in section 6 of this act are appealable under this chapter. Department actions pertaining to water quality violations are appealable under chapter 90.48 RCW.

In addition, a dairy producer who is constrained from complying with the planning requirements of this chapter because of financial hardship or local permitting delays may request a hearing before the conservation commission and may request an extension of up to one year beyond the approval and certification dates prescribed in this chapter for plan approval and certification.

(2) Within thirty days of receiving a local conservation district notification regarding any of the decisions identified in subsection (1) of this section, a dairy producer who disagrees with any of these decisions may request an informal hearing before the conservation commission or may appeal directly to the pollution control hearings board. The commission shall issue a written decision no later than thirty days after the informal hearing.

(3) If the conservation commission reverses the decision of the conservation district, the conservation district may appeal this reversal to the pollution control hearings board according to the procedure in chapter 43.21B RCW within thirty days of receipt of the commission's decision.

(4) When an appeals process is initiated under this section, the length of time extending from the start of the appeals process to its conclusion shall be added onto the timelines provided in this chapter for plan development, approval, and certification only if an appeal is heard by the pollution control hearings board.

**NEW SECTION. Sec. 8.** (1) A dairy nutrient management program advisory and oversight committee is established. The committee shall be cochaired by the executive director of the conservation commission and a dairy industry representative. The purpose of the committee is to provide direction to and oversight of the dairy nutrient management inspection program, as well as to encourage the use of appropriate alternative technologies and methods for managing dairy nutrients.

(2) The committee shall include no less than eleven, and no more than thirteen members, including one representative from the department, one representative of the dairy industry from each of four geographic areas as referenced in section 10 of this act, one representative from the conservation commission, two representatives from local conservation districts, one representative from a local health department, one representative of an environmental organization, and one representative from the shellfish industry. In addition, the natural resources conservation service and the federal environmental protection agency shall each be invited to appoint a representative to the committee.

(3) The conservation commission shall contact agencies and organizations representing the interests identified in subsection (2) of this section and request that they notify their employees and membership of the opportunity to serve on the advisory and oversight committee. The commission shall also extend the invitations to the natural resources conservation service and the federal environmental protection agency. An association representing the dairy industry shall solicit interest broadly from both within and outside of the association. Persons interested in serving on the advisory and oversight committee shall submit their names to the conservation commission no later than May 1, 1998. By June 1, 1998, the commission shall appoint the required number of members from the nominations received.

(4) Advisory and oversight committee members shall be compensated under RCW 43.03.230 and shall be reimbursed for expenses as provided under RCW 43.03.050 and 43.03.060.

(5) The committee shall perform the following functions:

(a) Meet at least four times per calendar year;

(b) Maintain meeting minutes and account for the resolution of issues jointly identified by the committee chairs as needing to be addressed;

(c) Review the development of the data base, the quarterly data base summary, and the annual report provided by the department under section 9 of this act and RCW 90.64.050;

(d) Act as a forum to hear suggestions from any interested parties, including dairy farmers, regarding implementation of the dairy nutrient management program;

(e) Review and recommend standardized dairy farm inspection procedures, prioritization criteria, and frequencies and a reporting format to be used by the department;

(f) Assist the department and the conservation commission in developing reports to the legislature as required in section 17 of this act; and

(g) Review and recommend dairy nutrient management technologies and methods other than those approved or provided by the natural resources conservation service for use as components of nutrient management plans under this chapter.

**NEW SECTION. Sec. 9.** (1) By October 1, 1998, the department, in consultation with the advisory and oversight committee, shall develop and maintain a data base to account for the implementation of this chapter.

(2) The data base shall track registrations; inspection dates and results, including findings of violations; regulatory and enforcement actions; and the status of dairy nutrient management plans. In addition, the number of dairy farm inspections by inspector shall be tallied by month. A summary of data base information shall be provided quarterly to the advisory and oversight committee.

(3) Any information entered into the data base by the department about any aspect of a particular dairy operation may be reviewed by the affected dairy producer upon request. The department shall correct any information in the data base upon a showing that the information is faulty or inaccurate. Complaints that have been filed with the department and determined to be unfounded, invalid, or without merit shall not be

recorded in the data base. Appeals of decisions related to dairy nutrient management plans to the pollution control hearings board or to any court shall be recorded, as well as the decisions of those bodies.

**NEW SECTION. Sec. 10.** (1) The conservation commission shall establish four dairy nutrient management technical assistance teams by June 1, 1998. The teams shall be geographically located throughout the state. Each team shall consist of one or more professional engineers, local conservation district employees, and dairy nutrient management experts from Washington State University. The purpose of the teams is to:

- (a) Actively develop and promote new cost-effective approaches for managing dairy nutrients; and
- (b) Assist dairy farms in developing dairy nutrient management plans.

(2) By January 1, 1999, each team shall develop one or more initial sets of standards and specifications to assist dairy producers in developing and implementing dairy nutrient management plans. Standards and specifications developed by a technical assistance team shall be appropriate to the soils and other conditions within that geographic area and shall be reviewed by the advisory and oversight committee.

**Sec. 11.** RCW 90.64.030 and 1993 c 221 s 4 are each amended to read as follows:

~~((Upon receiving a complaint or upon its own determination that a dairy animal feeding operation is a likely source of water quality degradation,))~~ (1) Under the inspection program established in section 5 of this act, the department may investigate a dairy ((animal feeding operation)) farm to determine whether the operation is discharging ((directly)) pollutants or ((recently)) has ((discharged directly)) a record of discharging pollutants into surface or ground waters of the state. Upon concluding an investigation, the department shall make a written report of its findings, including the results of any water quality measurements, photographs, or other pertinent information, and provide a copy of the report to the dairy producer within twenty days of the investigation.

(2) The department shall investigate a written complaint filed with the department within ((ten)) three working days and shall make a written report of its findings including the results of any water quality measurements, photographs, or other pertinent information. A copy of the findings shall be provided ((upon request)) to the dairy ((animal feeding operation)) producer subject to the complaint within twenty days. Only findings of violations shall be entered into the data base identified in section 9 of this act.

~~((Those dairy animal feeding operations that are))~~ (3) A dairy farm that is determined to be a significant contributor of pollution based on actual water quality tests, photographs, or other pertinent information ((if immediate corrective actions are not possible, shall be designated as a concentrated dairy animal feeding operation and shall be)) is subject to the provisions of this chapter and to the enforcement provisions of chapters 43.05 and 90.48 RCW, including civil penalties levied under RCW 90.48.144.

(4) If the department determines that an unresolved water quality problem from a dairy farm requires immediate corrective action, the department shall notify the producer and the district in which the problem is located. When corrective actions are required to address such unresolved water quality problems, the department shall provide copies of all final dairy farm inspection reports and documentation of all formal regulatory and enforcement actions taken by the department against that particular dairy farm to the local conservation district and to the appropriate dairy farm within twenty days.

(5) For a violation of water quality laws that is a first offense for a dairy producer, the penalty may be waived to allow the producer to come into compliance with water quality laws. The department shall record all legitimate violations and subsequent enforcement actions.

(6) A discharge, including a storm water discharge, to surface waters of the state shall not be considered a violation of this chapter, chapter 90.48 RCW, or chapter 173-201A WAC, and shall therefore not be enforceable by the department of ecology or a third party, if at the time of the discharge, a violation is not occurring under RCW 90.64.010(18). In addition, a dairy producer shall not be held liable for violations of this chapter, chapter 90.48 RCW, chapter 173-201A WAC, or the federal clean water act due to the discharge of dairy nutrients to waters of the state resulting from spreading these materials on lands other than where the nutrients were generated, when the nutrients are spread by persons other than the dairy producer or the dairy producer's agent.

(7) As provided under RCW 7.48.305, agricultural activities associated with the management of dairy nutrients are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on public health and safety.

(8) This section specifically acknowledges that if a holder of a general or individual national pollutant discharge elimination system permit complies with the permit and the dairy nutrient management plan conditions for appropriate land application practices, the permit provides compliance with the federal clean water act and acts as a shield against citizen or agency enforcement for any additions of pollutants to waters of the state or of the United States as authorized by the permit.

(9) A dairy producer who fails to have an approved dairy nutrient management plan by July 1, 2002, or a certified dairy nutrient management plan by December 31, 2003, and for which no appeals have been filed with the pollution control hearings board, is in violation of this chapter. Each month beyond these deadlines that a dairy producer is out of compliance with the requirement for either plan approval or plan certification shall be considered separate violations of chapter 90.64 RCW that may be subject to penalties. Such penalties may not exceed one hundred dollars per month for each violation up to a combined total of five thousand dollars. Failure to register as required in section 3 of this act shall subject a dairy producer to a maximum penalty of one hundred dollars. Penalties shall be levied by the department.

**Sec. 12.** RCW 90.64.050 and 1993 c 221 s 6 are each amended to read as follows:

- (1) The department has the following duties:

(a) Identify existing or potential water quality problems resulting from dairy farms through implementation of the inspection program in section 5 of this act;

(b) Inspect a dairy farm upon the request of a dairy producer;

(c) Receive, process, and verify complaints concerning discharge of pollutants from all dairy farms (~~(regardless of size)~~);

~~((e))~~ (d) Determine if a dairy-related water quality problem requires immediate corrective action under the Washington state water pollution control laws, chapter 90.48 RCW, or the Washington state water quality standards adopted under chapter 90.48 RCW (~~(, or other authorities)~~). The department shall maintain the lead enforcement responsibility;

~~((d))~~ (e) Administer and enforce national pollutant(~~(s)~~) discharge elimination system permits for operators of concentrated dairy animal feeding operations, where required by federal regulations(~~(r)~~) and (~~(administer)~~) state laws or upon request of a dairy producer;

~~((e))~~ (f) Appoint representatives, including dairy industry representatives, to participate in the compliance review committee that will annually review and update policy and disseminate information as needed;

(f) Participate on the advisory and oversight committee;

(g) Encourage communication and cooperation between local department personnel and the appropriate conservation district personnel;

~~((g))~~ (h) Require the use of (~~(federal soil conservation service standards and specifications in designing best management practices for)~~) dairy (~~(waste)~~) nutrient management plans (~~(to protect water quality)~~) as required under this chapter for entities required to plan under this chapter; and

~~((h))~~ (i) Provide to the commission and the advisory and oversight committee an annual report of dairy (~~(waste-pollution)~~) farm inspection and enforcement activities.

(2) The department may not delegate its responsibilities in enforcement.

**Sec. 13.** RCW 90.64.070 and 1993 c 221 s 8 are each amended to read as follows:

(1) The conservation district has the following duties:

(a) (~~(Adopt and annually update the water quality section in the conservation district dairy waste management plan)~~) Provide technical assistance to the department in identifying and correcting existing water quality problems resulting from dairy farms through implementation of the inspection program in section 5 of this act;

(b) (~~(As part of the district annual report, include a water quality progress report on dairy waste management activities conducted that are related to this chapter)~~) Immediately refer complaints received from the public regarding discharge of pollutants to the department;

(c) Encourage communication and cooperation between the conservation district personnel and local department personnel;

(d) (~~(Adopt and carry out a compliance option from level 1, level 2, level 3, or level 4)~~) Provide technical assistance to dairy producers in developing and implementing a dairy nutrient management plan; and

(e) Review, approve, and certify dairy nutrient management plans that meet the minimum standards developed under this chapter.

(2) The district's capability to carry out its responsibilities (~~(in the four levels of compliance)~~) under this chapter is contingent upon the availability of funding and resources to implement a dairy (~~(waste)~~) nutrient management program.

**Sec. 14.** RCW 90.64.080 and 1993 c 221 s 9 are each amended to read as follows:

(1) The conservation commission has the following duties:

(a) (~~(Forward to the department the dairy waste management plan progress reports~~;

~~(b))~~) Provide assistance as may be appropriate to the conservation districts in the discharge of their responsibilities as management agencies in dairy (~~(waste)~~) nutrient management program implementation;

~~((e))~~ (b) Provide coordination for conservation district programs at the state level through special arrangements with appropriate federal and state agencies, including oversight of the review, approval, and certification of dairy nutrient management plans;

~~((d))~~ (c) Inform conservation districts of activities and experiences of other conservation districts relative to agricultural water quality protection, and facilitate an interchange of advice, experience, and cooperation between the districts;

(d) Provide an informal hearing for disputes between dairy producers and local conservation districts pertaining to: (i) Denial of approval or denial of certification of dairy nutrient management plans; (ii) modification or amendment of plans; (iii) conditions contained in plans; (iv) application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and (v) the failure to adhere to the plan review and approval timelines identified in section 6 of this act. An informal hearing may also provide an opportunity for dairy producers who are constrained from timely compliance with the planning requirements of this chapter because of financial hardship or local permitting delays to petition for additional time to comply.

(e) Encourage communication between the conservation district personnel and local department personnel;

(f) Accept nominations and appoint (~~(conservation district representatives)~~) members to serve on the (~~(compliance review)~~) advisory and oversight committee with advice of the Washington association of conservation districts and the department;

(g) (~~(Appoint a commission representative to participate on the compliance review committee that will annually review and update policy and disseminate information as needed)~~) Provide a cochair to the advisory and oversight committee;

(h) Report to the legislature by December 1st of each year until 2003 on the status of dairy nutrient management planning and on the technical assistance provided to dairy producers in carrying out the requirements of this chapter; and

(i) Work with the department to provide communication outreach to representatives of agricultural and environmental organizations to receive feedback on implementation of this chapter.

(2) The commission's capability to carry out its responsibilities under this chapter is contingent upon the availability of funding and resources to implement a dairy ((waste)) nutrient management program.

**NEW SECTION. Sec. 15.** The dairy waste management account is created in the custody of the state treasurer. All receipts from monetary penalties levied pursuant to violations of this chapter must be deposited into the account. Expenditures from the account may be used only for the commission to provide grants to local conservation districts for the sole purpose of assisting dairy producers to develop and fully implement dairy nutrient management plans. Only the chairman of the commission or the chairman's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 16.** RCW 90.48.465 and 1997 c 398 s 2 are each amended to read as follows:

(1) The department shall establish annual fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be established by rule within one year of March 1, 1989, and thereafter the fee schedule shall be adjusted no more often than once every two years. This fee schedule shall apply to all permits, regardless of date of issuance, and fees shall be assessed prospectively. All fees charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of the quantity of pollutants. Fees shall be established in amounts to fully recover and not to exceed expenses incurred by the department in processing permit applications and modifications, monitoring and evaluating compliance with permits, conducting inspections, securing laboratory analysis of samples taken during inspections, reviewing plans and documents directly related to operations of permittees, overseeing performance of delegated pretreatment programs, and supporting the overhead expenses that are directly related to these activities.

(2) The annual fee paid by a municipality, as defined in 33 U.S.C. Sec. 1362, for all domestic wastewater facility permits issued under RCW 90.48.162 and 90.48.260 shall not exceed the total of a maximum of fifteen cents per month per residence or residential equivalent contributing to the municipality's wastewater system. The department shall adopt by rule a schedule of credits for any municipality engaging in a comprehensive monitoring program beyond the requirements imposed by the department, with the credits available for five years from March 1, 1989, and with the total amount of all credits not to exceed fifty thousand dollars in the five-year period.

(3) The department shall ensure that indirect dischargers do not pay twice for the administrative expense of a permit. Accordingly, administrative expenses for permits issued by a municipality under RCW 90.48.165 are not recoverable by the department.

(4) In establishing fees, the department shall consider the economic impact of fees on small dischargers and the economic impact of fees on public entities required to obtain permits for storm water runoff and shall provide appropriate adjustments.

(5) The fee for an individual permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to one thousand one hundred sixty-seven dollars for fiscal year 1998 and one thousand two hundred fourteen dollars for fiscal year 1999. The fee for a general permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to eight hundred seventeen dollars for fiscal year 1998 and eight hundred fifty dollars for fiscal year 1999. Thereafter, these fees may rise in accordance with the fiscal growth factor as provided in chapter 43.135 RCW.

(6) All fees collected under this section shall be deposited in the water quality permit account hereby created in the state treasury. Moneys in the account may be appropriated only for purposes of administering permits under RCW 90.48.160, 90.48.162, and 90.48.260.

~~((6))~~ (7) Beginning with the biennium ending June 30, 1997, the department shall present a biennial progress report on the use of moneys from the account to the legislature. The report will be due December 31st of odd-numbered years. The report shall consist of information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.

**NEW SECTION. Sec. 17.** The department, in conjunction with the conservation commission and advisory and oversight committee, shall report to the legislature by December 1st of each year until 2003, on progress made in implementing chapter . . . , Laws of 1998 (this act). At a minimum, the reports shall include data on inspections, the status of dairy nutrient planning, compliance with water quality standards, and enforcement actions. The report shall also provide recommendations on how implementation of chapter . . . , Laws of 1998 (this act) could be facilitated for dairy producers and generally improved.

The conservation commission shall include in the report to the legislature filed December 1, 1999, an evaluation of whether the fiscal resources available to the commission, to conservation districts, and to Washington State University dairy nutrient management experts are adequate to fund the technical assistance teams established under section 10 of this act and to develop and certify plans as required by the schedule established in section 6 of this act. If the funding is insufficient, the report shall include an estimate of the amount of funding necessary to accomplish the schedule contained in section 6 of this act.

**Sec. 18.** RCW 43.21B.110 and 1993 c 387 s 22 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the administrator of the office of marine safety, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, ~~((and)) 90.48.120, and 90.56.330.~~

(c) The issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, or the modification of the conditions or the terms of a waste disposal permit.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in section 6 of this act.

(g) Any other decision by the department, the administrator of the office of marine safety, or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings by the department relating to general adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION. Sec. 19. RCW 90.64.060 and 1993 c 221 s 7 are each repealed.

NEW SECTION. Sec. 20. RCW 90.64.090 and 1993 c 221 s 10 are each repealed.

NEW SECTION. Sec. 21. Sections 3, 5 through 10, 15, and 17 of this act are each added to chapter 90.64 RCW.

NEW SECTION. Sec. 22. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 23. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "management;" strike the remainder of the title and insert "amending RCW 90.64.005, 90.64.010, 90.64.030, 90.64.050, 90.64.070, 90.64.080, 90.48.465, and 43.21B.110; adding new sections to chapter 90.64 RCW; creating new sections; repealing RCW 90.64.060 and 90.64.090; prescribing penalties; and declaring an emergency.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Swecker moved that the Senate concur in the House amendments to Substitute Senate Bill No. 6161.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Swecker that the Senate concur in the House amendments to Substitute Senate Bill No. 6161.

The motion by Senator Swecker carried and the Senate concurred in the House amendments to Substitute Senate Bill No. 6161.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6161, as amended by the House.

Debate ensued.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6161, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Fraser, Goings, Hale, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson,

Prince, Roach, Rossi, Schow, Sellar, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 37. Voting nay: Senators Bauer, Franklin, Hargrove, Haugen, Loveland, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Thibaudeau and Wojahn - 12. SUBSTITUTE SENATE BILL NO. 6161, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6418 with the following amendment(s):

On page 2, line 35, after "manner prescribed in" strike "(a)" and insert "(d)"

Beginning on page 14, after line 30, strike all of section 6 and insert the following:

"NEW SECTION. Sec. 6. A new section is added to chapter 26.23 RCW to read as follows:

The federal personal responsibility and work opportunity reconciliation act of 1996, P.L. 104-193, requires states to collect social security numbers as part of the application process for professional licenses, driver's licenses, occupational licenses, and recreational licenses. The legislature finds that if social security numbers are accessible to the public, it will be relatively easy for someone to use another's social security number fraudulently to assume that person's identity and gain access to bank accounts, credit services, billing information, driving history, and other sources of personal information. Public Law 104-193 could compound and exacerbate the disturbing trend of social security number-related fraud. In order to prevent fraud and curtail invasions of privacy, the governor, through the department of social and health services, shall seek a waiver to the federal mandate to record social security numbers on applications for professional, driver's, occupational, and recreational licenses. If a waiver is not granted, the licensing agencies shall collect and disclose social security numbers as required under section 7 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 26.23 RCW to read as follows:

In order to assist in child support enforcement as required by federal law, all applicants for an original, replacement, or renewal of a professional license, driver's license, occupational license, or recreational license must furnish the licensing agency with the applicant's social security number, which shall be recorded on the application. The licensing agencies collecting social security numbers shall not display the social security number on the license document. Social security numbers collected by licensing agencies shall not be disclosed except as required by state or federal law or under RCW 26.23.120."

Renumber the remaining sections consecutively, correct any internal references accordingly, and correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Deccio moved that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6418.

#### MOTION

Senator Zarelli moved that the Senate do not concur in the House amendment to Engrossed Substitute Senate Bill No. 6418.  
. Debate ensued.

#### CALL FOR PREVIOUS QUESTION

Senators McCaslin, West and Hale demanded the previous question and the demand was sustained.

Senator Zarelli demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on shall the main question be now put.

#### ROLL CALL

The Secretary called the roll and the demand for the previous question carried by the following vote: Yeas, 35; Nays, 13; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Franklin, Fraser, Goings, Hale, Haugen, Jacobsen, Johnson, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn and Wood - 35. Voting nay: Senators Brown, Fairley, Finkbeiner, Hargrove, Heavey, Hochstatter, Kline, Kohl, Patterson, Roach, Schow, Swecker and Zarelli - 13. Absent: Senator Horn - 1.

The President declared the question before the Senate to be the positive motion by Senator Deccio to concur in the House amendment to Engrossed Substitute Senate Bill No. 6418.

Senator Zarelli demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the positive motion by Senator Deccio to concur in the House amendment to Engrossed Substitute Senate Bill No. 6418.

#### ROLL CALL

The Secretary called the roll and the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6418 by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Franklin, Fraser, Goings, Hale, Haugen, Horn, Jacobsen, Long, Loveland, McAuliffe, McCaslin, McDonald, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Sellar, Sheldon, B., Snyder, Spanel, Thibaudeau, West, Winsley, Wojahn and Wood - 31. Voting nay: Senators Benton, Fairley, Finkbeiner, Hargrove, Heavey, Hochstatter, Johnson, Kline, Kohl, Morton, Roach, Rossi, Schow, Sheldon, T., Stevens, Strannigan, Swecker and Zarelli - 18. The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6418, as amended by the House.

Debate ensued.

#### POINT OF INQUIRY

Senator Franklin: "Mr. President, I would like to ask a knowledgeable person here, with your permission, in regards to who brought first the social security number that is causing this great debate here tonight? It is the most intriguing debate since the session started. Mr. President, who will be able to answer that question, so we can get on with what we need to get on with?"

Senator Wojahn: "It is the terms of the Welfare Bill which passed last year."

President Owen: "Senator Wojahn--"

Senator Wojahn: "This is the part of the terms of the Welfare Bill--that every attempt would be made to recover child support from recalcitrant parents. That is where it originated; this bill came out of that bill and we are trying to do it. The whole thing is that we have been given a strict guideline and if we don't do it, we lose six hundred million dollars. A portion of that is TANA funds--to run TANA. We also lose all of our future funds. Don't let this happen.

"Twenty-seven million in recovery forms will be coming to us, which is part of the six hundred million. If anybody here wants to pay for that out of their pocket--because there will be a big hole in the budget--if you will step forward, we'll take your name and the amount of money you want to contribute to complete this, so that we don't lose all the federal money. Also, the federal government gave us our social security numbers, why are we trying to do this to them now, when they say let us use them for a worthwhile purpose?"

Further debate ensued.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6418, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Deccio, Franklin, Fraser, Goings, Hale, Haugen, Horn, Jacobsen, Long, Loveland, McAuliffe, McCaslin, McDonald, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Sellar, Sheldon, B., Snyder, Spanel, Thibaudeau, West, Winsley, Wojahn and Wood - 30. Voting nay: Senators Anderson, Benton, Fairley, Finkbeiner, Hargrove, Heavey, Hochstatter, Johnson, Kline, Kohl, Morton, Roach, Rossi, Schow, Sheldon, T., Stevens, Strannigan, Swecker and Zarelli - 19. ENGROSSED SUBSTITUTE SENATE BILL NO. 6418, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION TO LIMIT DEBATE

Senator Johnson: "Mr. President, I move that the members of the Senate be allowed to speak only once and be limited to three minutes on each motion or amendment, except that the mover of the motion shall be allowed to open and close debate, and also that members be prohibited from yielding their time. This motion shall be in effect through March 12, 1998, Sine Die."

The President declared the question before the Senate to be the motion by Senator Johnson that debate be limited through March 12, 1998.

The motion by Senator Johnson carried and debate was limited to three minutes through March 12, 1998.

#### MESSAGES FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following House Bills and passed the bill as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1074,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1223,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1374,  
SUBSTITUTE HOUSE BILL NO. 1692,  
SUBSTITUTE HOUSE BILL NO. 1829,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2345,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2496,  
ENGROSSED HOUSE BILL NO. 2501,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2514,  
HOUSE BILL NO. 2542,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2551,  
SUBSTITUTE HOUSE BILL NO. 2724,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2831,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2880,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2881,  
HOUSE BILL NO. 3052,  
SUBSTITUTE HOUSE BILL NO. 3099, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 10, 1998

MR. PRESIDENT:

The House receded from its amendment(s) to SENATE BILL NO. 6539 and passed the bill without the House amendment(s).

TIMOTHY A. MARTIN, Chief Clerk

March 10, 1998

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6727 and passed the bill without the House amendment(s).

TIMOTHY A. MARTIN, Chief Clerk

March 10, 1998

MR. PRESIDENT:

The House grants the request of the Senate for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 6108. The Speaker has appointed the following members as conferees: Representatives Huff, Alexander and H. Sommers.



TIMOTHY A. MARTIN, Chief Clerk

MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6699 with the following amendment(s):

On page 1, line 13, strike "employee's job performance, conduct, or other work-related information" and insert "employee"

On page 1, line 14, after "employer" strike ","

On page 1, line 15, after "consequences" insert "if the disclosed information relates to: (1) the employee's ability to perform his or her job; (2) the diligence, skill or reliability with which the employee carried out the duties of his or her job; or (3) any illegal or wrongful act committed by the employee", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Schow, the Senate concurred in the House amendments to Senate Bill No. 6699.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6699, as amended by the House.

Debate ensued.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6699, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Goings, Hale, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 32. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Hargrove, Heavey, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Sheldon, B., Snyder, Spanel and Thibaudeau - 17. SENATE BILL NO. 6699, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MESSAGES FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL NO. 5164,

SENATE BILL NO. 5217,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5527,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5760,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5769,

SUBSTITUTE SENATE BILL NO. 6114,

SENATE BILL NO. 6122,

SUBSTITUTE SENATE BILL NO. 6130,

ENGROSSED SENATE BILL NO. 6139,

ENGROSSED SENATE BILL NO. 6142,

SECOND SUBSTITUTE SENATE BILL NO. 6156,

ENGROSSED SUBSTITUTE SENATE BILL NO. 6166,

SUBSTITUTE SENATE BILL NO. 6175,

SUBSTITUTE SENATE BILL NO. 6182,

ENGROSSED SUBSTITUTE SENATE BILL NO. 6191,

ENGROSSED SUBSTITUTE SENATE BILL NO. 6203,

SENATE BILL NO. 6219,

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6235,  
ENGROSSED SENATE BILL NO. 6257,  
SENATE BILL NO. 6278,  
SENATE BILL NO. 6301,  
SUBSTITUTE SENATE BILL NO. 6302,  
SUBSTITUTE SENATE BILL NO. 6306,  
SUBSTITUTE SENATE BILL NO. 6341,  
SENATE BILL NO. 6355,  
SUBSTITUTE SENATE BILL NO. 6358,  
SENATE BILL NO. 6380, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 10, 1998

MR. PRESIDENT:

The Speaker has signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5305,  
SENATE BILL NO. 5622,  
SUBSTITUTE SENATE BILL NO. 5636,  
SENATE BILL NO. 6113,  
SUBSTITUTE SENATE BILL NO. 6208,  
SECOND SUBSTITUTE SENATE BILL NO. 6214,  
SECOND SUBSTITUTE SENATE BILL NO. 6264,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6293,  
ENGROSSED SENATE BILL NO. 6305,  
SUBSTITUTE SENATE BILL NO. 6324,  
SECOND SUBSTITUTE SENATE BILL NO. 6330,  
SENATE BILL NO. 6348,  
SUBSTITUTE SENATE BILL NO. 6420,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6421,  
SUBSTITUTE SENATE BILL NO. 6439,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6445,  
SUBSTITUTE SENATE BILL NO. 6474,  
SUBSTITUTE SENATE BILL NO. 6550,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6560,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6562,  
SUBSTITUTE SENATE BILL NO. 6565,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6600,  
SUBSTITUTE SENATE BILL NO. 6603,  
SUBSTITUTE SENATE BILL NO. 6655,  
SENATE BILL NO. 6698,  
SENATE BILL NO. 6729,  
SUBSTITUTE SENATE BILL NO. 6746, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6455 with the following amendments:  
Strike everything after the enacting clause and insert the following:  
"NEW SECTION. **Sec. 1.** A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

**Infrastructure needs assessment**

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

(1) The public works board ("board"), in consultation with the department of community, trade, and economic development ("department"), shall contract for a local government infrastructure needs assessment. The board shall issue a progress report to the governor, house of representatives capital budget committee, the senate ways and means committee, the joint legislative transportation committee, the house of representatives government administration committee, and the senate government operations committee by January 31, 1999. The final report shall be delivered by June 30, 1999.

(2) The infrastructure needs assessment shall utilize local capital improvement plans, to the extent available, to identify local government infrastructure needs for the planning, acquisition, construction, repair, replacement, rehabilitation, or improvements necessary for the next six years. The definitions and principles to be utilized in determining infrastructure needs shall be those set forth in chapter 36.70A RCW, including economic development. The infrastructure assessment shall also include a listing, description and evaluation of utilization of all private and public financing options, and policy alternatives that would assist in meeting local government infrastructure needs. For the purposes of this infrastructure needs assessment:

(a) Local government shall include each city, county, town, and each water, sewer, storm water, and public utility district providing water or sewer services in the state of Washington.

(b) Infrastructure shall be limited to bridges, roadways, domestic water, sanitary sewer, and storm water systems.

(3) The board shall contract for the collection and review of local capital expenditure data, the evaluation of local government infrastructure needs, the projection of future infrastructure needs, including needs to meet requirements under chapter 36.70A RCW. The board shall also contract for the development of criteria for a data base which can be maintained and updated, and such other matters as the board may deem necessary to provide an adequate representation of local capital needs and the ability of local governments to finance such needs.

(4) The legislative evaluation and accountability program shall cooperate with the department in the completion of the infrastructure needs assessment and may enter into interagency agreements. The legislative evaluation and accountability program shall develop the structure of the local government infrastructure data base and provide recommendations on the maintenance of the data base. The data base shall: Use the data compiled by and be compatible with that developed by the board's contractor; and have a structure to maintain its future use and updates.

The department shall provide a compilation of all capital improvement plans prepared by local governments. The department shall identify: Federal, state, and local infrastructure financing sources currently in use; all revenue sources available, but not fully utilized by each local government, and obstacles to full utilization; and the compilation of local government expenditures for infrastructure investments by source of funds and by jurisdiction for the period beginning January 1, 1993, and ending December 31, 1997, for local governments with a population greater than 50,000; and January 1, 1995, and ending December 31, 1997, for local governments with fewer than 50,000 population.

(6) The board shall convene an advisory committee of stakeholders to include representatives from the department of community, trade, and economic development, the office of financial management, the legislative evaluation and accountability program, the Washington state association of counties, the association of Washington cities, the Washington association of realtors, the national association of industrial office properties, the building industry association of Washington, the associated general contractors, the association of Washington business, Washington state building and construction trades council, and 1000 friends of Washington. The board may, as it deems necessary, utilize technical advisory groups or state agencies in addition to the advisory committee to assist itself in implementing this proviso.

The advisory committee shall serve as the advisory committee to the board to assist in guiding the infrastructure assessment and developing interpretations of this proviso as necessary. The committee shall establish criteria and categorize infrastructure projects as necessary to meet the requirements set forth in chapter 36.70A RCW, or as reflective of other community priorities, and review elements and standards of infrastructure needs identified in the study.

**Appropriation:**

**Public Works Assistance**

Account--State \$

**750,000**

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

TOTAL \$

-----  
750,000

NEW SECTION. **Sec. 2.** A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

**Emergency flood and erosion repairs**

The appropriation in this section is provided solely for shoreline repairs at Ocean Shores to prevent further erosion and flood control.

**Appropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>150,000</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL \$		----- 150,000

NEW SECTION. **Sec. 3.** A new section is added to 1997 c 235 to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

**Year 2000 building, facility, and equipment date conversion (99-1-001)**

The office of financial management shall allocate appropriations to be used by state agencies and universities in performing Year 2000 assessments of facility management systems, control systems, and other computer systems related to capital facilities and equipment. Funds available in this appropriation may also be allocated for corrective measures on a priority basis to address critical system repairs. As used in this section, "CTC Cap Proj Acct" means Community and Technical Colleges Capital Projects Account.

**Appropriation:**

<b>CEP &amp; RI Acct--State</b>	<b>\$</b>	<b>500,000</b>
<b>Thurston County Cap Fac</b>		
<b>Acct--State</b>	<b>\$</b>	<b>60,000</b>
<b>TESC Cap Proj Acct--State</b>	<b>\$</b>	<b>50,000</b>
<b>UW Bldg Acct--State</b>	<b>\$</b>	<b>100,000</b>
<b>CWU Cap Proj Acct--State</b>	<b>\$</b>	<b>50,000</b>
<b>WSU Bldg Acct--State</b>	<b>\$</b>	<b>100,000</b>
<b>EWU Cap Proj Acct--State</b>	<b>\$</b>	<b>50,000</b>
<b>WWU Cap Proj Acct--State</b>	<b>\$</b>	<b>180,000</b>
<b>CTC Cap Proj Acct--State</b>	<b>\$</b>	<b>100,000</b>
<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>1,866,000</b>
Subtotal Appropriation	\$	3,056,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
		-----

TOTAL \$

3,056,000

Sec. 4. 1997 c 235 s 152 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

The control and management of the Wellington Hills property which was purchased by the state of Washington as a potential site for the University of Washington Bothell branch campus is transferred to the department of general administration. The site shall be disposed of at fair market value and the proceeds from the sale shall be deposited in the state building construction account. The department may retain from the proceeds of the sale an amount sufficient to provide reimbursement for expenses as approved by the office of financial management.

Prior to sale the department of general administration shall conduct a highest and best use study regarding the alternatives for future use of this site. Alternatives shall include, at a minimum, immediate sale, trade, transfer, lease, and retention for future state use. The study shall identify and consider the development characteristics and opportunities of the site, land use limitations and potential, and the desires and expectations of the surrounding communities. The study shall identify the benefits and risks of each alternative identified. The study shall be completed by June 30, 1998, and shall be transmitted for evaluation and determination of the best use of the property. Copies of the study shall be provided to the legislative fiscal committees, the office of financial management, and the higher education coordinating board.

The University of Washington shall continue to pay all necessary fees and assessments appurtenant to the property until the property is sold.

NEW SECTION. Sec. 5. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Fire safety sprinkler systems (99-1-001)**

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

Funds are provided solely for fire sprinklers in the Douglas building at the Northern State Multi-Service Center.

**Appropriation:**

St Bldg Constr Acct--State \$	<b>600,000</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	<b>600,000</b>

NEW SECTION. Sec. 6. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Alaska Street Building: Cooling tower and chiller (99-1-002)**

**Appropriation:**

St Bldg Constr Acct--State \$	<b>155,000</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0

TOTAL \$

155,000

Sec. 7. 1997 c 235 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Green Hill redevelopment(~~(+ 416-bed institution)~~) (96-2-230)**

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

(1) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

(2) ~~((If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, \$3,800,000 of the new appropriation in this section shall lapse.))~~ The general fund--federal appropriation shall be transferred to the department of social and health services as a subaward of the violent offender incarceration and truth-in-sentencing grant awarded to the department of corrections.

**Reappropriation:**

St Bldg Constr Acct--State \$

	37,234,448
<b>Appropriation:</b>	
<b>St Bldg Constr Acct--State \$</b>	<b>6,600,000</b>
<u><b>General Fund--Federal \$</b></u>	<u><b>3,466,558</b></u>
<u>Subtotal Appropriation \$</u>	<u>10,066,558</u>
Prior Biennia (Expenditures) \$	4,669,321
Future Biennia (Projected Costs) \$	11,200,000
TOTAL \$	((59,703,769))
	<u>63,170,327</u>

NEW SECTION. **Sec. 8.** A new section is added to 1997 c 235 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Security improvements at Western State Hospital**

The appropriation in this section is provided solely for facility improvements that are required as a result of the passage of Senate Bill No. 6214. If Senate Bill No. 6214 is not enacted by June 30, 1998, the appropriation in this section shall be used for the same purpose as section 4 of this act.

<b>Appropriation:</b>	
<b>St Bldg Constr Acct--State \$</b>	<b>654,000</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	654,000

**Sec. 9.** 1997 c 235 s 241 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Orting: Main kitchen upgrade (95-1-001)**

**Reappropriation:**

<b>CEP &amp; RI Acct--State \$</b>	<b>((1,147,147))</b>
Prior Biennia (Expenditures) \$	<u><b>1,097,147</b></u>
Future Biennia (Projected Costs) \$	94,853
TOTAL \$	0
	((1,242,000))

1,192,000

**Sec. 10.** 1997 c 235 s 245 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Retsil: Minor works projects (97-1-006)**

**Reappropriation:**

<b>CEP &amp; RI Acct--State \$</b>	<b>410,549</b>
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**Appropriation:**

<b>CEP &amp; RI Acct--State</b>	<b>\$</b>	<b>((755,000))</b>
		<b><u>652,000</u></b>
Prior Biennia (Expenditures)	\$	249,451
Future Biennia (Projected Costs)	\$	7,050,000
<b>TOTAL</b>	<b>\$</b>	<b>((8,465,000))</b>
		<b><u>8,362,000</u></b>

Sec. 11. 1997 c 235 s 247 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Emergency fund (97-1-012)**

**Appropriation:**

<b>CEP &amp; RI Acct--State</b>	<b>\$</b>	<b>((700,000))</b>
		<b><u>750,000</u></b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	2,800,000
<b>TOTAL</b>	<b>\$</b>	<b>((3,500,000))</b>
		<b><u>3,550,000</u></b>

Sec. 12. 1997 c 235 s 249 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Retsil: Building feasibility study (97-2-015)**

This appropriation is provided to conduct a study of the ~~((potential for consolidation of program functions and replacement of poor condition housing units into a new multi-use facility. The study will be submitted to the office of financial management and will be the basis of future capital investments at Retsil, based on clear programmatic need or economic benefits and improved efficiency))~~ physical condition of the Retsil and Orting campuses, determine the opportunities and constraints for use of the facilities on those campuses to serve current and future veterans program needs, and identify other options for the provision of services to veterans in the future. The studies will be submitted to the office of financial management and will be the basis upon which future capital plans for the department are developed.

**Appropriation:**

<b>CEP &amp; RI Acct--State</b>	<b>\$</b>	<b>((112,000))</b>
		<b><u>215,000</u></b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
<b>TOTAL</b>	<b>\$</b>	<b>-----</b>

((112,000))

215,000

NEW SECTION. Sec. 13. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**Local government criminal justice facilities (99-2-003)**

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

(1) The appropriation in this section is provided solely for the purpose of constructing, developing, expanding, modifying, or improving local jails and other correctional facilities in accordance with the violent offender incarceration and truth-in-sentencing grant requirements.

(2) The department of corrections, in consultation with the Washington association of sheriffs and police chiefs, shall develop criteria for allocating moneys appropriated in this section to local governments.

**Appropriation:**

<b>General Fund--Federal</b>	<b>\$</b>	<b>639,196</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	639,196

NEW SECTION. Sec. 14. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**Washington Corrections Center: Replace razor ribbon wire (99-1-001)**

**Appropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>1,200,000</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,200,000

NEW SECTION. Sec. 15. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**McNeil Island Corrections Center: Still Harbor dock (99-2-001)**

**Appropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>2,700,000</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,700,000

NEW SECTION. Sec. 16. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**Washington State Reformatory Farm: Dairy animal waste lagoon improvements (99-2-002)**

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

The department shall contract with the joint legislative audit and review committee to conduct a cost/benefit review of the operations of the Washington state reformatory farm. The review shall make recommendations regarding the disposition of the farm and provide a report to the office of financial management and the appropriate legislative committees September 30, 1998.



**Appropriation:**

St Bldg Constr Acct--State \$	1,242,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	1,242,000

NEW SECTION. Sec. 17. A new section is added to 1997 c 235 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**Grant administration and minor improvements**

The appropriation in this section is provided solely for costs associated with administration of the violent offender incarceration and truth-in-sentencing grant program to local governments and other agencies receiving a subaward from the grant and minor improvements for correctional facilities.

**Appropriation:**

General Fund--Federal \$	155,550
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	155,550

Sec. 18. 1997 c 235 s 301 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

**Referendum 26 waste disposal facilities (74-2-004)**

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

(1) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

(2) \$378,500 of the appropriation is provided for the waste water treatment plant at the city of Connell.

**Reappropriation:**

LIRA--State \$	4,028,749
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**Appropriation:**

LIRA--State \$	((210,969))
	<u>1,039,969</u>
Prior Biennia (Expenditures) \$	4,840,771
Future Biennia (Projected Costs) \$	800,000
TOTAL \$	((9,880,489))
	<u>10,709,489</u>

Sec. 19. 1997 c 235 s 302 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

**Referendum 38 water supply facilities (74-2-006)**

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

(1) \$2,500,000 of the state and local improvements revolving account reappropriation is provided solely for funding the state's cost share in the water conservation demonstration project--Yakima river reregulation reservoir.

(2) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

(3) \$1,500,000 of the state and local improvements revolving account appropriation is provided solely for funding the state's cost share of the Methow Valley irrigation district agreement.

**Reappropriation:**

LIRA, Water Sup Fac--State \$ 6,763,571

**Appropriation:**

LIRA, Water Sup Fac--State \$ ((485,495))

1,985,495

Prior Biennia (Expenditures) \$ 10,141,668

Future Biennia (Projected Costs) \$ 1,600,000

TOTAL \$ ((18,990,734))

20,490,734

Sec. 20. 1997 c 235 s 305 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

**Centennial clean water fund (86-2-007)**

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

(1) \$25,000,000 of the appropriation is provided solely for the extended grant payment to Metro/King county.

(2) \$10,000,000 of the appropriation is provided solely for an extended grant payment to Spokane for the Spokane-Rathdrum Prairie aquifer.

(3) \$1,850,000 of the appropriation is provided solely for allocation for on-site sewage system projects or programs identified in local watershed plans. Of this amount, \$25,000 is provided solely for the Puyallup Washington state university research and extension center for on-site septic systems, and \$25,000 is provided solely for the department of health to support the work group making recommendations on the development of an on-site septic system certification program pursuant to chapter 447, Laws of 1997.

(4) \$10,000,000 of the appropriation is provided for the department to establish and administer a reclaimed water demonstration program to provide grants to five demonstration projects consistent with this section, and, if enacted, chapter 355, Laws of 1997. Of this amount:

(a) \$100,000 is provided solely for an interagency agreement with the department of health for monitoring the activities and progress of the demonstration projects and to refine reclaimed water standards from the results of the projects;

(b) \$75,000 is provided for the department of ecology's administrative costs in funding and monitoring the activities and progress of the demonstration projects;

(c) \$1,970,000 is provided solely for a grant to the city of Ephrata for a reclaimed water demonstration project;

(d) \$985,000 is provided solely for a grant to the city of Royal City for a reclaimed water demonstration project;

(e) \$3,398,500 is provided solely for a grant to the city of Sequim for a reclaimed water demonstration project;

(f) \$3,398,500 is provided solely for a grant to the city of Yelm for a reclaimed water demonstration project; and

(g) \$98,500 is provided solely for a grant to Lincoln county for a study of a reclaimed water demonstration project.

(5) A minimum of 80 percent of the remaining appropriation after allocation of subsections (1), (2), (3), and (4) of this section shall be allocated by the department for water quality implementation activities.

(6) A maximum of 20 percent of the remaining appropriation after allocation of subsections (1), (2), (3), and (4) of this section shall be allocated by the department for water quality planning activities.

(7) In awarding state-wide water quality implementation and planning grants and loans, the department shall give priority consideration to:

(a) Proposals submitted by communities with populations less than 2,500 or proposals that will be submitted by communities with populations less than 2,500 who have demonstrated an economic hardship which will prevent the completion or implementation of water quality projects; and

(b) ~~(Projects located in basins with critical or depressed salmonid stocks)~~ Allocate no less than twenty-five percent of the amount which has not been obligated as of July 1, 1998, for projects otherwise eligible under the water quality account and which have a component benefiting the recovery of priority salmonid stocks.

(8) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this subsection

(8) for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

**Reappropriation:**

<b>Water Quality Account--State</b>	<b>\$</b>	<b>38,653,000</b>
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**Appropriation:**

<b>Water Quality Account--State</b>	<b>\$</b>	<b>70,000,000</b>
Prior Biennia (Expenditures)	\$	291,063,221
Future Biennia (Projected Costs)	\$	311,000,000
TOTAL	\$	710,716,221

NEW SECTION. **Sec. 21.** A new section is added to 1997 c 235 to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

**Storm disaster recovery (99-1-001)**

**Appropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>530,000</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	530,000

NEW SECTION. **Sec. 22.** A new section is added to 1997 c 235 to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

**Cama Beach State Park development (99-2-001)**

**Appropriation:**

<b>Parks Renewal and Stewardship Account--State</b>	<b>\$</b>	<b>1,000,000</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,000,000

**Sec. 23.** 1997 c 235 s 329 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

**Washington Wildlife and Recreation Program (98-2-003)**

The appropriations in this section for the Washington wildlife and recreation program under chapter 43.98A RCW are subject to the following conditions and limitations:

(1) \$22,500,000 of the state building construction account appropriation shall be deposited in the habitat conservation account and is hereby appropriated from the habitat conservation account to the interagency committee for outdoor recreation for the fiscal biennium ending June 30, 1999, for the Washington wildlife and recreation program under chapter 43.98A RCW.

(2) \$20,000,000 of the state building account appropriation and \$2,500,000 from the aquatic lands enhancement account appropriation shall be deposited in the outdoor recreation account, and \$22,500,000 is hereby appropriated from the outdoor recreation account to the interagency committee for outdoor recreation for the fiscal biennium ending June 30, 1999, for the Washington wildlife and recreation program under chapter 43.98A RCW. Funds from the aquatic lands enhancement account appropriation shall be distributed to eligible water access projects under RCW 43.98A.050.

(3) The new appropriations in this section are provided for the approved list of projects included in LEAP CAPITAL DOCUMENT NO. 98-6 as developed on April 15, 1997, at 10:00 a.m., LEAP CAPITAL DOCUMENT NO. 99-1 as adopted on February 23, 1998, at 10:00 a.m., the pilot watershed plan implementation program under subsection (6) of this section, and for other projects approved by the legislature under RCW 43.98A.080 referencing this section.

(4) No moneys from the appropriations in this section may be spent on the Rocky Reach trailway project until an agreement with affected property owners has been reached.

(5) The legislature finds that, since the inception of the Washington wildlife and recreation program, over eighty-five percent of the moneys provided for the state parks category has been used for acquisition of property, and that demands for recreational facilities in state parks require that increased funding be devoted to development projects. The committee and the state parks and recreation commission shall ensure that at least forty percent of new funding provided for the state parks category during the 1997-99 biennium be allocated to development projects.

(6) \$4,000,000 of the habitat conservation account appropriation from the unallocated portion of the fund distribution under RCW 43.98A.040(1)(d) is provided solely for matching grants for riparian zone habitat protection projects that implement watershed plans pursuant to this subsection. The interagency committee for outdoor recreation shall develop a pilot watershed plan implementation program within the Washington wildlife and recreation program. The program shall provide matching grants to eligible agencies for implementation of riparian zone habitat protection projects within watershed restoration plans under RCW 89.08.460(1), watershed action plans developed pursuant to rules adopted by the Puget Sound water quality action team, or plans developed pursuant to chapter 442, Laws of 1997. Projects shall have a useful life of at least thirty years. Eligible agencies include conservation districts, counties, cities, and private nonprofit land trust or nature conservancy organizations. Projects eligible for funding under this section include acquisition of land using less-than-fee-simple instruments such as conservation easements and purchase of development rights; and habitat restoration and enhancement projects on such lands including fencing and revegetation of native trees and shrubs that enhance the long-term habitat values of protected lands. The committee shall develop an application process and project eligibility and evaluation criteria in consultation with the state conservation commission. The committee shall report to the appropriate committees of the legislature on the implementation of the pilot matching grant program. A preliminary status report shall be submitted by January 1, 1998, and a final report by January 1, 1999.

(7) Up to \$400,000 of the reappropriations in this section is provided to develop an inventory of all lands in the state owned by federal agencies, state agencies, local governments, and Indian tribes. The committee shall develop the inventory in a computer database format that will facilitate the sharing and reporting of inventory data and provide options for future updates. The inventory shall include, at a minimum, the following information: Owner, location, acreage, and principal use. The inventory shall also include resource-based information for state and federally-owned recreation and habitat lands. The committee shall submit a status report on the inventory to the appropriate committees of the legislature by January 1, 1999, and a final report by January 1, 2000.

(8) All land acquired by a state agency with moneys from these appropriations shall comply with class A, B, and C weed control provisions of chapter 17.10 RCW.

**Reappropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b>14,264,419</b>
<b>Aquatic Lands Acct--State \$</b>	<b>33,335</b>
<b>ORA--State \$</b>	<b>21,985,067</b>
<b>Wildlife Account--State \$</b>	<b>1,398,996</b>
<b>Habitat Conservation Account--State \$</b>	<b>18,700,633</b>
Subtotal Reappropriation \$	<b>56,382,450</b>

**Appropriation:**

St Bldg Constr Acct--State \$	42,500,000
Aquatic Lands Acct--State \$	2,500,000
Subtotal Appropriation \$	45,000,000
Prior Biennia (Expenditures) \$	101,449,844
Future Biennia (Projected Costs) \$	200,000,000
TOTAL \$	402,832,294

NEW SECTION. Sec. 24. A new section is added to 1997 c 235 to read as follows:

**FOR THE STATE CONSERVATION COMMISSION**

**Conservation Reserve Enhancement Program**

The amounts in this section are provided solely for implementation of salmon restoration projects coordinated by sections 7 through 11 of Substitute House Bill No. 2496 (salmon recovery plan). If these sections of Substitute House Bill No. 2496 are not enacted by June 30, 1998, the appropriation in this section shall lapse. The appropriation in this section shall be expended solely for the conservation reserve enhancement program to provide grants to conservation districts to assist land owners to protect and restore riparian zones in areas with salmon stocks and a minimum of \$420,000 shall be allocated to an evolutionarily significant unit east of the Cascade mountain range, a minimum of \$1,512,000 to the lower Columbia river evolutionarily significant unit, a minimum of \$2,100,000 to the Puget Sound evolutionarily significant unit, and a minimum of \$420,000 to the tri-county water resource agency for projects and activities recommended by the Yakima river watershed council.

**Appropriation:**

St Bldg Constr Acct--State \$	4,500,000
Salmon Recovery Account--State \$	500,000
Subtotal Appropriation \$	5,000,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	5,000,000

Sec. 25. 1997 c 235 s 344 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

**Water access and development (96-2-027)**

**Reappropriation:**

ORA--State \$	997,000
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Appropriation:

ORA--State \$	135,000
Prior Biennia (Expenditures) \$	1,057,600
Future Biennia (Projected Costs) \$	0
TOTAL \$	((2,054,600))

2,189,600

Sec. 26. 1997 c 235 s 352 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

**Coast and Puget Sound wild salmonid habitat restoration (98-1-009)**

No less than twenty-five percent of that portion of the appropriation under this section that has not been obligated as of March 1, 1998, shall be expended on projects for the recovery of priority salmonid stocks.

**Reappropriation:**

St Bldg Constr Acct--State \$ 1,428,770

**Appropriation:**

General Fund--Federal \$ 800,000

General Fund--Private/Local \$ 800,000

St Bldg Constr Acct--State \$ 3,500,000

Subtotal Appropriation \$ 5,100,000

Prior Biennia (Expenditures) \$ 8,986,230

Future Biennia (Projected Costs) \$ 22,400,000

TOTAL \$ 37,915,000

NEW SECTION. Sec. 27. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

**Salmon restoration**

The amounts in this section are provided solely for implementation of salmon restoration projects coordinated by sections 7 through 11 of Substitute House Bill No. 2496 (salmon recovery plan). If these sections of Substitute House Bill No. 2496 are not enacted by June 30, 1998, the appropriation in this section shall lapse. The appropriation in this section shall be expended as follows:

If \$5,000,000 or more is appropriated in the 1998 transportation appropriations act to the advanced environmental mitigation revolving account, the appropriation in this section shall be distributed as follows:

(1) \$842,000 for the lower Columbia river evolutionarily significant unit.

(2) Twenty-five percent of the remaining appropriation for salmon habitat restoration and mitigation and fish passage barrier projects on land owned or managed by the department of fish and wildlife.

(3) Fifty percent of the remaining appropriation for the department to establish a program of competitive grants to local governments and regional fisheries enhancement groups for salmon habitat restoration and mitigation projects and fish passage barrier projects.

(4) Twenty-five percent of the remaining appropriation for salmon habitat restoration and mitigation and fish passage barrier projects that the department has determined to be priority projects. The distribution of money for priority projects may be in the form of grants to local governments, regional fisheries enhancement groups, and other state agencies.

(5) The projects selected for funding in subsections (2) through (4) of this section shall be based on a priority index developed by the department that yields the highest return of ecological benefit.

If less than \$5,000,000 is appropriated in the 1998 transportation appropriations act to the advanced environmental mitigation revolving account, \$3,000,000 of the appropriation in this section shall be deposited in the advanced environmental mitigation revolving account.

**Appropriation:**

Salmon Recovery Account--State \$ 5,000,000

St Bldg Constr Acct--State \$ 750,000

Subtotal Appropriation \$ 5,750,000

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 0

0

TOTAL \$

5,750,000

NEW SECTION. **Sec. 28.** A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

**Natural Resources real property replacement (99-2-001)**

**Appropriation:**

\$ **9,400,000**

\$

0

\$

0

\$

TOTAL \$

9,400,000

NEW SECTION. **Sec. 29.** A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

**Land bank program to enhance trust land holdings (99-2-002)**

**Appropriation:**

\$ **1,800,000**

Account--State \$

\$

0

\$

0

\$

TOTAL \$

1,800,000

NEW SECTION. **Sec. 30.** A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Arlington Survey Boundary Dispute. To purchase land as part of the settlement agreement to resolve claims and litigation over a survey boundary dispute near the town of Arlington in Snohomish county.

**Appropriation:**

\$ **2,600,000**

For Dev Acct--State \$

\$

0

\$

0

\$

TOTAL \$

2,600,000

**Sec. 31.** 1997 c 235 s 393 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

**Jobs for the Environment (98-2-009)**

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

(1) The appropriations shall be used solely for the jobs for the environment program to achieve the following goals:

(a) Restore and protect watersheds to benefit anadromous fish stocks, consistent with the limitations of subsection (8) of this section, including critical or depressed stocks as determined by the department of fish and wildlife;

(b) Conduct watershed restoration and protection projects primarily on state lands in coordination with federal, local, tribal, and private sector efforts; and

(c) Create market wage jobs with benefits in environmental restoration for displaced workers in rural natural resource impact areas, as defined under RCW 43.31.601(2).

(2) Except as provided in subsection (5) of this section and consistent with the limitations of this section, the appropriations are solely for projects selected by the department of natural resources, in consultation with an interagency task force consisting of the department of fish and wildlife, other appropriate state agencies, tribal governments, local governments, the federal government, labor and other interested stakeholders. In recommending projects for funding the task force shall use the following criteria:

- (a) The extent to which the project, using best available science, addresses habitat factors limiting fish and wildlife populations;
- (b) The number, duration and quality of jobs to be created or retained by the project for displaced workers in natural resource impact areas;
- (c) The extent to which the project will help avoid the listing of threatened or endangered species or provides for the recovery of species already listed;
- (d) The extent to which the project will augment existing federal, state, tribal or local watershed planning efforts or completed watershed restoration and conservation plans;
- (e) The cost effectiveness of the project;
- (f) The availability of matching funds; and
- (g) The demonstrated ability of the project sponsors to administer the project.

(3) Funds expended shall be used for specific projects and not for ongoing operational costs. Eligible projects include, but are not limited to, closure or improvement of forest roads, repair of culverts, cleanup of stream beds, removal of fish barriers, installation of fish screens, fencing of streams, and construction and planting of fish cover. Funds may also be expended for planning, design, engineering, and monitoring of eligible projects.

(4) The department of natural resources and the department of fish and wildlife, in consultation with the office of financial management and other appropriate agencies, shall report to the appropriate committees of the legislature by January 1, 1998, and January 1, 1999, on the results of expenditures from the appropriations.

(5) \$800,000 of the appropriations in this section is provided solely for watershed restoration programs to be completed by the department of ecology's Washington conservation corps crews.

(6) All projects funded under this section shall be consistent with any development regulations or comprehensive plans adopted under the growth management act for the project areas. No funds may be expended to acquire land through condemnation.

(7) Projects under contract as of June 1, 1997, shall be given first priority for funding under the appropriations in this section.

(8) No less than twenty-five percent of the remainder of the appropriations under this section that have not been obligated as of July 1, 1998, shall be expended on projects for the recovery of priority salmonid stocks.

**Appropriation:**

<b>For Dev Acct--State \$</b>	<b>500,000</b>
<b>Resource Management Cost</b>	
<b>Account--State \$</b>	<b>1,500,000</b>
<b>Water Quality Account--State \$</b>	<b>7,133,000</b>
Subtotal Appropriation \$	9,133,000
Prior Biennia (Expenditures) \$	23,067,000
Future Biennia (Projected Costs) \$	40,000,000
TOTAL \$	72,200,000

NEW SECTION. Sec. 32. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

**Distribution of excess funds from the forest development account:** For distribution of state forest land revenues to taxing authorities receiving such revenue during the calendar year 1993 through calendar year 1997

(1) Within fifteen days of the effective date of this act the department shall transmit funds in the amounts specified in subsection (3) of this section to the county treasurers of the counties receiving the funds.

(2) The county treasurer of the counties listed in this section shall distribute funds received from this appropriation to taxing authorities in proportion to the state forest transfer land funds distributed to the taxing authorities based on information available for the calendar years 1993 through 1997. Funds to be credited to the state of Washington and funds credited to school district general levies shall be remitted to the state of Washington within thirty days after the effective date of this act for deposit into the salmon recovery account.



(3) Funds shall be distributed in the following amounts:

Clallam \$	1,847,473
Clark \$	508,782
Cowlitz \$	433,013
Grays Harbor \$	454,016
Jefferson \$	222,289
King \$	352,016
Kitsap \$	174,374
Klickita \$	62,613
Lewis \$	1,558,708
Mason \$	258,289
Pacific \$	385,900
Pierce \$	135,405
Skagit \$	1,606,164
Skamania \$	258,247
Snohomish \$	1,590,489
Stevens \$	4,992
Thurston \$	893,263
Wahkiakum \$	411,273
Whatcom \$	842,685
TOTAL \$	12,000,000
<b>Appropriation:</b>	
<b>For Dev Acct--State \$</b>	<b>12,000,000</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	12,000,000

**Sec. 33.** 1997 c 235 s 506 (uncodified) is amended to read as follows:  
**FOR THE STATE SCHOOL FOR THE DEAF**  
**New cottages: Design and construction (98-2-001)**

**Appropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>((4,606,600))</b>
		<b><u>4,786,600</u></b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
<b>TOTAL</b>	<b>\$</b>	<b>((4,606,600))</b>
		<b><u>4,786,600</u></b>

**Sec. 34.** 1997 c 235 s 510 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Old Physics Hall (Mary Gates Hall): Design and construction (92-2-008)**

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

**Reappropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>((30,028,248))</b>
		<b><u>31,328,248</u></b>
<b>UW Bldg Acct--State</b>	<b>\$</b>	<b>305,891</b>
Subtotal Reappropriation	\$	((30,334,139))
		<b><u>31,634,139</u></b>
Prior Biennia (Expenditures)	\$	4,772,861
Future Biennia (Projected Costs)	\$	0
<b>TOTAL</b>	<b>\$</b>	<b>((35,107,000))</b>
		<b><u>36,407,000</u></b>

**Sec. 35.** 1997 c 235 s 523 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Health Sciences Center BB Tower Elevators--Design and construction:** To design and construct the addition of one elevator and upgrading of the existing elevators in the health sciences center BB-wing and tower **(96-1-007)**

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

**Reappropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>((4,961,992))</b>
		<b><u>561,992</u></b>
<b>UW Bldg Acct--State</b>	<b>\$</b>	<b>208,546</b>
Subtotal Reappropriation	\$	((5,170,538))
		<b><u>770,538</u></b>
Prior Biennia (Expenditures)	\$	22,061

Future Biennia (Projected Costs) \$	0
TOTAL \$	((5,192,599))
	<u>792,599</u>

Sec. 36. 1997 c 235 s 525 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Hogness/Health Sciences Center lobby: Americans with Disabilities Act improvements (96-1-022)**

**Reappropriation:**

St Bldg Constr Acct--State \$	((1,253,070))
	<u>1,353,070</u>

Prior Biennia (Expenditures) \$	46,930
Future Biennia (Projected Costs) \$	0

TOTAL \$	((1,300,000))
	<u>1,400,000</u>

Sec. 37. 1997 c 235 s 526 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Fisheries Science-Oceanography Science Building: Construction (96-2-006)**

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

- (1) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.
- (2) The department of general administration is directed, in keeping with section 152 of this act, to sell the Wellington Hills property as a means of partially offsetting the cost of this project with the proceeds of such sale being deposited into the state building and construction account.

**Reappropriation:**

St Bldg Constr Acct--State \$	3,449,850
UW Bldg Acct--State \$	1,548,150
Subtotal Reappropriation \$	4,998,000

**Appropriation:**

St Bldg Constr Acct--State \$	((33,590,000))
	<u>36,090,000</u>
H Ed Constr Acct--State \$	32,507,000
UW Bldg Acct--State \$	2,834,154
Subtotal Appropriation \$	((68,931,154))

Prior Biennia (Expenditures) \$	<u>71,431,154</u>
Future Biennia (Projected Costs) \$	3,865,597
	0

TOTAL \$

((77,794,751))

80,294,751

**Sec. 38.** 1997 c 235 s 527 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Social Work third floor addition--Design and construction:** To design and construct a 12,000 gross square foot partial third floor addition to the Social Work and Speech and Hearing Sciences Building (96-2-010)

**Reappropriation:**

**St Bldg Constr Acct--State \$**

**((2,708,800))**

**3,208,800**

**UW Bldg Acct--State \$**

**126,400**

Subtotal Reappropriation \$

**((2,835,200))**

**3,335,200**

Prior Biennia (Expenditures) \$

80,400

Future Biennia (Projected Costs) \$

0

TOTAL \$

**((2,915,600))**

**3,415,600**

NEW SECTION. **Sec. 39.** A new section is added to 1997 c 235 to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Kincaid Fire Damage (99-1-001)**

**Appropriation:**

**St Bldg Constr Acct--State \$**

**1,424,000**

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

0

TOTAL \$

1,424,000

NEW SECTION. **Sec. 40.** A new section is added to 1997 c 235 to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Nuclear reactor: Decommissioning (99-2-009)**

**Appropriation:**

**St Bldg Constr Acct--State \$**

**1,200,000**

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

0

TOTAL \$

1,200,000

**Sec. 41.** 1997 c 235 s 542 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

**Veterinary Teaching Hospital--Construction:** To construct, equip, and furnish a new teaching hospital for the department of veterinary medicine and surgery (92-2-013)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

**Reappropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>		
			<b>77,884</b>
<b>H ED Constr Acct--State</b>	<b>\$</b>		
			<b>239,098</b>
Subtotal Reappropriation	\$		316,982

**Appropriation:**

<b><u>St Bldg Constr Acct--State</u></b>	<b>\$</b>		
			<b><u>3,000,000</u></b>
<b><u>WSU Bldg Acct--State</u></b>	<b>\$</b>		
			<b><u>500,000</u></b>
Subtotal Appropriation	\$		3,500,000
Prior Biennia (Expenditures)	\$		33,628,518
Future Biennia (Projected Costs)	\$		0
TOTAL	\$		((33,945,500))
			<u>37,445,500</u>

Sec. 42, 1997 c 235 s 566 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

**Intercollegiate Center for Nursing Education: Telecommunications (96-2-915)**

**Reappropriation:**

<del>(St Bldg Constr Acct--State)</del>			
<b>WSU Bldg Acct--State</b>	<b>\$</b>		
			<b>524,386</b>
Prior Biennia (Expenditures)	\$		975,614
Future Biennia (Projected Costs)	\$		0
TOTAL	\$		1,500,000

Sec. 43, 1997 c 235 s 567 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

**Minor works: Preservation (98-1-004)**

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

The appropriation shall support the detailed list of projects maintained by the office of financial management.

**Appropriation:**

<b>WSU Bldg Acct--State</b>	<b>\$</b>		
			<b>((5,553,000))</b>
			<b><u>5,053,000</u></b>
Prior Biennia (Expenditures)	\$		0
Future Biennia (Projected Costs)	\$		24,000,000
TOTAL	\$		((29,553,000))

29,053,000

Sec. 44. 1997 c 235 s 579 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

**Washington State University Vancouver: Phase II (98-2-911)**

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

- (1) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board.
- (2) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.
- (3) The engineering and multimedia buildings to be designed under this appropriation shall serve at least 950 additional student full-time equivalents. Funding is also provided to construct campus infrastructure and physical plant shops.
- (4) \$1,000,000 of the appropriation in this section is provided solely to reserve or acquire transportation capacity and traffic impact fee credits associated with the development of the Vancouver branch campus.

**Appropriation:**

St Bldg Constr Acct--State \$	13,500,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	123,000,000
TOTAL \$	136,500,000

Sec. 45. 1997 c 235 s 594 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

**Minor works: Program (98-2-001)**

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

- (1) The appropriation shall support the detailed list of projects maintained by the office of financial management.
- (2) Up to \$30,000 may be used for design of a residence for the president of the university.

**Appropriation:**

St Bldg Constr Acct--State \$	((500,000))
EWU Cap Proj Acct--State \$	<u>530,000</u>
Subtotal Appropriation \$	1,200,000
Subtotal Appropriation \$	((1,700,000))
Prior Biennia (Expenditures) \$	<u>1,730,000</u>
Future Biennia (Projected Costs) \$	0
TOTAL \$	10,018,000
TOTAL \$	((11,718,000))
	<u>11,748,000</u>

Sec. 46. 1997 c 235 s 606 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

**~~(Boiler Plant Expansion)~~ Heating system improvements (98-1-030)**

**Appropriation:**

St Bldg Constr Acct--State \$	1,450,000
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Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0

TOTAL \$	-----
	1,450,000

**Sec. 47.** 1997 c 235 s 611 (uncodified) is amended to read as follows:  
**FOR CENTRAL WASHINGTON UNIVERSITY**

**SeaTac Center Building: ((Renovation)) Facility improvements (98-2-010)**

**Appropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b>662,500</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	662,500

**Sec. 48.** 1997 c 235 s 612 (uncodified) is amended to read as follows:  
**FOR CENTRAL WASHINGTON UNIVERSITY**

**Lynnwood Extended Degree Center: Facility design (98-2-080)**

**Appropriation:**

<del>(St Bldg Constr Acct--State)</del>	
<b><u>CWU Cap Proj Acct--State \$</u></b>	<b>1,000,000</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	1,000,000

**Sec. 49.** 1997 c 235 s 659 (uncodified) is amended to read as follows:  
**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

**Asbestos abatement (96-1-002)**

**Reappropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b>484,317</b>
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**Appropriation:**

<b><u>St Bldg Constr Acct--State \$</u></b>	<b><u>700,000</u></b>
Prior Biennia (Expenditures) \$	1,142,040
Future Biennia (Projected Costs) \$	0
TOTAL \$	

((1,626,357))

2,326,357

**NEW SECTION. Sec. 50.** A new section is added to 1997 c 235 to read as follows:  
**FOR THE STATE BOARD OF COMMUNITY AND TECHNICAL COLLEGES**

**Lower Columbia College: Library heating system (99-1-003)**

**Appropriation:**

St Bldg Constr Acct--State \$	512,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	512,000

Sec. 51, 1997 c 235 s 661 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

**For roof repairs at various colleges in the system and for stabilization of Corbet Hall at Centralia Community College and development of alternatives for the replacement of Corbet Hall (96-1-010)**

**Reappropriation:**

St Bldg Constr Acct--State \$	1,824,529
Prior Biennia (Expenditures) \$	3,581,471
Future Biennia (Projected Costs) \$	0
TOTAL \$	5,406,000

Sec. 52, 1997 c 235 s 681 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

**For roof repairs at various colleges in the system and for stabilization of Corbet Hall at Centralia Community College and development of alternatives for the replacement of Corbet Hall (98-1-010)**

**Appropriation:**

St Bldg Constr Acct--State \$	11,580,400
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	41,000,000
TOTAL \$	52,580,400

Sec. 53, 1997 c 235 s 702 (uncodified) is amended to read as follows:

ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS. The following agencies may enter into financial contracts, paid for from operating revenues, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. The director of general administration shall ensure that the clustering of state facilities and the collocation and consolidation of state agencies take place where such configurations are economical and consistent with agency space needs. Agencies shall assist the department of general administration with facility collocation and consolidation efforts.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

(1) Department of general administration:

(a) Enter into a financing contract in the amount of \$8,804,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to purchase an existing office building and associated land in Yakima for use by the department of social and health services.

(b) ~~(Enter into a financing contract on behalf of the joint center for higher education for \$8,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to purchase and make modifications to the Riverpoint One Building adjacent to the Riverpoint Campus. A financial plan identifying all costs related to this project, and the sources and amounts of all payments to cover these costs and a copy~~



of the appraisal and engineering assessment shall be submitted for approval to both the office of financial management and the higher education coordinating board for approval before execution of any contract.

Copies of the financial plan shall also be submitted to the senate ways and means committee and the house of representatives capital budget committee.) Enter into a financing contract in the amount of \$2,874,100 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to purchase and renovate the old federal building and associated land in Olympia for use by the secretary of state.

(d) Enter into a financing contract in the amount of \$6,990,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to buy out the lease and make improvements to the old Thurston county courthouse for use by the office of attorney general. The department of general administration shall advise and assist the office of attorney general on space and functional planning to improve the efficient use of the facility.

(2) Liquor control board:

Enter into a long-term lease for a headquarters office in Thurston County for approximately 46,000 square feet.

(3) Department of corrections:

(a) Enter into a long-term ground lease for 17 acres in the Tacoma tide flats property from the Puyallup Nation for development of the 400-bed Tacoma prerelease facility for approximately \$360,000 per annum. Prior to entering into the lease, the department shall obtain written confirmation from the city of Tacoma and Pierce county that the prerelease facility planned for the site meets all land use, environmental protection, and community notification requirements that would apply to the facility if the land was not owned by the Puyallup nation.

(b) Enter into a financing contract on behalf of the department of corrections in the amount of \$14,736,900 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a 400-bed Tacoma prerelease facility. The department of corrections shall comply with all land use, environmental protection, and community notification statutes, regulations, and ordinances in the construction and operation of this facility.

(c) Lease-develop with the option to purchase or lease-purchase approximately 100 work release beds in facilities throughout the state for \$5,000,000.

(d) Enter into a financing contract on behalf of the department of corrections in the amount of \$396,369 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a dairy barn at the Monroe farm.

(e) Enter into a financing contract on behalf of the department of corrections in the amount of \$2,100,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase or construct a correctional industries transportation services warehouse.

(4) Community and technical colleges:

(a) Enter into a financing contract on behalf of Whatcom Community College in the amount of \$800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a childcare center costing \$2,410,000. The balance of project cost will be a combination of local capital funds and nonstate funds provided through private gifts or contributions.

(b) Enter into a financing contract on behalf of Pierce College in the amount of \$750,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a new classroom building on the Lakewood campus costing \$1,816,665. The balance of project cost will be provided through a combination of local capital funds and existing minor works appropriation to replace relocatable classrooms that are at the end of their useful lives.

(c) Enter into a financing contract in behalf of Bellingham Technical College in the amount of \$350,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for construction of a new classroom addition to the diesel/heavy equipment instructional shop costing \$411,309.

(d) Enter into a financing contract on behalf of Green River Community College in the amount of \$1,526,150 plus financing expenses and reserves pursuant to chapter 39.94 RCW for remodel of the Lindbloom student center building.

(e) Enter into a financing contract on behalf of Edmonds Community College in the amount of \$2,787,950 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to ~~((purchase and make improvements to several buildings and property contiguous to the college campus))~~ develop a 10,000 square foot music building on the college campus.

(f) Enter into a financing contract on behalf of Highline Community College in the amount of \$2,070,613 plus financing and required reserves pursuant to chapter 39.94 RCW for the purchase of the Federal Way Center, currently being leased by the college.

(g) Enter into a financial contract on behalf of Green River Community College in the amount of \$100,000 plus financing and required reserves pursuant to chapter 39.94 RCW to purchase approximately 1.5 acres of land adjacent to the westside parking lot.

(h) Enter into a financial contract on behalf of South Puget Sound Community College in the amount of \$619,210 plus financing and required reserves pursuant to chapter 39.94 RCW to expand and redevelop the main campus parking lot A.

(i) Enter into a financial contract on behalf of South Puget Sound Community College in the amount of \$5,500,000 plus financing and required reserves pursuant to chapter 39.94 RCW to develop a \$6,500,000 student union facility.

(j) Enter into a financial contract on behalf of Wenatchee Valley College in the amount of \$500,000 plus financing and required reserves pursuant to chapter 39.94 RCW to purchase two buildings and property contiguous to the college campus.

(5) State parks and recreation:

Enter into a financing contract on behalf of state parks and recreation in the amount of \$2,012,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to construct cabin and lodge facilities at Cama Beach, develop new campsite electrical hookups, develop new recreational facilities, and expand campsites at Ocean Beach/Grayland. It is the intent of the legislature that debt service on all projects financed under this authority be paid from operating revenues.

(6) (~~Central Washington University:~~

~~Enter into a financing contract for \$3,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase and improve the Sno King Building for the Lynnwood Extended Degree Center. A financial plan identifying all costs related to this project, and the sources and amounts of all payments to cover these costs and a copy of the building appraisal and engineering assessment shall be submitted for approval to the office of financial management before execution of any contract. Copies of the financial plan shall also be submitted to the senate ways and means committee and the house of representatives capital budget committee.~~

(7)) Washington state patrol:

Enter into a financing contract for \$600,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase the Washington state patrol Port Angeles detachment office.

**NEW SECTION. Sec. 54.** A new section is added to 1997 c 235 to read as follows:

The office of financial management will convene a working group of state agencies, higher education institutions, the office of the attorney general, and representatives of the design profession and construction industry to develop a strategy to manage the risks and reduce the potential for claims and litigation associated with state construction projects. This strategy shall include the enumeration of best practices for the management of project risk and conflicts, in order to minimize future expenses related to construction claims. A report on the findings and recommendations of this working group will be presented to the house of representatives capital budget committee and senate ways and means committee by October 31, 1998.

**Sec. 55.** RCW 76.12.110 and 1988 c 128 s 31 are each amended to read as follows:

There is created a forest development account in the state treasury. The state treasurer shall keep an account of all sums deposited therein and expended or withdrawn therefrom. Any sums placed in the account shall be pledged for the purpose of paying interest and principal on the bonds issued by the department, and for the purchase of land for growing timber. Any bonds issued shall constitute a first and prior claim and lien against the account for the payment of principal and interest. No sums for the above purposes shall be withdrawn or paid out of the account except upon approval of the department.

Appropriations may be made by the legislature from the forest development account to the department for the purpose of carrying on the activities of the department on state forest lands, lands managed on a sustained yield basis as provided for in RCW 79.68.040, and for reimbursement of expenditures that have been made or may be made from the resource management cost account in the management of state forest lands. For the 1997-99 fiscal biennium, moneys from the account shall be distributed as directed in the omnibus appropriations act to the beneficiarieof the revenues derived from state forest lands. Funds that accrue to the state from such a distribution shall be deposited into the salmon recovery account, hereby created in the state treasury. Funds appropriated from the salmon recovery account shall be used for efforts to restore endangered anadromous fish stocks.

**NEW SECTION. Sec. 56.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "budget;" strike the remainder of the title and insert "amending RCW 76.12.110; amending 1997 c 235 ss 152, 219, 241, 245, 247, 249, 301, 302, 305, 329, 344, 352, 393, 506, 510, 523, 525, 526, 527, 542, 566, 567, 579, 594, 606, 611, 612, 659, 661, 681, and 702 (uncodified); adding new sections to 1997 c 235; making appropriations and authorizing expenditures for capital improvements; and declaring an emergency.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Johnson, the Senate refuses to concur in the House amendments to Substitute Senate Bill No. 6455 and requests of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 6455 and the House amendment(s) thereto: Senators Strannigan, Fraser and Rossi.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MOTION

On motion of Senator Johnson, the message on requesting a Conference Committee on Substitute Senate Bill No. 6455 was immediately transmitted to the House of Representatives.

CHANGE IN CONFERENCE COMMITTEE APPOINTEE TO SUBSTITUTE SENATE BILL NO. 6119

There being no objection, the President appointed Senator Haugen to replace Senator Patterson as a conferee to Substitute Senate Bill No. 6119.

MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The Speaker has signed ENGROSSED SUBSTITUTE HOUSE NO. 2596, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2596.

MESSAGE FROM THE HOUSE

March 7, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 3003 and asks the Senate to recede therefrom, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Johnson, the Senate receded from the Senate amendment(s) to Engrossed House Bill No. 3003. The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 3003, without the Senate amendment(s).  
Debate ensued.  
Senator Schow requested that Senator Heavey yield to a question, but Senator Heavey would not yield.

MOTIONS

On motion of Senator Hale, Senators McDonald, Strannigan and West were excused.  
On motion of Senator Franklin, Senator Spanel was excused.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3003, without the Senate amendment(s), and the bill failed to pass the Senate by the following vote: Yeas, 24; Nays, 21; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Jacobsen, Johnson, Long, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rossi, Schow, Sellar, Sheldon, T., Stevens, Swecker, Wood and Zarelli - 24. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Kline, Kohl, Loveland, McAuliffe, Patterson, Rasmussen, Roach, Sheldon, B., Snyder, Thibaudeau, Winsley and Wojahn - 21. Excused: Senators McDonald, Spanel, Strannigan and West - 4. ENGROSSED HOUSE BILL NO. 3003, without the Senate amendment(s), having failed to receive the constitutional majority, was declared lost.

NOTICE FOR RECONSIDERATION

Having voted on the prevailing side, Senator Winsley served notice that she would move to reconsider the vote by which Engrossed House Bill No. 3003, without the Senate amendment(s), failed to pass the Senate.

#### MOTION FOR IMMEDIATE RECONSIDERATION

Having voted on the prevailing side, Senator Snyder moved that the Senate immediately reconsider the vote by which Engrossed House Bill No. 3003, without the Senate amendment(s), failed to pass the Senate.

Senator Johnson demanded a roll call and the demand was sustained.

#### PARLIAMENTARY INQUIRY

Senator Heavey: "A point of parliamentary inquiry, Mr. President. The prevailing side was the one with the most votes, which was twenty-four, although the bill did fail, the prevailing side was twenty-four. Senator Winsley was not among the twenty-four."

#### REPLY BY THE PRESIDENT

President Owen: "The prevailing side failed and Senator Winsley was on the prevailing side, Senator Heavey."

#### PARLIAMENTARY INQUIRY

Senator Snyder: "Mr. President, would you explain the vote? If we vote, 'aye,' does that mean then that we take another vote--if the motion to immediately reconsider prevails, then we take another vote?"

#### REPLY BY THE PRESIDENT

President Owen: "That would be correct. The motion is to whether or not you are going to take another vote on passage of the bill."

#### PARLIAMENTARY INQUIRY

Senator Johnson: "Mr. President, by way of a parliamentary inquiry. Senator Snyder asked the question, the vote now is to whether to immediately reconsider, not whether to reconsider at all. Is that correct? So, if this motion were to fail, this matter could be reconsidered under the rules, at some later time?"

#### REPLY BY THE PRESIDENT

President Owen: "That is correct. If, in fact, the motion by Senator Snyder passes, we would then immediately reconsider the vote. If his motion fails, then the vote could be reconsidered at another time."

Senator Johnson: "I'm not sure I understood that, but if this vote fails--the motion that is before us now--pursuant to the rules, it can be considered at a later time?"

President Owen: "Senator Winsley's notice would still be in effect--the notice for reconsideration."

Debate ensued.

The President declared the question before the Senate to be the roll call on the motion by Senator Snyder to immediately reconsider the vote by which Engrossed House Bill No. 3003, without the Senate amendment(s), failed to pass the Senate.

#### ROLL CALL

The Secretary called the roll and the motion for immediate reconsideration failed by the following vote: Yeas, 22; Nays, 23; Absent, 1; Excused, 3.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Thibaudeau and Wojahn -

22. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rossi, Schow, Sellar, Stevens, Swecker, Winsley, Wood and Zarelli - 23. Absent: Senator Roach - 1. Excused: Senators Spanel, Strannigan and West - 3.

There being no objection, the President advanced the Senate to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SCR 8430 by Senators McDonald and Sellar

Exempting specified matters from the cutoff resolution.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Concurrent Resolution No. 8430 was advanced to second reading and read the second time.

#### **SENATE CONCURRENT RESOLUTION NO. 8430**

WHEREAS, Senate Concurrent Resolution No. 8423 established cutoff dates for consideration of legislation during the 1998 Regular Session of the Fifty-Fifth Legislature;

NOW, THEREFORE, BE IT RESOLVED, By the Senate of the state of Washington, the House of Representatives concurring, That the cutoff dates established in Senate Concurrent Resolution No. 8423 shall not apply to: Tax measures; measures necessary to implement budgets; and measures related to state and local transportation, implementation of recommendations of the land use study commission, rural economic development, or the Hanford Reach.

#### MOTION

Senator Snyder moved that the following amendments by Senators Snyder and Fraser be considered simultaneously and be adopted:

On page 1, line 9, after "commission," insert "or"

On page 1, line 10, after "development" strike ", or the Hanford Reach"

Debate ensued.

Senator Johnson demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of the amendments by Senators Snyder and Fraser on page 1, lines 9 and 10, to Senate Concurrent Resolution No. 8430.

#### ROLL CALL

The Secretary called the roll and the amendments were not adopted by the following vote: Yeas, 22; Nays, 23; Absent, 1; Excused, 3.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Thibaudeau and Wojahn - 22. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rossi, Schow, Sellar, Stevens, Swecker, Winsley, Wood and Zarelli - 23. Absent: Senator Roach - 1. Excused: Senators Spanel, Strannigan and West - 3.

#### MOTION

On motion of Senator Johnson, further consideration of Senate Concurrent Resolution No. 8430 was deferred.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

MR. PRESIDENT:

March 7, 1998

The House refuses to concur in the Senate amendment(s) to Substitute House Bill No. 2459 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees: Representatives Van Luven, Dunn and Veloria.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Winsley, the Senate refuses to grant the request of the House for a conference on Substitute House Bill No. 2459 and the Senate amendment(s) thereto.

MOTION

On motion of Senator Winsley, the rules were suspended, Substitute House Bill No. 2459 was returned to second reading and read the second time.

MOTION

On motion of Senator Prentice, the following amendment was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.82.040 and 1995 c 293 s 1 are each amended to read as follows:

Except as provided in section 2 of this act, when the governing body of a city adopts a resolution declaring that there is a need for a housing authority, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons as commissioners of the authority created for the city. When the governing body of a county adopts a resolution declaring that there is a need for a housing authority, it shall appoint five persons as commissioners of the authority created for the county. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed for a term of office of five years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created, unless the commissioner is an employee of a separately elected county official other than the county governing body in a county with a population of less than one hundred seventy-five thousand as of the 1990 federal census, and the total government employment in that county exceeds forty percent of total employment. A commissioner shall hold office until a successor has been appointed and has qualified, unless sooner removed according to this chapter. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services for the authority, in any capacity, but he or she shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

The powers of each authority shall be vested in the commissioners thereof in office from time to time. Except as provided in section 2 of this act, three commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. The mayor (or in the case of an authority for a county, the governing body of the county) shall designate which of the commissioners appointed shall be the first chair of the commission and he or she shall serve in the capacity of chair until the expiration of his or her term of office as commissioner. When the office of the chair of the authority becomes vacant, the authority shall select a chair from among its commissioners. An authority shall select from among its commissioners a vice-chair, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or the county or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

NEW SECTION. **Sec. 2.** A new section is added to chapter 35.82 RCW to read as follows:

(1) After the effective date of this section, the governing body of a city with a population of four hundred thousand or more, that has created a housing authority under RCW 35.82.040, shall adopt a resolution to expand the number of commissioners on the housing authority from five to seven. Upon receiving the notice, the mayor, with approval of the city council, shall appoint additional persons as commissioners of the authority created for the city.

(2) In appointing commissioners, the mayor shall consider persons that represent the community, provided that two commissioners shall consist of tenants that reside in a housing project that is owned by the housing authority.

(3) After the effective date of this section, all commissioners shall be appointed to serve four-year terms, except that all vacancies shall be filled for the remainder of the unexpired term. A commissioner of an authority may not be an officer or employee of the city for which

the authority is created. A commissioner shall hold office until a successor has been appointed and has qualified, unless sooner removed according to this chapter.

(4) A commissioner may be reappointed only after review and approval by the city council.

(5) A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and the certificate is conclusive evidence of the due and proper appointment of the commissioner.

(6) A commissioner shall receive no compensation for his or her services for the authority, in any capacity, but he or she is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

(7) The powers of each authority vest in the commissioners of the authority in office from time to time. Four commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number.

(8) The mayor, with consent of the city council, shall designate which of the commissioners appointed shall be the first chair of the commission and he or she shall serve in the capacity of chair until the expiration of his or her term of office as commissioner. When the office of the chair of the authority becomes vacant, the authority shall select a chair from among its commissioners. An authority shall select from among its commissioners a vice-chair, and the authority may employ a secretary, who shall be executive director, technical experts and such other officers, agents, and employees, permanent and temporary, as the authority requires, and shall determine their qualifications, duties, and compensation.

(9) For such legal services as it may require, an authority may call upon the chief law officer of the city or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

**Sec. 3.** RCW 35.82.050 and 1965 c 7 s 35.82.050 are each amended to read as follows:

(1) ~~No commissioner ((or)), employee ((of an authority)), or appointee to any decision-making body for the housing authority shall ((acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project)) own or hold an interest in any contract or property or engage in any business, transaction, or professional or personal activity, that would:~~

~~(a) Be, or appear to be, in conflict with the commissioner's, employee's, or appointee's official duties to any decision-making body for the housing authority duties relating to the housing authority served by or subject to the authority of such commissioner, employee, or appointee to any decision-making body for the housing authority;~~

~~(b) Secure, or appear to secure, unwarranted privileges or advantages for such commissioner, employee, or appointee to any decision-making body for the housing authority, or others; or~~

~~(c) Prejudice, or appear to prejudice, such commissioner's, employee's, or appointee's to any decision-making body for the housing authority independence of judgment in exercise of his or her official duties relating to the housing authority served by or subject to the authority of the commissioner, employee, or appointee to any decision-making body for the housing authority.~~

~~(2) No commissioner, employee, or appointee to any decision-making body for the housing authority shall act in an official capacity in any manner in which such commissioner, employee, or appointee to any decision-making body of the housing authority has a direct or indirect financial or personal involvement.~~

~~(3) No commissioner, employee, or appointee to any decision-making body for the housing authority shall use his or her public office or employment to secure financial gain to such commissioner, employee, or appointee to any decision-making body for the housing authority.~~

~~(4) If any commissioner or employee of an authority or any appointee to any decision-making body for the housing authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure ((to)) to disclose such interest shall constitute misconduct in office. Upon such disclosure such commissioner ((or)), employee, or appointee to any decision-making body for the housing authority shall not participate in any action by the authority affecting such property.~~

~~(5) No provision of this section shall preclude a tenant of the public housing authority from serving as a commissioner, employee, or appointee to any decision-making body of the housing authority. No provision of this section shall preclude a tenant of the public housing authority who is serving as a commissioner, employee, or appointee to any decision-making body of the housing authority from voting on any issue or decision, or participating in any action by the authority, unless a conflict of interest, as set forth in subsections (1) through (4) of this section, exists as to that particular tenant and the particular property or interest at issue before, or subject to action by the housing authority."~~

## MOTIONS

On motion of Senator Winsley, the following title amendment was adopted:

On page 1, line 2 of the title, after "thousand;" strike the remainder of the title and insert "amending RCW 35.82.040 and 35.82.050; and adding a new section to chapter 35.82 RCW."

On motion of Senator Winsley, the rules were suspended, Substitute House Bill No. 2459, as amended by the Senate under suspension of the rules, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2459, as amended by the Senate under suspension of the rules.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2459, as amended by the Senate under suspension of the rules, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Absent: Senators Hargrove and Zarelli - 2. SUBSTITUTE HOUSE BILL NO. 2459, as amended by the Senate under suspension of the rules, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the sixth order of business.

There being no objection, the Senate resumed consideration of Senate Concurrent Resolution No. 8430, deferred on second reading earlier today.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Concurrent Resolution No. 8430 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

The President declared the question before the Senate to be the adoption of Senate Concurrent Resolution No. 8430 and the resolution was adopted.

SENATE CONCURRENT RESOLUTION NO. 8430 was adopted by voice vote.

#### MOTION

At 6:03 p.m., on motion of Senator Johnson, the Senate recessed until 7:30 p.m.

The Senate was called to order at 7:30 p.m. by President Owen.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6622 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The commission shall plan and prepare to implement a program for the preservation and advancement of universal telecommunications service which shall not take effect until the legislature approves the program. The purpose of the universal service program is to benefit telecommunications ratepayers in the state by minimizing implicit sources of support and maximizing explicit sources of support that are specific, sufficient, competitively neutral, and technologically neutral to support basic telecommunications services for customers of telecommunications companies in high-cost locations.

(2) In preparing a universal service program for approval by the legislature, the commission shall:

(a) Estimate the cost of supporting all lines located in high-cost locations and the cost of supporting one primary telecommunications line for each residential or business customer located in high-cost locations;

(b) Determine the assessments that must be made on all telecommunications carriers, and the manner of collection, to provide support for:

(i) All residential and business lines located in high-cost locations;

(ii) Only one primary line for each residential or business customer located in high-cost locations;



(c) Designate those telecommunications carriers serving high-cost locations that are eligible to receive support for the benefit of their customers in those locations;

(d) Adopt or prepare to adopt all necessary rules for administration of the program; and

(e) Provide a schedule of all fees and payments proposed or expected to be proposed by the commission under subsection (4)(d) of this section.

(3) The commission shall report by November 1, 1998, to the legislature on these steps taken to prepare for implementation and shall inform the legislature of the estimated cost to support all lines located in high-cost locations and the estimated cost to support only one primary line for each residential or business customer located in high-cost locations under a universal service program.

(4) Once a program is approved by the legislature and subsequently established, the following provisions apply unless otherwise directed by the legislature:

(a) All transfers of money necessary to provide the support shall be outside the state treasury and not be subject to appropriation;

(b) The commission may delegate to the commission secretary or other staff the authority to resolve disputes or make other decisions necessary to the administration of the program;

(c) The commission may contract with an independent program administrator subject to the direction and control of the commission and may authorize the establishment of an account or accounts in independent financial institutions should that be necessary for administration of the program;

(d) The expenses of an independent program administrator shall be authorized by the commission and shall be paid out of contributions by the telecommunications carriers participating in the program;

(e) The commission may require the carriers participating in the program, as part of their contribution, to pay into the public service revolving fund the costs of the commission attributable to supervision and administration of the program that are not otherwise recovered through fees paid to the commission.

(5) The commission shall establish standards for review or testing of all telecommunications carriers' compliance with the program for the purpose of ensuring the support received by a telecommunications carrier is used only for the purposes of the program and that each telecommunications carrier is making its proper contribution to the program. The commission may conduct the review or test, or contract with an independent administrator or other person to conduct the review or test.

(6) The commission shall coordinate administration of the program with any federal universal service program and may administer the federal fund in conjunction with the state program if so authorized by federal law.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Telecommunications carrier" has the same meaning as defined in 47 U.S.C. Sec. 153(44).

(b) "Basic telecommunications services" means the following services:

(i) Single-party service;

(ii) Voice grade access to the public switched network;

(iii) Support for local usage;

(iv) Dual tone multifrequency signaling (touch-tone);

(v) Access to emergency services (911);

(vi) Access to operator services;

(vii) Access to interexchange services;

(viii) Access to directory assistance; and

(ix) Toll limitation services.

(c) "High-cost location" means a location where the cost of providing telecommunications services is greater than a benchmark established by the commission by rule.

(8) Each telecommunications carrier that provides intrastate telecommunications services shall provide whatever information the commission may reasonably require in order to fulfill the commission's responsibilities under subsection (2) of this section.

**NEW SECTION. Sec. 2.** (1) The commission is authorized to take actions, conduct proceedings, and enter orders as permitted or contemplated for a state commission under the federal telecommunications act of 1996, P.L. 104-104 (110 Stat. 56), but the commission's authority to either establish a new state program or to adopt new rules to preserve and advance universal service under section 254(f) of the federal act is limited to the actions expressly authorized by section 1 of this act. The commission may establish by rule fees to be paid by persons seeking commission action under the federal act, and by parties to proceedings under that act, to offset in whole or part the commission's expenses that are not otherwise recovered through fees in implementing the act, but new fees or assessments charged telecommunications carriers to either establish a state program or to adopt rules to preserve and advance universal service under section 254(f) of the federal act do not take effect until the legislature has approved a state universal service program.

(2) The legislature intends that under the future universal service program established in this state:

(a) Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the preservation and advancement of universal service in the state;

- (b) The contributions shall be competitively and technologically neutral; and
- (c) The universal service program to be established in accordance with section 1 of this act shall not be inconsistent with the requirements of 47 U.S.C. Sec. 254.

**NEW SECTION. Sec. 3.** Any rules regarding universal service adopted by the utilities and transportation commission shall comply with the purpose, as stated in section 1 of this act, for establishing a program for the preservation and advancement of universal telecommunications service. Services to be supported are only those basic services defined in section 1(7) of this act.

**Sec. 4.** RCW 80.36.310 and 1989 c 101 s 14 are each amended to read as follows:

(1) Telecommunications companies may petition to be classified as competitive telecommunications companies under RCW 80.36.320 or to have services classified as competitive telecommunications services under RCW 80.36.330. The commission may initiate classification proceedings on its own motion. The commission may require all regulated telecommunications companies potentially affected by a classification proceeding to appear as parties for a determination of their classification.

(2) Any company petition or commission motion for competitive classification shall state an effective date not sooner than thirty days from the filing date. The company must provide notice and publication of the proposed competitive classification in the same manner as provided in RCW 80.36.110 for tariff changes. The proposed classification shall take effect on the stated effective date unless suspended by the commission and set for hearing under chapter 34.05 RCW or set for a formal investigation and fact-finding under RCW 80.36.145. The commission shall enter its final order with respect to any suspended classification within ~~((ten))~~ six months from the date of filing of a company's petition or the commission's motion.

**Sec. 5.** RCW 80.36.320 and 1989 c 101 s 15 are each amended to read as follows:

(1) The commission shall classify a telecommunications company ~~((providing service in a relevant market))~~ as a competitive telecommunications company if ~~((it finds, after notice and hearing, that the telecommunications company has demonstrated that))~~ the services it offers are subject to effective competition. Effective competition means that the company's customers have reasonably available alternatives and that the company does not have a significant captive customer base. In determining whether a company is competitive, factors the commission shall consider include but are not limited to:

- (a) The number and sizes of alternative providers of service;
- (b) The extent to which services are available from alternative providers in the relevant market;
- (c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (d) Other indicators of market power which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

The commission shall conduct the initial classification and any subsequent review of the classification in accordance with such procedures as the commission may establish by rule.

(2) Competitive telecommunications companies shall be subject to minimal regulation. Minimal regulation means that competitive telecommunications companies may file, instead of tariffs, price lists ~~((which))~~ that shall be effective after ten days' notice to the commission and customers. The commission shall prescribe the form of notice. The commission may also waive other regulatory requirements under this title for competitive telecommunications companies when it determines that competition will serve the same purposes as public interest regulation. The commission may waive different regulatory requirements for different companies if such different treatment is in the public interest. A competitive telecommunications company shall at a minimum:

- (a) Keep its accounts according to regulations as determined by the commission;
  - (b) File financial reports with the commission as required by the commission and in a form and at times prescribed by the commission;
  - (c) Keep on file at the commission such current price lists and service standards as the commission may require; and
  - (d) Cooperate with commission investigations of customer complaints.
- (3) When a telecommunications company has demonstrated that the equal access requirements ordered by the federal district court in the case of U.S. v. AT&T, 552 F. Supp. 131 (1982), or in supplemental orders, have been met, the commission shall review the classification of telecommunications companies providing inter-LATA interexchange services. At that time, the commission shall classify all such companies as competitive telecommunications companies unless it finds that effective competition, as defined in subsection (1) of this section, does not then exist.

(4) The commission may revoke any waivers it grants and may reclassify any competitive telecommunications company if ~~((such))~~ the revocation or reclassification would protect the public interest.

(5) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a competitive telecommunications company if it finds that competition will serve the same purpose and protect the public interest.

**Sec. 6.** RCW 80.36.330 and 1989 c 101 s 16 are each amended to read as follows:

(1) The commission may classify a telecommunications service provided by a telecommunications company as a competitive telecommunications service if ~~((it finds, after notice and hearing, that))~~ the service is subject to effective competition. Effective competition

means that customers of the service have reasonably available alternatives and that the service is not provided to a significant captive customer base. In determining whether a service is competitive, factors the commission shall consider include but are not limited to:

- (a) The number and size of alternative providers of services;
- (b) The extent to which services are available from alternative providers in the relevant market;
- (c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (d) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

(2) When the commission finds that a telecommunications company has demonstrated that a telecommunications service is competitive, the commission may permit the service to be provided under a price list effective on ten days notice to the commission and customers. The commission shall prescribe the form of notice. The commission may adopt procedural rules necessary to implement this section.

(3) Prices or rates charged for competitive telecommunications services shall cover their cost. The commission shall determine proper cost standards to implement this section, provided that in making any assignment of costs or allocating any revenue requirement, the commission shall act to preserve affordable universal telecommunications service.

(4) The commission may investigate prices for competitive telecommunications services upon complaint. In any complaint proceeding initiated by the commission, the telecommunications company providing the service shall bear the burden of proving that the prices charged cover cost, and are fair, just, and reasonable.

(5) Telecommunications companies shall provide the commission with all data it deems necessary to implement this section.

(6) No losses incurred by a telecommunications company in the provision of competitive services may be recovered through rates for noncompetitive services. The commission may order refunds or credits to any class of subscribers to a noncompetitive telecommunications service which has paid excessive rates because of below cost pricing of competitive telecommunications services.

(7) The commission may reclassify any competitive telecommunications service if reclassification would protect the public interest.

(8) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a service classified as competitive if it finds that competition will serve the same purpose and protect the public interest.

NEW SECTION. Sec. 7. Sections 1 through 3 of this act are each added to chapter 80.36 RCW.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Finkbeiner moved that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6622.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Finkbeiner that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6622.

The motion by Senator Finkbeiner carried and the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6622.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6622, as amended by the House.

Debate ensued.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6622, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 34. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 15. ENGROSSED SUBSTITUTE SENATE BILL NO. 6622, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

On motion of Senator Johnson, the Senate advanced to the ninth order of business.

## MOTION FOR RECONSIDERATION

Having served prior notice, Senator Winsley moved that the Senate now reconsider the vote by which Engrossed House Bill No. 3003, without the Senate amendments, failed to pass the Senate earlier today.

The President declared the question before the Senate to be the motion by Senator Winsley that the Senate reconsider the vote by which Engrossed House Bill No. 3003, without the Senate amendments, failed to pass the Senate.

. The motion for reconsideration carried.

The President declared the question before the Senate to the roll call on the final passage of Engrossed House Bill No. 3003, without the Senate amendments, on reconsideration.

Debate ensued.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3003, without the Senate amendments, on reconsideration, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Jacobsen, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Wood and Zarelli - 27. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Kline, Kohl, Loveland, McAuliffe, Patterson, Rasmussen, Roach, Sheldon, B., Snyder, Spanel, Thibaudeau, Winsley and Wojahn - 22. ENGROSSED HOUSE BILL NO. 3003, without the Senate amendments, on reconsideration, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President returned the Senate to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House grants the request of the Senate for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 6238. The Speaker has appointed the following members as conferees: Representatives Cooke, Boldt and Dickerson.

TIMOTHY A. MARTIN, Chief Clerk

## MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1504 and passed the bill as amended by the Senate.

TIMOTHY A. MARTIN, Chief Clerk

## MESSAGE FROM THE HOUSE

March 6, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6509 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the ability to read fluently, accurately, and with comprehension is critical to success in school and in life. Research has found that reading instruction in the early grades must consist of a comprehensive program that builds upon the firm foundational skills of phonemic awareness, decoding, and reading comprehension, to provide students with the skills necessary to engage in rich literature activities, and further develop thinking and application skills. Schools and school districts should review their reading programs to verify they are using a comprehensive approach to teaching reading.

The role of professional development in supporting and sustaining a high-quality teaching force is critical. The legislature finds that many primary grade teachers would benefit from additional professional development instruction in beginning reading skills and access to current information regarding research-based, scientifically proven instructional strategies to assist students in meeting the benchmarks established for the essential academic learning requirements.

The legislature also recognizes that when students are experiencing difficulties in advancing their reading skills, the use of volunteers to provide individualized tutoring and mentoring to those students will improve students' ability to overcome those difficulties and increase their reading achievement.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.415 RCW to read as follows:

Schools interested in providing assistance to improve student learning in reading may apply for the following opportunities to provide professional development in beginning reading instructional strategies and related instructional materials and to implement volunteer tutoring programs for students throughout their school.

(1) To the extent funds are appropriated in accordance with this section, elementary schools interested in providing professional development and the purchase of related instructional materials in accordance with (a) of this subsection for certificated instructional staff that provide direct instructional services to students in kindergarten, first, and second grade may apply for and receive funding from the superintendent of public instruction. The application for funding shall be limited to:

(a) Verification that the intended professional development and related instructional materials include primary emphasis on the following beginning reading skills:

- (i) Phonemic awareness instruction;
- (ii) Explicit and systematic decoding instruction and diagnosis of a student's ability to decode;
- (iii) Explicit spelling instruction;
- (iv) Explicit instruction in reading comprehension strategies; and
- (v) Research findings on the skills needed by beginning and proficient readers, and how beginning reading skills are acquired;

(b) Verification that grant funds expended in accordance with this section will not be used for intervention or remediation programs; and

(c) Verification that the professional development will be provided by a public or private contractor that provides training in the methods required in this section.

(2) To the extent funds are appropriated in accordance with this section, elementary schools interested in providing programs that use volunteer tutors and mentors to assist struggling readers in kindergarten through sixth grade may apply for grants from the superintendent of public instruction for programs that are research-based and have proven effectiveness in improving student performance. The programs must include the following elements:

(a) Teacher training in research-based effective reading strategies and effective use of classroom volunteers with struggling readers;

(b) Training for tutor and mentor volunteers in research-based effective reading strategies before the volunteers participate in the program;

(c) An established goal for a minimum number of volunteer contact hours for students to receive individual instruction from teachers, and tutor or mentor volunteers during the summer, other intercessions for schools with year-round schedules or other vacation periods, or during normal school hours; and

(d) A plan to assess student reading performance before entering the program and upon exit or at the end of the year as appropriate. The results must be compiled and reported to the superintendent of public instruction. The superintendent of public instruction shall provide an initial report to the legislature by March 1, 1999, and a final report to the legislature by December 1999 on the effectiveness of the various programs.

(3) For applications submitted before June 1, 1998, priority for funds in accordance with this section shall be given to those schools in which less than one-quarter of all students tested on the fourth grade assessment in reading met the state-wide standard, or in schools where average performance on the reading component of the state-wide standardized test required in RCW 28A.230.190 were in the bottom quartile for the previous three years. Priority shall then be given to those schools in which less than one-third of all students tested on the fourth grade assessment in reading met the state-wide standard, or in schools where average performance on the reading component of the state-wide standardized test required in RCW 28A.230.190 were in the bottom third for the previous three years. Priority shall then be given to schools in which one-half of all students tested on the fourth grade assessment in reading met the state-wide standard, or in schools where average

performance on the reading component of the state-wide standardized test required in RCW 28A.230.190 were in the bottom half for the previous three years. Beginning June 1, 1998, the superintendent of public instruction shall open the application process to all schools without regard to performance on reading tests. For applications received after June 1, 1998, the superintendent shall provide funds to qualified applicants on a first-come, first-served basis, based on the date of application.

(4) Funds provided in accordance with this section may be used to provide additional professional development materials for interested school principals and classroom volunteers providing assistance in kindergarten, first, and second grades, interested in attending the professional development opportunity identified in subsection (1) of this section.

(5) Teachers participating in professional development opportunities in accordance with subsection (1) of this section or in volunteer programs in accordance with subsection (2) of this section will receive a stipend from the funds.

(6) An elementary school receiving funds in accordance with subsection (1) of this section shall certify and provide documentation to the superintendent of public instruction that funds received were expended for professional development and related materials in accordance with this section.

(7) Schools or school districts that received funds under RCW 28A.300.330 are not eligible to apply for funding in accordance with subsection (1) of this section.

(8) Until final allocation of funds for purposes of section 2(1) of this act by the superintendent of public instruction, or at the end of the 1998-99 school year, whichever occurs first, the following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Phonemic awareness instruction" means teaching awareness of letter sounds, and segmenting and blending phonemes, syllables, and words in a sequential progression.

(b) "Explicit systematic decoding instruction" means direct, sequential teaching of how to read words fluently and automatically by providing instruction in letter-sound correspondences, letter combinations, multisyllabic words, blending, and structural elements, and initially incorporates the use of decodable text.

(c) "Decodable text" means connected text containing a high percentage of words that provide practice on the letter-sound correspondences and letter combinations previously taught.

(d) "Diagnosis of a student's ability to decode" means regularly assessing the student's mastery of word recognition, fluency and automaticity, and word analysis in order to plan future instructional activities.

(e) "Explicit and systematic instruction in spelling" means teaching a logical scope and sequence of word knowledge, spelling patterns, syllabication, and frequently used words connected to the sequence used in reading and writing instruction.

(f) "Instruction in reading comprehension skills" means explicit, systematic teaching of vocabulary development, text structure, context, syntax, and syntactic patterns, including but not limited to, strategies for higher order thinking skills such as interpretation, summarization, prediction, clarification, and question generation.

(9) By April 15th, the superintendent of public instruction shall notify all school districts that the funds under this section are available. By June 1, 1998, school districts shall provide a budget estimate to the superintendent of public instruction of the amount of funds expected to be used for purposes of this section. The superintendent shall allocate funding for applications received after June 1, 1998, to the extent funds remain from allocations budgeted to applications eligible before June 1, 1998. Funding provided must be available to schools no later than June 1, 1998. Elementary schools may apply and become eligible for both funding opportunities in accordance with this section. Funds for this section may be expended through the end of the 1998-99 school year.

(10) This section expires June 30, 2001.

NEW SECTION. Sec. 3. This act may be known and cited as the successful readers act.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.

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

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

## MOTION

Senator Hochstatter moved that the Senate concur in the House amendment to Engrossed Second Substitute Senate Bill No. 6509.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Hochstatter that the Senate concur in the House amendment to Engrossed Second Substitute Senate Bill No. 6509.

The motion by Senator Hochstatter carried on a rising vote and the Senate concurred in the House amendment to Engrossed Second Substitute Senate Bill No. 6509.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute Senate Bill No. 6509, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6509, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 29. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Goings, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 20. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6509, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Johnson was excused.

#### MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1441 and asks the Senate to recede therefrom, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Zarelli, the rules were suspended, Substitute House Bill No. 1441 was returned to second reading and read the second time.

#### MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli, Fairley and Roach be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 9A.44 RCW to read as follows:

(1) As used in this section:

(a) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, or any other recording or transmission of the image of a person;

(b) "Place where he or she would have a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed or filmed by another; or

(ii) A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance;

(c) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person;

(d) "Views" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

(2) A person commits the crime of voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films another person, without that person's knowledge and consent, while the person being viewed, photographed, or filmed is in a place where he or she would have a reasonable expectation of privacy.

(3) Voyeurism is a class C felony.

(4) This section does not apply to viewing, photographing, or filming by personnel of the department of corrections or of a local jail or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the department of corrections or the local jail or correctional facility.

**Sec. 2.** RCW 9A.04.080 and 1997 c 174 s 1 and 1997 c 97 s 1 are each reenacted and amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4)).

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results; or

(iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission; except that if the victim is under fourteen years of age when the rape is committed and the rape is reported to a law enforcement agency within one year of its commission, the violation may be prosecuted up to three years after the victim's eighteenth birthday or up to ten years after the rape's commission, whichever is later. If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted: (A) More than three years after its commission if the violation was committed against a victim fourteen years of age or older; or (B) more than three years after the victim's eighteenth birthday or more than seven years after the rape's commission, whichever is later, if the violation was committed against a victim under fourteen years of age.

(c) Violations of the following statutes shall not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after their commission, whichever is later: RCW 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080, 9A.44.100(1)(b), or 9A.64.020.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) A violation of RCW 9A.56.030 must not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(h) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under section 1 of this act, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(i) No gross misdemeanor may be prosecuted more than two years after its commission.

(j) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Zarelli, Fairley and Roach to Substitute House Bill No. 1441.

The motion by Senator Zarelli carried and the striking amendment was adopted.

MOTIONS



On motion of Senator Zarelli, the following title amendment was adopted:

On page 1, line 1 of the title, after "voyeurism;" strike the remainder of the title and insert "reenacting and amending RCW 9A.04.080; adding a new section to chapter 9A.44 RCW; and prescribing penalties."

On motion of Senator Zarelli, the rules were suspended, Substitute House Bill No. 1441, as amended by the Senate under suspension of the rules, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1441, as amended by the Senate, under suspension of the rules.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1441, as amended by the Senate under suspension of the rules, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 43.

Voting nay: Senators Brown, Heavey, Kohl, Thibaudeau and Wojahn - 5.

Excused: Senator Johnson - 1. SUBSTITUTE HOUSE BILL NO. 1441, as amended by the Senate under suspension of the rules, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 3, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 6628 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.06.040 and 1994 c 258 s 5 are each amended to read as follows:

The department shall develop a state-wide multimodal transportation plan under RCW 47.01.071(3) and in conformance with federal requirements, to ensure the continued mobility of people and goods within regions and across the state in a safe, cost-effective manner. The state-wide multimodal transportation plan shall consist of:

(1) A state-owned facilities component, which shall guide state investment for state highways including bicycle and pedestrian facilities, and state ferries; and

(2) A state-interest component, which shall define the state interest in aviation, marine ports and navigation, freight rail, intercity passenger rail, bicycle transportation and pedestrian walkways, and public transportation, and recommend actions in coordination with appropriate public and private transportation providers to ensure that the state interest in these transportation modes is met.

The plans developed under each component must be consistent with the state transportation policy plan and with each other, reflect public involvement, be consistent with regional transportation planning, high-capacity transportation planning, and local comprehensive plans prepared under chapter 36.70A RCW, and include analysis of intermodal connections and choices. A primary emphasis for these plans shall be the relief of congestion, the preservation of existing investments, the improvement of traveler safety, the efficient movement of freight and goods, and the improvement and integration of all transportation modes to create a seamless intermodal transportation system for people and goods.

In the development of the state-wide multimodal transportation plan, the department shall identify and document potential affected environmental resources, including, but not limited to, wetlands, storm water runoff, flooding, air quality, fish passage, and wildlife habitat. The department shall conduct its environmental identification and documentation in coordination with all relevant environmental regulatory authorities, including, but not limited to, local governments. The department shall give the relevant environmental regulatory authorities an opportunity to review the department's environmental plans. The relevant environmental regulatory authorities shall provide comments on the department's environmental plans in a timely manner. Environmental identification and documentation as provided for in RCW 47.01.300 and this section is not intended to create a private right of action or require an environmental impact statement as provided in chapter 43.21C RCW.

**Sec. 2.** RCW 47.06.050 and 1993 c 446 s 5 are each amended to read as follows:

The state-owned facilities component of the state-wide transportation plan shall identify the most cost-effective combination of highway, ferry, passenger rail, and high-capacity transportation improvements that maximizes the efficient movement of people, freight, and goods within state transportation corridors and will consist of:

(1) The state highway system plan, which identifies program and financing needs and recommends specific and financially realistic improvements to preserve the structural integrity of the state highway system, ensure acceptable operating conditions, and provide for enhanced access to scenic, recreational, and cultural resources. The state highway system plan shall contain the following elements:

(a) A system preservation element, which shall establish structural preservation objectives for the state highway system including bridges, identify current and future structural deficiencies based upon analysis of current conditions and projected future deterioration, and recommend program funding levels and specific actions necessary to preserve the structural integrity of the state highway system consistent with adopted objectives. This element shall serve as the basis for the preservation component of the six-year highway program and the two-year biennial budget request to the legislature;

(b) A capacity and operational improvement element, which shall establish operational objectives, including safety considerations, for moving people and goods on the state highway system, identify current and future capacity, operational, and safety deficiencies, and recommend program funding levels and specific improvements and strategies necessary to achieve the operational objectives. In developing capacity and operational improvement plans the department shall first assess strategies to enhance the operational efficiency of the existing system before recommending system expansion. Congestion relief must be a primary emphasis of the capacity and operational improvement element. Strategies to enhance the operational efficiencies include but are not limited to access management, transportation system management, demand management, and high-occupancy vehicle facilities. The capacity and operational improvement element must conform to the state implementation plan for air quality and be consistent with regional transportation plans adopted under chapter 47.80 RCW, and shall serve as the basis for the capacity and operational improvement portions of the six-year highway program and the two-year biennial budget request to the legislature;

(c) A scenic and recreational highways element, which shall identify and recommend designation of scenic and recreational highways, provide for enhanced access to scenic, recreational, and cultural resources associated with designated routes, and recommend a variety of management strategies to protect, preserve, and enhance these resources. The department, affected counties, cities, and towns, regional transportation planning organizations, and other state or federal agencies shall jointly develop this element;

(d) A paths and trails element, which shall identify the needs of nonmotorized transportation modes on the state transportation systems and provide the basis for the investment of state transportation funds in paths and trails, including funding provided under chapter 47.30 RCW.

(2) The state ferry system plan, which shall guide capital and operating investments in the state ferry system. The plan shall establish service objectives for state ferry routes, forecast travel demand for the various markets served in the system, and develop strategies for ferry system investment that consider regional and state-wide vehicle and passenger needs, support local land use plans, and assure that ferry services are fully integrated with other transportation services. The plan shall assess the role of private ferries operating under the authority of the utilities and transportation commission and shall coordinate ferry system capital and operational plans with these private operations. The ferry system plan must be consistent with the regional transportation plans for areas served by the state ferry system, and shall be developed in conjunction with the ferry advisory committees.

**Sec. 3.** RCW 47.06.090 and 1993 c 446 s 9 are each amended to read as follows:

The state-interest component of the state-wide multimodal transportation plan shall include an intercity passenger rail plan, which shall analyze existing intercity passenger rail service and recommend improvements to that service under the state passenger rail service program including depot improvements, potential service extensions, and ways to achieve higher train speeds. The plan must include:

(1) A service preservation element that outlines the trackage, depots, and train investments needed to maintain established service levels; and

(2) A service improvement element that establishes service improvement objectives and outlines the trackage, depot, and train investments needed to meet improvement service objectives.

**Sec. 4.** RCW 81.75.030 and 1977 ex.s. c 217 s 3 are each amended to read as follows:

(1) To the extent feasible, the services available to the public at any transportation center may include taxi, auto rental, passenger trains, motor buses, ((travel agents,)) restrooms, food, ((telegraph,)) baggage handling, transfer and delivery of light freight and packages, commercial airlines, air charter, place of temporary rest for citizens and travelers (but not overnight), mail, private auto parking for users of public transportation through the transportation center, local transit, limousine, ((and any other use necessary to the foregoing)) limited retail services, professional services, limited banking services, day care services, and any other use necessary and convenient for the users of the public transportation system operating at the transportation center.

(2) Any city, town, county, public transportation benefit area authority, or municipal corporation, which elects to operate a transportation center shall operate the center for the general public good. The operator may establish the terms of usage for the various modes of transportation and for others that utilize its facilities, may make reasonable rules concerning public and private use, and may exclude all persons therefrom who refuse to comply with the terms or rules of use. The operator may own, operate, maintain, and manage a transportation center, but shall not engage in providing a transportation or other related service at the center unless otherwise authorized by law."

Correct the title, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Benton moved that the Senate refuse to concur in the House amendment to Engrossed Senate Bill No. 6628 and asks the House to recede therefrom.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Benton that the Senate refuse to concur in the House amendment to Engrossed Senate Bill No. 6628 and asks the House to recede therefrom.

The motion by Senator Benton carried and the Senate refuses to concur in the House amendment to Engrossed Senate Bill No. 6628 and asks the House to recede therefrom.

#### MESSAGE FROM HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354 and asks the Senate to recede therefrom., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Morton moved that the Senate recede from its position from Section 2 and insists on its position regarding the remaining striking Senate amendment to Second Engrossed Second Substitute House Bill No. 1354.

#### POINT OF ORDER

Senator Fraser: "A point of order, Mr. President. Pertaining to the motion that was just made, my question is when the Senate is asked to recede from a Senate amendment to a House Bill, do the rules allow the Senate to recede from only a portion of that amendment? That, in effect, is what this motion is."

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Fraser challenging Senator Morton's motion to recede in part to the Senate striking amendment to Second Engrossed Second Substitute House Bill No. 1354, and to insist in part to the amendment, the President finds that Senate Rule 67 clearly states that motions to recede and insist 'are in order as to any single amendment or to a series of amendments.' Senator Morton's motion would apply to parts of a single amendment.

"The President, therefore, rules under Senate Rule 67 that the motion is out of order and the point is well taken."

The motion by Senator Morton to recede from its position from Section 2 and insist on its position regarding the remaining striking amendment to Second Engrossed Second Substitute House Bill No. 1354 was ruled out of order.

#### MOTION

Senator Morton moved that the Senate refuse to recede from the Senate amendment(s) and requests of the House a conference thereon.

Debate ensued.

#### MOTION

On motion of Senator Johnson, further consideration of Second Engrossed Second Substitute House Bill No. 1354 was deferred.

#### MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2313 and asks the Senate to recede therefrom, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Schow moved that the Senate recede from the Senate amendment(s) to Engrossed Substitute House Bill No. 2313.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Schow that the Senate recede from the Senate amendment(s) to Engrossed Substitute House Bill No. 2313.

The motion by Senator Schow carried and the Senate receded from the Senate amendment(s) to Engrossed Substitute House Bill No. 2313.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2313, without the Senate amendment(s).

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2313, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 37; Nays, 10; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 37. Voting nay: Senators Fairley, Fraser, Goings, Heavey, Jacobsen, Kline, Kohl, Patterson, Prentice and Sheldon, T. - 10. Absent: Senators Franklin and McDonald - 2. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2313, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1541 and asks the Senate to recede therefrom, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 1541 was returned to second reading and read the second time.

#### MOTION

Senator Roach moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that sport shooting ranges in this state offer valuable hunter and firearm safety training, offer legitimate and important forms of recreation to the general public, and provide the opportunity for many law enforcement agencies to maintain necessary firearms skills efficiently and at little or no cost. The continued existence and viability of sport shooting ranges is impacted by burdensome retroactive regulation and lawsuits, thereby potentially threatening the availability of low-cost firearms training to some local law enforcement agencies, as well as hunter and firearms safety training and recreation to the general public.

**NEW SECTION. Sec. 2.** A new section is added to chapter 9.41 RCW to read as follows:

(1)(a) Notwithstanding any other provision of law, a person who operates or uses a sport shooting range in this state shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation on the effective date of this act.

(b) A person who operates or uses a sport shooting range is not subject to an action for nuisance, and a court of the state shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation on the effective date of this act.

(c) Rules adopted by any state department or agency for limiting levels of noise in terms of decibel level that may occur in the outdoor atmosphere do not apply to a sport shooting range exempted from liability under this section.

(2) A person who acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved sport shooting range shall not maintain a nuisance action against the person who owns the range to restrain, enjoin, or impede the use of the range where there has not been a substantial change in the nature of the use of the range. This subsection does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

(3) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance must be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance.

(4) A person who participates in sport shooting at a sport shooting range accepts the risks associated with the sport to the extent the risks are obvious and inherent. Those risks include, but are not limited to, injuries that may result from noise, discharge of a projectile or shot, malfunction of sport shooting equipment not owned by the shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural growth or debris.

(5) The owner or operator of any sport shooting range shall have in place an insurance policy providing insurance for personal and property damage which occurs as a result of acts at the range, with liability limits of at least two hundred fifty thousand dollars per occurrence. This subsection applies beginning January 1, 1999.

(6) Except as otherwise provided in this section, this section does not prohibit a local government from regulating the location and construction of a sport shooting range after the effective date of this act.

(7) As used in this section:

(a) "Local government" means a county, city, or town.

(b) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity.

(c) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Roach to Substitute House Bill No. 1541.

The motion by Senator Roach carried and the striking amendment by Senator Roach to Substitute House Bill No. 1541 was adopted.

## MOTIONS

On motion of Senator Roach, the following title amendment was adopted:

On line 1 of the title, after "ranges;" strike the remainder of the title and insert "adding a new section to chapter 9.41 RCW; creating a new section; and declaring an emergency."

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 1541, as amended by the Senate under suspension of the rules, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1541, as amended by the Senate, under suspension of the rules.

Debate ensued.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1541, as amended by the Senate under suspension of the rules, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Johnson, Long, Loveland, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West and Zarelli - 32. Voting nay: Senators Brown, Deccio, Fairley, Fraser, Heavey, Jacobsen, Kline, Kohl, McAuliffe, McCaslin, Patterson, Prentice, Spanel, Thibaudeau, Winsley, Wojahn and Wood - 17. SUBSTITUTE HOUSE BILL NO. 1541, as amended by the Senate under suspension of the rules, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 2772 and asks the Senate to recede therefrom., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Roach moved that the Senate recede from the Senate amendment(s) to Engrossed House Bill No. 2772.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate recede from the Senate amendment(s) to Engrossed House Bill No. 2772.

The motion by Senator Roach carried and the Senate receded from the Senate amendment(s) to Engrossed House Bill No. 2772.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 2772, without the Senate amendment(s).

Debate ensued.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2772, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Goings, Hale, Haugen, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 39. Voting nay: Senators Brown, Fraser, Hargrove, Heavey, Jacobsen, Kline, Kohl, McAuliffe and Thibaudeau - 9. Absent: Senator McDonald - 1. ENGROSSED HOUSE BILL NO. 2772, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### REPORT OF CONFERENCE COMMITTEE

2SSB 6168

March 10, 1998

Includes "New Items": YES

Developing Housing for Temporary Workers

MR. PRESIDENT:

MR.. SPEAKER:

We of your Conference Committee, to whom was referred SECOND SUBSTITUTE SENATE BILL NO. 6168, Developing housing for temporary workers, have had the same under consideration and we recommend that:

All previous amendment not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 19.27 RCW to read as follows:

(1) Temporary worker housing shall be constructed, altered, or repaired as provided in chapter 70.114A RCW and chapter . . . , Laws of 1998 (this act). The construction, alteration, or repair of temporary worker housing is not subject to the codes adopted under RCW 19.27.031, except as provided by rule adopted under chapter 70.114A RCW or chapter . . . , Laws of 1998 (this act).

(2) For the purpose of this section, "temporary worker housing" has the same meaning as provided in RCW 70.114A.020.

(3) This section is applicable to temporary worker housing as of the date of the final adoption of the temporary worker building code by the department of health under section 2 of this act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.114A RCW to read as follows:

(1) The department shall adopt by rule a temporary worker building code in conformance with the temporary worker housing standards developed under the Washington industrial safety and health act, chapter 49.17 RCW, the rules adopted by the state board of health under RCW 70.54.110, and the following guidelines:

(a) The temporary worker building code shall provide construction standards for shelter and associated facilities that are safe, secure, and capable of withstanding the stresses and loads associated with their designated use, and to which they are likely to be subjected by the elements;

(b) The temporary worker building code shall permit and facilitate designs and formats that allow for maximum affordability, consistent with the provision of decent, safe, and sanitary housing;

(c) In developing the temporary worker building code the department of health shall consider:

(i) The need for dormitory type housing for groups of unrelated individuals; and

(ii) The need for housing to accommodate families;

(d) The temporary worker building code shall incorporate the opportunity for the use of construction alternatives and the use of new technologies that meet the performance standards required by law;

(e) The temporary worker building code shall include standards for heating and insulation appropriate to the type of structure and length and season of occupancy;

(f) The temporary worker building code shall include standards for temporary worker housing that are to be used only during periods when no auxiliary heat is required; and

(g) The temporary worker building code shall provide that persons operating temporary worker housing consisting of four or fewer dwelling units or combinations of dwelling units, dormitories, or spaces that house nine or fewer occupants may elect to comply with the provisions of the temporary worker building code, and that unless the election is made, such housing is subject to the codes adopted under RCW 19.27.031.

(2) In adopting the temporary worker building code, the department shall make exceptions to the codes listed in RCW 19.27.031 and chapter 19.27A RCW, in keeping with the guidelines set forth in this section. The initial temporary worker building code adopted by the department shall be substantially equivalent with the temporary worker building code developed by the state building code council as directed by section 8, chapter 220, Laws of 1995.

(3) The temporary worker building code authorized and required by this section shall be enforced by the department.

The department shall have the authority to allow minor variations from the temporary worker building code that do not compromise the health or safety of workers. Procedures for requesting variations and guidelines for granting such requests shall be included in the rules adopted under this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 49.17 RCW to read as follows:

By December 1, 1998, the department of labor and industries shall adopt rules requiring electricity in all temporary worker housing and establishing minimum requirements to ensure the safe storage, handling, and preparation of food in these camps, regardless of whether individual or common cooking facilities are in use.

**Sec. 4.** RCW 43.22.480 and 1995 c 289 s 2 are each amended to read as follows:

(1) The department shall adopt and enforce rules that protect the health, safety, and property of the people of this state by assuring that all factory built housing or factory built commercial structures are structurally sound and that the plumbing, heating, electrical, and other components thereof are reasonably safe. The rules shall be reasonably consistent with recognized and accepted principles of safety and structural soundness, and in adopting the rules the department shall consider, so far as practicable, the standards and specifications contained in the uniform building, plumbing, and mechanical codes, including the barrier free code and the Washington energy code as adopted by the state building code council pursuant to chapter 19.27A RCW, and the national electrical code, including the state rules as adopted pursuant to chapter 19.28 RCW and published by the national fire protection association or, when applicable, the temporary worker building code adopted under section 2 of this act.

(2) The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of RCW 43.22.450 through 43.22.490.

(3) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.70 RCW to read as follows:

(1) Any person providing temporary worker housing consisting of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants, or any person providing temporary worker housing who makes the election to comply with the temporary worker building code under section 2(1)(g) of this act, shall secure an annual operating license prior to occupancy and shall pay a fee according to RCW 43.70.340. The license shall be conspicuously displayed on site.

(2) Licenses issued under this chapter may be suspended or revoked upon the failure or refusal of the person providing temporary worker housing to comply with the provisions of RCW 70.54.110, or of any rules adopted under this section by the department. All such proceedings shall be governed by the provisions of chapter 34.05 RCW.

(3) The department may assess a civil fine in accordance with RCW 43.70.095 for failure or refusal to obtain a license prior to occupancy of temporary worker housing. The department may refund all or part of the civil fine collected once the operator obtains a valid operating license.

(4) Civil fines under this section shall not exceed twice the cost of the license plus the cost of the initial on-site inspection for the first violation of this section, and shall not exceed ten times the cost of the license plus the cost of the initial on-site inspection for second and subsequent violations within any five-year period. The department may adopt rules as necessary to assure compliance with this section.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.70 RCW to read as follows:

(1) Any person who constructs, alters, or makes an addition to temporary worker housing consisting of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants, or any person who constructs, alters, or makes an addition to temporary worker housing who elects to comply with the temporary worker building code under section 2(1)(g) of this act, shall:

(a) Submit plans and specifications for the alteration, addition, or new construction of this housing prior to beginning any alteration, addition, or new construction on this housing;

(b) Apply for and obtain a temporary worker housing building permit from the department prior to construction or alteration of this housing; and

(c) Submit a plan review and permit fee to the department of health pursuant to RCW 43.70.340.

(2) The department shall adopt rules as necessary, for the application procedures for the temporary worker housing plan review and permit process.

(3) Any alteration of a manufactured structure to be used for temporary worker housing remains subject to chapter 43.22 RCW, and the rules adopted under chapter 43.22 RCW.

**Sec. 7.** RCW 43.70.340 and 1990 c 253 s 3 are each amended to read as follows:

(1) The ~~((farmworker housing inspection))~~ temporary worker housing fund is established in the custody of the state treasury. The department ~~((of health))~~ shall deposit all funds received under subsections (2) and (3) of this section and from the legislature to administer a ~~((labor camp))~~ temporary worker housing permitting, licensing, and inspection program conducted by the department ~~((of health))~~. Disbursement from the fund shall be on authorization of the secretary of health or the secretary's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

(2) There is imposed a fee on each operating license issued by the department ~~((of health))~~ to every operator of ~~((a labor camp))~~ temporary worker housing that is regulated by the state board of health. ~~((The fee paid under this subsection shall include all necessary inspection of the units to ensure compliance with))~~ In establishing the fee to be paid under this subsection the department shall consider the cost of administering a license as well as enforcing applicable state board of health rules on ~~((labor camps.~~

~~(a) Fifty dollars shall be charged for each labor camp containing six or less units.~~

~~(b) Seventy five dollars shall be charged for each labor camp containing more than six units))~~ temporary worker housing.

(3) There is imposed a fee on each temporary worker housing building permit issued by the department to every operator of temporary worker housing as required by section 6 of this act. The fee shall include the cost of administering a permit as well as enforcing the department's temporary worker building code as adopted under section 2 of this act.

(4) The department shall conduct a fee study for:

(a) A temporary worker housing operator's license;

(b) On-site inspections; and

(c) A plan review and building permit for new construction.

After completion of the study, the department shall adopt these fees by rule by no later than December 31, 1998.

(5) The term of the operating license and the application procedures shall be established, by rule, by the department ~~((of health))~~.

**NEW SECTION. Sec. 8.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department shall work with the advisory group established in subsection (2) of this section to review proposals and make prioritized funding recommendations to the department or funding approval board that oversees the distribution of housing trust fund grants and loans to be used for the development, maintenance, and operation of housing for low-income farmworkers.

(2) A farmworker housing advisory group representing growers, farmworkers, and other interested parties shall be formed to assist the department in the review and priority funding recommendations under this section.

**NEW SECTION. Sec. 9.** RCW 70.114A.080 and 1995 c 220 s 8 are each repealed."



On page 1, line 2 of the title, after "workers;" strike the remainder of the title and insert "amending RCW 43.22.480 and 43.70.340; adding a new section to chapter 19.27 RCW; adding a new section to chapter 70.114A RCW; adding a new section to chapter 49.17 RCW; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.330 RCW; and repealing RCW 70.114A.080.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Morton, Prentice, Deccio; Representatives Van Luven, Clements.

#### MOTION

Senator Deccio moved that the Senate adopt the Report of the Conference Committee on Second Substitute Senate Bill No. 6168.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Deccio that the Senate adopt the Report of the Conference Committee on Second Substitute Senate Bill No. 6168.

The motion by Senator Deccio carried and the Senate adopted the Report of the Conference Committee on Second Substitute Senate Bill No. 6168.

#### MOTION

On motion of Senator Johnson, further consideration of Second Substitute Senate Bill No. 6168, as recommended by the Conference Committee, was deferred.

There being no objection, the President advanced the Senate to the sixth order of business.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3015, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Huff, Fisher, K. Schmidt, Zellinsky, Talcott, Carrell, Johnson, Kessler, Lantz and Eickmeyer)

Providing tax exemptions for the state route number 16 corridor.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute House Bill No. 3015 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Haugen: "Senator West, in reading this over, I see that the Port of Bremerton and some other folks came and testified, but there was nobody who testified from the city of Tacoma, which will be greatly impacted--and I see they are going to be exempt from these taxes. Did they testify before the committee? Do they support the loss of this revenue when they have to put up with all the mess that is going to go on during the time this construction is going to take place?"

Senator West: "Well, I don't know whether the city testified or not, but I noticed that Casey Cochrane's name is here and Casey is the executive of the Tacoma Chamber. I see that he testified in favor and so anyway, I assume they are in favor of it in Pierce County."

Further debate ensued.

#### POINT OF INQUIRY

Senator Heavey: "Senator Oke, I am not concerned about the sales taxes. I am concerned about the property taxes. Are the rights-of way for the new bridge and its improvements going to be owned by the state or are they going to be owned by a private corporation?"

Senator Oke: "Senator Heavey, the bridge will be built by a private concern--public/private partnership united infrastructure. When the tolls are paid, the bridge will belong to the state."

Senator Heavey: "But, are they leasing it from us and then we get it back--and in fact we own it or do they own the rights-of way with the facilities?"

Senator Oke: "During the period of construction, they will be in charge of the bridge and the construction of the bridge and any maintenance and any police work that is required there. The lease-hold excise taxes, what we are forgiving on this, and that was brought forth years ago for public folks in a property tax situation."

Senator Heavey: "Thank you."

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3015.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3015, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Heavey, Hochstatter, Horn, Johnson, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 32. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Jacobsen, Kline, Kohl, Loveland, Prentice, Rasmussen, Snyder, Spanel and Thibaudeau - 17. SUBSTITUTE HOUSE BILL NO. 3015, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1042, by Representatives Dyer, B. Thomas, Dunshee, Robertson, Grant, Thompson, Smith and Mielke.

Changing the taxation of dental appliances, devices, restorations, and substitutes.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Engrossed House Bill No. 1042 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Snyder: "Senator West, my criteria for voting on these tax reductions is, 'do they provide or retain jobs?' Will this retain jobs because we give this industry a tax break?"

Senator West: "Well, these folks probably manufacture retainers, so I would expect that they would retain jobs."

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 1042.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1042, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Voting nay: Senators Bauer, Fraser and Snyder - 3. ENGROSSED HOUSE BILL NO. 1042, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1184, by House Committee on Finance (originally sponsored by Representatives Van Luven, Mason, Smith, Dunn, Carrell, Delvin, Cairnes, Sheldon, B. Thomas, Morris, Quall, Koster, Mulliken, Sherstad, Schoesler, D. Schmidt, Hatfield, Wood, Honeyford and Backlund)

Repealing the sales tax on coin-operated laundromats in apartments, rooming houses, and mobile home communities.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute House Bill No. 1184 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1184.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1184, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 7; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wojahn, Wood and Zarelli - 42. Voting nay: Senators Brown, Fairley, Fraser, McAuliffe, Snyder, Spanel and Thibaudeau - 7. SUBSTITUTE HOUSE BILL NO. 1184, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, Senators Strannigan and West were excused.

#### MOTION

On motion of Senator Johnson, the Senate returned to the fourth order of business.

There being no objection, the Senate resumed consideration of Second Engrossed Second Substitute House Bill No. 1354 and the pending motion by Senator Morton to refuse to recede in the House amendment(s) and to request a conference thereon.

#### MOTION

Senator Brown moved that the Senate refuse to recede and insist on its position regarding the House amendment(s) to Second Engrossed Second Substitute House Bill No. 1354.

Senator Brown demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the motion by Senator Brown that the Senate refuse to recede and insist on its position regarding the House amendment(s) to Second Engrossed Second Substitute House Bill No. 1354.

Debate ensued.

#### ROLL CALL

The Secretary called the roll and the motion by Senator Brown that the Senate refuse to recede and insist on its position regarding the House amendment(s) failed by the following vote: Yeas, 21; Nays, 26; Absent, 0; Excused, 2.

Voting yea: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 21. Voting nay: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald,

Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Stevens, Swecker, Winsley, Wood and Zarelli -  
26. Excused: Senators Strannigan and West - 2.

The President declared that with the loss of the motion by Senator Brown, the motion by Senator Morton carried and the Senate refuses to recede from the House amendment(s) and requests of the House a conference thereon.

MESSAGE FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2819 and passed the bill as amended by the Senate.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

At 9:52 p.m., on motion of Senator Johnson, the Senate adjourned until 9:00 a.m., Wednesday, March 11, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

JOURNAL OF THE SENATE

FIFTY-EIGHTH DAY, MARCH 10, 1998

**NOTICE:** Formatting and page numbering in this document may be different from that in the original published version.

**FIFTY-NINTH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Wednesday, March 11, 1998

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Hargrove, Kline, Long, Patterson, Sellar, Wood and Zarelli. On motion of Senator Hale, Senators Long, Sellar, Wood and Zarelli were excused. On motion of Senator Franklin, Senators Hargrove, Kline and Patterson were excused.

The Sergeant at Arms Color Guard, consisting of Pages Kristina Zangar and Corinne Anderson, presented the Colors. Reverend Kenneth Bates, pastor of the Napavine Baptist Church, and a guest of Senator Val Stevens, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**MESSAGE FROM THE HOUSE**

March 10, 1998

**MR.. PRESIDENT:**

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1072,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1221,  
HOUSE BILL NO. 1252,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1769,  
SUBSTITUTE HOUSE BILL NO. 1781,  
SUBSTITUTE HOUSE BILL NO. 1786,  
SUBSTITUTE HOUSE BILL NO. 1867,  
SUBSTITUTE HOUSE BILL NO. 2166,  
SUBSTITUTE HOUSE BILL NO. 2394,  
HOUSE BILL NO. 2463,  
HOUSE BILL NO. 2550,  
SUBSTITUTE HOUSE BILL NO. 2688,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2819,  
SUBSTITUTE HOUSE BILL NO. 2936,  
SUBSTITUTE HOUSE BILL NO. 2941,  
HOUSE JOINT MEMORIAL NO. 4039, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

**SIGNED BY THE PRESIDENT**

The President signed:

SUBSTITUTE HOUSE BILL NO. 1072,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1221,  
HOUSE BILL NO. 1252,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1769,  
SUBSTITUTE HOUSE BILL NO. 1781,  
SUBSTITUTE HOUSE BILL NO. 1786,  
SUBSTITUTE HOUSE BILL NO. 1867,

SUBSTITUTE HOUSE BILL NO. 2166,  
SUBSTITUTE HOUSE BILL NO. 2394,  
HOUSE BILL NO. 2463,  
HOUSE BILL NO. 2550,  
SUBSTITUTE HOUSE BILL NO. 2688,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2819,  
SUBSTITUTE HOUSE BILL NO. 2936,  
SUBSTITUTE HOUSE BILL NO. 2941,  
HOUSE JOINT MEMORIAL NO. 4039.

MOTION

On motion of Senator Thibaudeau, the following resolution was adopted:

SENATE RESOLUTION 1998-8727

By Senators Thibaudeau, Jacobsen, Kline, Kohl, Fraser, Spanel and B. Sheldon

WHEREAS, Hazel Wolf has dedicated a full third of her long life to the preservation and enjoyment of the environment; and

WHEREAS, She has been recognized for her tireless efforts on behalf of the environment, including being named recipient of the 1997 Audubon Medal, and the Chevron Conservation Award; and

WHEREAS, She has endeavored to share her love of the world and its creatures by helping found twenty-one of twenty-six Audubon Society chapters in Washington; and

WHEREAS, She continues to serve as secretary of the Seattle chapter of the Audubon Society; and

WHEREAS, She knows well that our environment belongs to all, and has demonstrated that knowledge by founding the Community Coalition for Environmental Justice; and

WHEREAS, She has been a tireless worker for the rights of the people and the human right to self-determination as evidenced by her service as a volunteer monitor of free elections in Nicaragua; and

WHEREAS, On March 10, 1998, she celebrated her centennial birthday and she is now looking forward to her second hundred years;

NOW, THEREFORE BE IT RESOLVED, That the Washington State Senate do hereby recognize and honor Hazel Wolf's life, her accomplishments, and her contributions to the countless number of people who have come in contact with her and who have been changed for the better; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate immediately transmit a copy of this resolution to Hazel Wolf.

Senators Thibaudeau, Brown, Jacobsen and Fraser spoke to Senate Resolution 1998-8727.

MOTION

On motion of Senator Franklin, the following resolution was adopted:

SENATE RESOLUTION 1998-8728

By Senator Franklin, B. Sheldon and Kohl

WHEREAS, K.C. Boutiette, a native of Tacoma and graduate of Mount Tahoma High School, competed and distinguished himself in mens' speed skating at the 18<sup>th</sup> Olympic Winter Games at Nagano, Japan; and

WHEREAS, Mr. Boutiette, America's top mens' speed skater going into these Olympic Games, solidified that position by establishing three new American mens' speed skating records, in the 1,500 meter, 5,000 meter, and 10,000 meter events; and

WHEREAS, He also briefly held the new Olympic record in the 1,500 meter event, his specialty race; and

WHEREAS, His eighth-place, American record-setting finish in the 10,000 meter event, at thirteen minutes, forty-four and three-one-hundredths seconds, was nearly twenty-five seconds faster than his previous personal best; and

WHEREAS, Mr. Boutiette also qualified for the American Olympic team and competed in the 1994 Winter Games at Lillehammer, Norway, only several months after taking up the sport of speed skating; and

WHEREAS, He began his skating career as an inline skater, winning two national championships in that sport before crossing over to the ice; and

WHEREAS, He is by far the most successful cross-over from inline skating to speed skating; and

WHEREAS, Following the Olympic Winter Games at Nagano, Mr. Boutiette remains America's preeminent mens' speed skater;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize and honor Mr. K.C. Boutiette for his outstanding effort and accomplishments at the 1998 Olympic Winter Games at Nagano, Japan, in mens' speed skating; and that we wish him the best of luck in future competition; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate immediately transmit copies of this resolution to Mr. Boutiette, and to his family in Tacoma.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced the mother of K. C. Boutiette, who was seated in the gallery.

#### MOTION

On motion of Senator Winsley, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8726

By Senators Winsley, Hale, Sellar, Prentice, T. Sheldon, Heavey, B. Sheldon, Kohl, Loveland, Sellar, Deccio, Horn, Snyder, Prince, Bauer, Schow, McCaslin and Wojahn

WHEREAS, Lyle Jacobsen is a man of character, intelligence, courage, integrity, initiative, charm, and compassion, who has made significant contributions to the growth and development of the state of Washington and to the quality of state government; and

WHEREAS, Lyle Jacobsen is a native son of the state of Washington, having been born and raised in Onalaska, Washington; and

WHEREAS, Lyle Jacobsen majored in mathematics and received his college degree in education from Western Washington University; and

WHEREAS, Lyle Jacobsen contributed to the growth and education of our youth as a teacher of mathematics and as an athletics coach at Bethel High School and Onalaska High School; and

WHEREAS, Lyle Jacobsen, in 1973, commenced employment with the Washington State Legislature as staff for the Senate Ways and Means Committee, hired by then-Committee Staff Director, Governor Mike Lowry; and

WHEREAS, Lyle Jacobsen served as Staff Director of the Senate Ways and Means Committee under the chairmanship of Senator Hubert Donahue, establishing a legacy of excellence for legislative staff that remains the standard today; and

WHEREAS, Lyle Jacobsen, in 1979, was appointed by Governor Dixie Lee Ray and confirmed by the Washington State Senate, as the Director of the Office of Financial Management; and

WHEREAS, Lyle Jacobsen, in 1982, became the Assistant State Treasurer, serving under State Treasurer Robert O'Brien and State Treasurer Daniel Grimm and contributing significantly to the financial health of Washington state government; and

WHEREAS, Lyle Jacobsen served as a member and the vice-chairman of the Higher Education Coordinating Board from 1986 to 1993; and

WHEREAS, Lyle Jacobsen, in 1993, retired from state employment following over thirty years of service; and

WHEREAS, Lyle Jacobsen began a new career in government affairs, representing the interests of both the finance and the housing industries; and

WHEREAS, Members of the Senate will miss Lyle Jacobsen's "institutional memory" when he retires on March 12, 1998, from government affairs;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor Martin Lyle Jacobsen for his longstanding contribution to state government; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Governor of the state of Washington, to the State Treasurer, to the Director of the Office of Financial Management, to the Director of the Higher Education Coordinating Board, to the Director of the Department of Financial Institutions, to the Director of the Housing Finance Commission, to the Washington Savings League, and to Lyle Jacobsen and his wife, children, and grandchildren.

Senators Winsley, Prentice, Jacobsen, McCaslin, Thibaudeau, Loveland and Snyder spoke to Senate Resolution 1998-8726.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced Lyle Jacobsen, who was seated in the gallery.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Dr. James Moruzzi, a member of the Washington Medical Association, and registered nurses Diane Hettinger and Betsy Minnick from the legislative health clinic. The President also welcomed and thanked Winnie Cline who performs all administrative duties for the clinic. All were seated in the gallery.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1328, by House Committee on Finance (originally sponsored by Representatives Schoesler, Chandler, Sheahan, Mulliken, Bush, McMorris and Mastin) (by request of Department of Revenue)

Revising the business and occupation tax on the handling of hay, alfalfa, and seed.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Engrossed Second Substitute House Bill No. 1328 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute House Bill No. 1328.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1328 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 4; Absent, 2; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Franklin, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, West and Winsley - 36. Voting nay: Senators Brown, Fraser, Snyder and Spanel - 4. Absent: Senators Finkbeiner and Wojahn - 2. Excused: Senators Hargrove, Kline, Long, Patterson, Sellar, Wood and Zarelli - 7.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1328, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Goings, Senator Franklin was excused.

#### SECOND READING



SUBSTITUTE HOUSE BILL NO. 1447, by House Committee on Finance (originally sponsored by Representatives Robertson, L. Thomas, Clements, Kastama and Cooke)

Providing tax exemptions related to thoroughbred horses.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute House Bill No. 1447 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1447.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1447 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 3; Absent, 1; Excused, 8.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West and Winsley - 37. Voting nay: Senators Fairley, Fraser and Oke - 3. Absent: Senator Wojahn - 1. Excused: Senators Franklin, Hargrove, Kline, Long, Patterson, Sellar, Wood and Zarelli - 8. SUBSTITUTE HOUSE BILL NO. 1447, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2278, by Representatives Honeyford and Lisk

Exempting electric generating facilities powered by landfill gas from sales and use taxes.

The bill was read the second time.

#### MOTION

Senator Finkbeiner moved that the following amendments by Senators Finkbeiner, Brown, Hochstatter and Jacobsen be considered simultaneously and be adopted:

On page 1, line 13, after "generating" insert ":(a) For wind or sun facilities, not less than twenty watts of electricity; or (b) for landfill gas facilities."

On page 1, beginning on line 15, after "department" strike all material through "require" on line 17, and insert "~~((by rule, and the purchaser provides the department with a duplicate of the certificate or a summary of exempt sales as the department may require))~~"

On page 2, line 5, after "means" strike "industrial" and insert "~~((industrial))~~"

On page 2, beginning on line 18, after "wind" strike all material through "systems" on line 22, and insert "~~((or solar power if it provides any part of the process that captures the energy of the wind or sun, converts that energy to electricity, and transforms or transmits that electricity for entry into electric transmission and distribution systems))~~ or sun energy or landfill gas if it captures, converts, transforms, stores, or transmits wind or sun energy or landfill gas or the electricity created from wind or sun energy or landfill gas"

On page 2, beginning on line 29, after "power" strike all material through "state" on line 36, and insert "~~((, but only when the user provides the department with:~~

~~(a) An exemption certificate in a form and manner prescribed by the department within sixty days of the first use of such machinery and equipment in this state; or~~

~~(b) An annual summary listing the machinery and equipment by January 31st of the year following the calendar year in which the machinery and equipment is first used in this state))"~~

On page 3, beginning on line 1, after "**Sec. 3.**" strike all material through "immediately." on line 4, and insert "This act takes effect July 1, 1998."

Correct the title.

Debate ensued.

#### POINT OF ORDER

Senator West: "I rise to a point of order. It is with a great deal of reluctance that I challenge the scope and object on these amendments. Looking to the underlying bill, Mr. President, the title of the bill that's published is 'An Act relating to exempting electric generating facilities powered by landfill gas from sales and use taxes.' While, it is true, the amendments go to the same sections of law, it certainly wasn't the intent, I don't believe, in the original bill to amend this tax exemption in here--by looking at the title. So, I would challenge them on that basis."

Further debate ensued.

#### MOTION

On motion of Senator Johnson, further consideration of House Bill No. 2278 was deferred.

#### SECOND READING

HOUSE BILL NO. 2335, by Representatives B. Thomas, Mulliken, Thompson, Morris, Gardner, Linville, Backlund, Cooke, Carrell, Kastama, Schoesler, Van Luven, Dunn and Lambert (by request of Department of Revenue)

Consolidating business and occupation tax rates into fewer categories.

The bill was read the second time.

#### MOTION

Senator Thibaudeau moved that the following amendment by Senators Thibaudeau, Brown and Kohl be adopted:

On page 7, after line 3, insert the following:

**"NEW SECTION. Sec. 7.** A new section is added to chapter 82.04 RCW to read as follows:

Upon every person engaging within this state in the business of providing child care for periods of less than twenty-four hours; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.484 percent.

**Sec. 8.** RCW 82.04.290 and 1997 c 7 s 2 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of providing international investment management services, as to such persons, the amount of tax with respect to such business shall be equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2) Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, section 7 of this act, and 82.04.280, and subsection (1) of this section; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 1.5 percent.

This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section."

Renumber the remaining sections consecutively and correct any internal references accordingly.

#### POINT OF ORDER

Senator West: "Once again, reluctantly, I rise to a point of order. I challenge the scope and object of the amendment by Senators Thibaudeau, Brown and Kohl. While it a nice amendment--a good amendment actually--it doesn't fit in this bill. This bill is 'An Act relating to consolidating business and occupation tax rates into fewer categories.' The purpose and intent of the bill was to take the numerous categories for B&O taxes that we have in this state and reduce them down to five. While it is true, that several taxes appear to be lowered, it is simply a feature of changing the categories from the numerous ones down to five. This is adding a new tax exemption. Therefore, it is beyond the scope and object."

Further debate ensued.

MOTION

On motion of Senator Johnson, further debate on the amendment by Senators Thibaudeau, Brown and Kohl was deferred.

MOTION

Senator Tim Sheldon moved that the following amendment by Senators Hargrove, Tim Sheldon and Snyder be adopted:

On page 8, after line 31, insert the following:

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.04 RCW to read as follows:

In order to consolidate business and occupation taxes in distressed areas the legislature intends to adopt sections 11 and 12 of this act.

**NEW SECTION. Sec. 11.** A new section is added to chapter 82.04 RCW to read as follows:

(1) The definitions in this subsection apply to this section, sections 3 and 4 of this act, RCW 82.62.030, and sections 9 through 16 of this act, unless the context clearly requires otherwise.

(a) "Business" means the person applying for the tax deferral, credit, or exemption.

(b) "Construction" means the construction of a manufacturing operation complex and includes labor and services rendered in respect to construction. "Construction" ends when a project is completed as determined under subsection (2)(c) of this section.

(c) "Distressed county" means a county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent.

(d) "Employment position" means a position in which a permanent full-time employee is employed in a project during the entire tax year. "The entire tax year" means the full-time position is filled for a period of twelve consecutive months. "Full-time" means at least thirty-five hours a week.

(e) "Equipping and operating" means the acquisition of tangible personal property for use at the manufacturing operation complex, and includes labor and services rendered in respect to the installation of tangible personal property.

(f) "Finished product" means an article, substance, or commodity that is manufactured at and shipped from the manufacturing operation complex.

(g) "Manufacturing operation complex" means the buildings, structures, and improvements located at the site where the manufacturing activity occurs. The complex includes the buildings, structures, and improvements used to receive, store, and ship raw materials and finished products as well as buildings, structures, and improvements used for the manufacturing production line. In addition, the term includes all administrative offices, employee support facilities, and production support facilities located at the site. The manufacturing operation complex does not include buildings, structures, and improvements located off of the site.

(h) "Person" has the meaning given in RCW 82.04.030.

(i) "Project" means the site preparation, construction, and equipping and operating of a manufacturing operation complex.

(j) "Raw material" means the ingredients, components, substances, articles, or other tangible personal property that is received at the manufacturing operation complex for use as ingredients or components of the finished product.

(k) "Site" means a discrete geographical location.

(l) "Site preparation" means demolition of existing improvements, environmental remediation, earth moving, land clearing, site excavation, and shoring, and includes labor and services rendered in respect to site preparation.

(2) As a condition to receiving initial approval and as a condition of continuing eligibility, the following criteria must be met:

(a) The project must be located in a distressed county and must be owned and operated by a person who meets the definition of "manufacturer" as defined in RCW 82.04.110;

(b) The business must commit to an investment, by the time of completion of the project, in land, structures, and equipment, the value of which must be at least four percent of the total of the equalized assessed value in the county in which the project is located. The total equalized assessed value in the county is as published annually by the department in accordance with RCW 84.48.080. Continuing eligibility is conditioned on this investment having actually occurred;

(c)(i) The business must commit to and must create a minimum of twenty new employment positions at the project within two years of completion of the project.

(ii) The business must commit to and create one new employment position for each two million dollars invested in the project within two years of completion of the project. The twenty minimum positions in (c)(i) of this subsection are part of and not in addition to the positions required to meet the investment to job ratio.

(iii) The individuals in the new employment positions must be the employees of the business and must not have been relocated from other locations of the business within this state. Completion of the project is deemed to have occurred when the project is capable of operating and producing finished products. The department of community, trade, and economic development shall determine when the project is complete;

(d) The business must commit to and must pay an average wage of at least one hundred fifty percent of the average wage in the county. The employment security department shall determine the average wage in the county and shall report this amount to the department of community, trade, and economic development; and

(e) The business must remain operational for a fifteen-year period after the project is completed. "Operational" means that the level of employment at the manufacturing operation complex must not drop below the total employment positions required under (c) of this subsection.

(3)(a) The department of community, trade, and economic development shall determine the eligibility of a business and certify eligibility to the department of revenue. A component of the department's eligibility review must include a determination as to whether the project would have a major adverse impact on an existing in-state company that is engaged in manufacturing a similar product. If the department does find a major adverse impact would occur and that a competitive alternative location is not available in the northwest, then the project may be deemed ineligible for the purposes of sections 2 through 5 of this act, RCW 81.104.170(3), section 7 of this act, RCW 82.62.030(5), sections 9 through 19 of this act, RCW 82.14.370, and sections 21 through 23 of this act.

(b) Approval of the project by a public vote of the governing body of the county or city in which the project is located is a precondition to deferral certification by the department of revenue. If the county or city approves the project, the county or city shall send a written notification of the approval to the department of revenue. If the project is in two jurisdictions, both jurisdictions must approve the project.

(c) When both of the notices under (a) and (b) of this subsection are received, the department of revenue shall issue a sales and use tax deferral certificate for use under sections 3 and 4 of this act.

(4) In addition to the initial certification under subsection (3) of this section, the project must be reviewed by the department of community, trade, and economic development each year for continuing eligibility. The business shall provide an annual report to the department of community, trade, and economic development, in a form as required by the department, of its status relative to the eligibility criteria under subsection (2) of this section. The department of community, trade, and economic development shall review the annual report and determine whether the project continues to meet the eligibility criteria. The department of community, trade, and economic development shall provide a written notice of this determination to the business and to the department of revenue. Annual reapproval by the county or city in which the project is located is not required. If the project fails to meet the eligibility criteria the amount of taxes deferred under sections 3 and 4 of this act are immediately due.

(5) Taxes deferred under sections 3 and 4 of this act need not be repaid if the project maintains its eligibility criteria for a fifteen-year period. The fifteen-year period begins when the deferral certificate is sent under subsection (3)(c) of this section by the department of revenue to the business.

(6) Application for the deferral under sections 3 and 4 of this act may not be accepted before the effective date of this section or after June 30, 2003.

(7) The employment security department shall provide such data to the department of revenue and the department of community, trade, and economic development as is necessary to administer this section wage data shall be updated annually to reflect current state and county conditions.

**Sec. 12.** RCW 82.62.030 and 1997 c 366 s 5 are each amended to read as follows:

(1) A person shall be allowed a credit against the tax due under chapter 82.04 RCW as provided in this section. For an application approved before January 1, 1996, the credit shall equal one thousand dollars for each qualified employment position directly created in an eligible business project. For an application approved on or after January 1, 1996, the credit shall equal two thousand dollars for each qualified employment position directly created in an eligible business project. For an application approved on or after July 1, 1997, the credit shall equal four thousand dollars for each qualified employment position with wages and benefits greater than forty thousand dollars annually that is directly created in an eligible business. For an application approved on or after July 1, 1997, the credit shall equal two thousand dollars for each qualified employment position with wages and benefits less than or equal to forty thousand dollars annually that is directly created in an eligible business.

(2) The department shall keep a running total of all credits granted under this chapter during each fiscal year. The department shall not allow any credits which would cause the tabulation to exceed five million five hundred thousand dollars in fiscal year 1998 or 1999 or seven million five hundred thousand dollars in any fiscal year thereafter. If all or part of an application for credit is disallowed under this subsection, the disallowed portion shall be carried over for approval the next fiscal year. However, the applicant's carryover into the next fiscal year is only permitted if the tabulation for the next fiscal year does not exceed the cap for that fiscal year as of the date on which the department has disallowed the application.

(3) No recipient may use the tax credits to decertify a union or to displace existing jobs in any community in the state.

(4) No recipient may receive a tax credit on taxes which have not been paid during the taxable year.

(5) A business that has received certification from the department of revenue under section 11 of this act is eligible for an annual credit of four thousand dollars for each of the positions used to establish project eligibility. Positions created in excess of those required to maintain eligibility are also eligible for the credit under this subsection. The business may apply for the credit once the project is complete, as

determined in section 11 of this act. The business may apply each of the successive seven years following its initial application under this subsection and shall receive the credit if the continuing employment requirements of section 11 of this act are met. The credits granted under this subsection do not affect the caps under subsection (2) of this section and the fifteen percent requirement under RCW 82.62.010. Application for the credit under this subsection may not be accepted before the effective date of this section."

Renumber the sections consecutively and correct any internal references accordingly.

Make necessary title amendments

#### POINT OF ORDER

Senator West: "Mr. President, I rise to challenge the scope and object of this amendment. Again, this bill was simply consolidating business and occupation tax rates into fewer categories. While it appears on first glance that there is new language that would create new exemptions or new or different rates, in fact, that it is a transfer from one section to another--if one would look at the language that is struck out. This bill is not one of creating new tax categories or creating new exemptions or changing rates in this fashion. So, I would argue that it is beyond the scope and object."

Further debate ensued.

#### MOTION

On motion of Senator Johnson, further consideration of House Bill No. 2335 was deferred.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2933, by House Committee on Finance (originally sponsored by Representatives Radcliff, Cooper, Cooke, Morris, Doumit, Dyer, L. Thomas, Zellinsky, Grant and Thompson)

Prescribing the taxation of business warehousing and selling pharmaceutical drugs.

The bill was read the second time.

#### MOTION

On motion of Senator West, the following Committee on Ways and Means amendment was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Upon every person engaging within this state in the business of warehousing and reselling prescription drugs; as to such persons, the amount of the tax shall be equal to the gross income of the business multiplied by the rate of 0.138 percent.

(2) For the purposes of this section:

(a) "Prescription drug" has the same meaning as that term is given in RCW 82.08.0281; and

(b) "Warehousing and reselling prescription drugs" means the buying of prescription drugs from a manufacturer or another wholesaler, and reselling of the drugs to persons selling at retail or to hospitals, clinics, health care providers, or other providers of health care services, by a wholesaler or retailer who is registered with the federal drug enforcement administration and licensed by the state board of pharmacy.

**Sec. 2.** RCW 82.04.270 and 1994 c 124 s 2 are each amended to read as follows:

(1) Upon every person except persons taxable under (~~subsections (1) or (8) of~~) RCW 82.04.260 (1) or (8) or section 1 of this act engaging within this state in the business of making sales at wholesale; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of 0.484 percent.

(2) The tax imposed by this section is levied and shall be collected from every person engaged in the business of distributing in this state articles of tangible personal property, owned by them from their own warehouse or other central location in this state to two or more of their own retail stores or outlets, where no change of title or ownership occurs, the intent hereof being to impose a tax equal to the wholesaler's tax upon persons performing functions essentially comparable to those of a wholesaler, but not actually making sales. The tax designated in this section may not be assessed twice to the same person for the same article. The amount of the tax as to such persons shall be computed by multiplying 0.484 percent of the value of the article so distributed as of the time of such distribution. The department of revenue shall prescribe uniform and equitable rules for the purpose of ascertaining such value, which value shall correspond as nearly as possible to the gross proceeds from sales at wholesale in this state of similar articles of like quality and character, and in similar quantities by other taxpayers. Delivery trucks or vans will not under the purposes of this section be considered to be retail stores or outlets.

**Sec. 3.** RCW 82.04.280 and 1994 c 112 s 1 are each amended to read as follows:

Upon every person engaging within this state in the business of: (1) Printing, and of publishing newspapers, periodicals, or magazines; (2) building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (3) extracting for hire or processing for hire; (4) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (5) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of RCW 48.05.310; (6) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the Federal Communications Commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (7) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of 0.484 percent.

As used in this section, "cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

As used in this section, "storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW, public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini storage" facilities whereby customers have direct access to individual storage areas by separate entrance. "Storage warehouse" does not include a building or structure, or that part of such building or structure, in which an activity taxable under section 1 of this act is conducted.

As used in this section, "periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication.

**Sec. 4.** RCW 82.04.290 and 1997 c 7 s 2 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of providing international investment management services, as to such persons, the amount of tax with respect to such business shall be equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2) Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, ~~((and))~~ 82.04.280, and section 1 of this act, and subsection (1) of this section; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 1.5 percent.

This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

**Sec. 5.** RCW 82.04.250 and 1993 sp.s. c 25 s 103 are each amended to read as follows:

(1) Upon every person except persons taxable under RCW 82.04.260(8), section 1 of this act, or subsection (2) of this section engaging within this state in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

NEW SECTION. **Sec. 6.** This act takes effect July 1, 2001."

## MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, line 4 of the title, after "pharmacy;" strike the remainder of the title and insert "amending RCW 82.04.270, 82.04.280, 82.04.290, and 82.04.250; adding a new section to chapter 82.04 RCW; and providing an effective date."

On motion of Senator West, the rules were suspended, Engrossed Substitute House Bill No. 2933, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2933, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2933, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 2; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley and Wojahn - 41. Voting nay: Senators Fairley and Fraser - 2. Excused: Senators Hargrove, Long, Patterson, Sellar, Wood and Zarelli - 6. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2933, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2342, by House Committee on Finance (originally sponsored by Representatives Van Luven, McDonald, Regala, Talcott, Huff, Conway, Lantz, Fisher, Gardner, Anderson, Lambert and Boldt)

Providing tax exemptions for businesses in community empowerment zones that provide selected international services.

The bill was read the second time.

#### MOTION

Senator West moved that the following Committee on Ways and Means amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to attract and retain businesses that provide professional services and insurance services to international customers. To that end, the legislature finds that an incentive measured by a business's growth in jobs is a meaningful method of attracting and retaining such businesses. Therefore, the incentive in this act is specifically targeted at "net new jobs." In addition, to further the impact and benefit of this program, this incentive is limited to those urban areas of the state, both in eastern Washington and western Washington, that are characterized by unemployment and poverty. The legislature finds that providing this targeted incentive will be of benefit to the state as a whole.

**NEW SECTION. Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Subject to the limits in this section, an eligible person is allowed a credit against the tax due under this chapter. The credit is based on qualified employment positions in eligible areas. The credit is available to persons who are engaged in international services as defined in this section. In order to receive the credit, the international service activities must take place at a business within the eligible area.

(2)(a) The credit shall equal three thousand dollars for each qualified employment position created after the effective date of this act in an eligible area. A credit is earned for the calendar year the person is hired to fill the position, plus the four subsequent consecutive years, if the position is maintained for those four years. (b) Credit may not be taken for hiring of persons into positions that exist on the effective date of this act. Credit is authorized for new employees hired for new positions created after the effective date of this act. New positions filled by existing employees are eligible for the credit under this section only if the position vacated by the existing employee is filled by a new hire.

(c) When a position is newly created, if it is filled before July 1st, this position is eligible for the full yearly credit. If it is filled after June 30th, this position is eligible for half of the credit.

(d) Credit may be accrued and carried over until it is used. No refunds may be granted for credits under this section.

(3) For the purposes of this section:

(a) "Eligible area" means: (i) A community empowerment zone under RCW 43.63A.700; or (ii) a contiguous group of census tracts that meets the unemployment and poverty criteria of RCW 43.63A.710 and is designated under subsection (4) of this section;

(b) "Eligible person" means a person, as defined in RCW 82.04.030, who in an eligible area at a specific location is engaged in the business of providing international services;

(c)(i) "International services" means the provision of a service, as defined under (c)(iii) of this subsection, that is subject to tax under RCW 82.04.290(2), and either:

(A) Is for a person domiciled outside the United States; or

(B) The service itself is for use primarily outside of the United States.

(ii) "International services" excludes any service taxable under RCW 82.04.290(1).

(iii) Eligible services are: Computer; data processing; information; legal; accounting and tax preparation; engineering; architectural; business consulting; business management; public relations and advertising; surveying; geological consulting; real estate appraisal; or financial services. For the purposes of this section these services mean the following:

(A) "Computer services" are services such as computer programming, custom software modification, customization of canned software, custom software installation, custom software maintenance, custom software repair, training in the use of software, computer systems design, and custom software update services;

(B) "Data processing services" are services such as word processing, data entry, data retrieval, data search, information compilation, payroll processing, business accounts processing, data production, and other computerized data and information storage or manipulation. "Data processing services" also includes the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or by the purchaser or other beneficiary of the service;

(C) "Information services" are services such as electronic data retrieval or research that entails furnishing financial or legal information, data or research, internet service as defined in RCW 82.04.297, general or specialized news, or current information;

(D) "Legal services" are services such as representation by an attorney, or other person when permitted, in an administrative or legal proceeding, legal drafting, paralegal services, legal research services, and court reporting services, arbitration, and mediation services;

(E) "Accounting and tax preparation services" are services such as accounting, auditing, actuarial, bookkeeping, or tax preparation services;

(F) "Engineering services" are services such as civil, electrical, mechanical, petroleum, marine, nuclear, and design engineering, machine designing, machine tool designing, and sewage disposal system designing services;

(G) "Architectural services" are services such as structural or landscape design or architecture, interior design, building design, building program management, and space planning services;

(H) "Business consulting services" are services such as primarily providing operating counsel, advice, or assistance to the management or owner of any business, private, nonprofit, or public organization, including but not limited to those in the following areas: Administrative management consulting; general management consulting; human resource consulting or training; management engineering consulting; management information systems consulting; manufacturing management consulting; marketing consulting; operations research consulting; personnel management consulting; physical distribution consulting; site location consulting; economic consulting; motel, hotel, and resort consulting; restaurant consulting; government affairs consulting; and lobbying;

(I) "Business management services" are services such as administrative management, business management, and office management. "Business management services" does not include property management or property leasing, motel, hotel, and resort management, or automobile parking management;

(J) "Public relations and advertising services" are services such as layout, art direction, graphic design, copy writing, mechanical preparation, opinion research, marketing research, marketing, or production supervision;

(K) "Surveying services" are services such as land surveying;

(L) "Geological consulting services" are services rendered for the oil, gas, and mining industry and other earth resource industries, and other services such as soil testing;

(M) "Real estate appraisal services" are services such as market appraisal and other real estate valuation; and

(N) "Financial services" are services such as banking, loan, security, investment management, investment advisory, mortgage servicing, contract collection, and finance leasing services, engaged in by financial businesses, or businesses similar to or in competition with financial businesses; and

(d) "Qualified employment position" means a permanent full-time position to provide international services. If an employee is either voluntarily or involuntarily separated from employment, the employment position is considered filled on a full-time basis if the employer is either training or actively recruiting a replacement employee.

(4) By ordinance, the legislative authority of a city with population greater than eighty thousand, located in a county containing no community empowerment zones as designated under RCW 43.63A.700, may designate a contiguous group of census tracts within the city as an eligible area under this section. Each of the census tracts must meet the unemployment and poverty criteria of RCW 43.63A.710. Upon making the designation, the city shall transmit to the department of revenue a certification letter and a map, each explicitly describing the boundaries of the census tract. This designation must be made by December 31, 1998.

(5) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section. This information includes:

(a) Employment records for the previous six years;

(b) Information relating to description of international service activity engaged in at the eligible location by the person; and

(c) Information relating to customers of international service activity engaged in at that location by the person.



(6) If at any time the department finds that a person is not eligible for tax credit under this section, the amount of taxes for which a credit has been used shall be immediately due. The department shall assess interest, but not penalties, on the credited taxes for which the person is not eligible. The interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, shall be assessed retroactively to the date the tax credit was taken, and shall accrue until the taxes for which a credit has been used are repaid.

(7) The employment security department shall provide to the department of revenue such information needed by the department of revenue to verify eligibility under this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.14 RCW to read as follows:

(1) Subject to the limits in this section, an eligible person is allowed a credit against the tax due under RCW 48.14.020. The credit is based on qualified employment positions in eligible areas. The credit is available to persons who are engaged in international insurance services as defined in this section. In order to receive the credit, the international insurance services activities must take place at a business within the eligible area.

(2)(a) The credit shall equal three thousand dollars for each qualified employment position created after the effective date of this act in an eligible area. A credit is earned for the calendar year the person is hired to fill the position, plus the four subsequent consecutive years, if the position is maintained for those four years. (b) Credit may not be taken for hiring of persons into positions that exist on the effective date of this act. Credit is authorized for new employees hired for new positions created after the effective date of this act. New positions filled by existing employees are eligible for the credit under this section only if the position vacated by the existing employee is filled by a new hire.

(c) When a position is newly created, if it is filled before July 1st, this position is eligible for the full yearly credit. If it is filled after June 30th, this position is eligible for half of the credit.

(d) Credit may be accrued and carried over until it is used. No refunds may be granted for credits under this section.

(3) For the purposes of this section:

(a) "Eligible area" means: (i) A community empowerment zone under RCW 43.63A.700; or (ii) a contiguous group of census tracts that meets the unemployment and poverty criteria of RCW 43.63A.710 and is designated under subsection (4) of this section;

(b) "Eligible person" means a person, as defined in RCW 82.04.030, who in an eligible area at a specific location is engaged in the business of providing international insurance services;

(c) "International insurance services" means a business that provides insurance services related directly to the delivery of the service outside the United States or on behalf of persons residing outside the United States; and

(d) "Qualified employment position" means a permanent full-time position to provide international insurance services. If an employee is either voluntarily or involuntarily separated from employment, the employment position is considered filled on a full-time basis if the employer is either training or actively recruiting a replacement employee.

(4) By ordinance, the legislative authority of a city with population greater than eighty thousand, located in a county containing no community empowerment zones as designated under RCW 43.63A.700, may designate a contiguous group of census tracts within the city as an eligible area under this section. Each of the census tracts must meet the unemployment and poverty criteria of RCW 43.63A.710. Upon making the designation, the city shall transmit to the department of revenue a certification letter and a map, each explicitly describing the boundaries of the census tract. This designation must be made by December 31, 1998.

(5) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section. This information includes:

(a) Employment records for the previous six years;

(b) Information relating to description of international insurance services activity engaged in at the eligible location by the person; and

(c) Information relating to customers of international insurance services activity engaged in at that location by the person.

(6) If at any time the department finds that a person is not eligible for tax credit under this section, the amount of taxes for which a credit has been used shall be immediately due. The department shall assess interest, but not penalties, on the credited taxes for which the person is not eligible. The interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, shall be assessed retroactively to the date the tax credit was taken, and shall accrue until the taxes for which a credit has been used are repaid.

(7) The employment security department shall provide to the department of revenue such information needed by the department of revenue to verify eligibility under this section.

**NEW SECTION. Sec. 4.** This act takes effect July 1, 1998."

## MOTION

Senator Fraser moved that the following amendments by Senators Fraser, Loveland and Schow to the Committee on Ways and Means striking amendment be considered simultaneously and be adopted:

On page 4, line 23 of the amendment, after "city" insert ", or legislative authorities of contiguous cities by ordinance of each city's legislative authority,"

On page 4, line 26 of the amendment, after "city" insert "or cities"

On page 4, line 29 of the amendment, after "city" insert "or cities"

#### POINT OF INQUIRY

Senator West: "Senator Fraser, how many contiguous cities of eighty thousand population are there in this state?"

Senator Fraser: "I have not researched the specific question, but I believe in the Twenty-Second District, there is such a population aggregation of three cities and it might possibly occur in other areas of the state. I have not researched the specific question, but they would have to meet the same criteria for eligibility as the other cities would in terms of census tract statistics."

Senator West: "Thank you, Senator Fraser."

Further debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senators Fraser, Loveland and Schow on page 4, lines 23, 26, and 29, to the Committee on Ways and Means striking amendment to Engrossed Second Substitute House Bill No. 2342.

The motion by Senator Fraser carried and the amendments to the committee striking amendment were adopted.

The President declared the question before the Senate to be the adoption of the Committee on Ways and Means striking amendment, as amended, to Engrossed Second Substitute House Bill No. 2342.

The motion by Senator West carried and the Committee on Ways and Means striking amendment, as amended, was adopted.

#### MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, line 1 of the title, after "services;" strike the remainder of the title and insert "adding a new section to chapter 82.04 RCW; adding a new section to chapter 48.14 RCW; creating a new section; and providing an effective date."

On motion of Senator West, the rules were suspended, Engrossed Second Substitute House Bill No. 2342, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Hale, Senator Horn was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute House Bill No. 2342, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2342, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley and Wojahn - 42. Excused: Senators Hargrove, Horn, Long, Patterson, Sellar, Wood and Zarelli - 7. ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2342, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House grants the request of the Senate for a conference on SUBSTITUTE SENATE BILL NO. 6455. The Speaker has appointed the following members as conferees: Representatives Sehlin, Honeyford and Ogden.

EDITOR'S NOTE: A conference was granted on Second Engrossed Second Substitute House Bill No. 1354 on March 10, 1998, but no conferees were appointed at that time.

APPOINTMENT OF CONFERENCE COMMITTEE ON SECOND ENGROSSED SECOND SUBSTITUTE HOUSE  
BILL NO. 1354

The President appointed as members of the Conference Committee on Second Engrossed Second Substitute House Bill No. 1354 and the Senate amendments thereto: Senators Morton, Fraser and Prince.

MOTION

On motion of Senator Johnson, the conferees were confirmed.

There being no objection, the President advanced to the sixth order of business.

MOTION

On motion of Senator Hale, Senator Rossi was excused.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 3058, by House Committee on Appropriations (originally sponsored by Representatives Chandler and Linville)

Changing statutes for waste reduction, recycling, and litter control.

The bill was read the second time.

MOTION

On motion of Senator West, the rules were suspended, Second Substitute House Bill No. 3058 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

POINT OF INQUIRY

Senator Snyder: "Senator West, will this put more people along side of the roads picking up the trash like we have had in the past? You know, it started out that is where all the money went, originally, but it has drifted away from that and now we have less and less people. Will this put more people back--"

Senator West: "The purpose of the bill is to get more people on the roadways picking up litter. We tried to do a similar thing last year; we weren't successful. We think we have all the pieces in place now. In fact, some of this money will go back to counties for them to use jail inmates to go out and pick up litter and to pay for the expenses of doing that. So, I think you will see a lot more people out there doing the job that we originally intended this money for."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 3058.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3058 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 0; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Hochstatter, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 41. Voting nay: Senators Haugen, Heavey and Kline - 3. Excused: Senators Horn, Patterson, Rossi, Sellar and Wood - 5. SECOND SUBSTITUTE HOUSE BILL NO. 3058, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MOTION

On motion of Senator McCaslin, Senator Finkbeiner was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3109, by House Committee on Appropriations (originally sponsored by Representatives Huff, H. Sommers, Dyer and Carrell)

Verifying the income of subsidized enrollees of the state basic health plan.

The bill was read the second time.

MOTION

On motion of Senator West, the rules were suspended, Substitute House Bill No. 3109 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3109.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3109 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 43. Excused: Senators Finkbeiner, Horn, Patterson, Rossi, Sellar and Wood - 6. SUBSTITUTE HOUSE BILL NO. 3109, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

**REPORT OF CONFERENCE COMMITTEE**

**SHB 1126**

**March 10, 1998**

Includes "NEW ITEM": YES

Providing for 911 emergency communications funding

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SUBSTITUTE HOUSE BILL NO. 1126, 911 emergency funding, have had the same under consideration and we recommend that all previous proposed amendments not be adopted, and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

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

(1) The state enhanced 911 excise tax imposed at the current rate of twenty cents per switched access line per month generates adequate tax revenues to enhance the 911 telephone system for switched access lines state-wide by December 31, 1998, as mandated in RCW 38.52.510;

(2) The tax revenues generated from the state enhanced 911 excise tax when the tax rate decreases to a maximum of ten cents per switched access line on January 1, 1999, will not be adequate to fund the long-term operation and equipment replacement costs for the enhanced 911 telephone systems in the counties or multicounty regions that receive financial assistance from the state enhanced 911 office;

(3) Some counties or multicounty regions will need financial assistance from the state enhanced 911 office to implement and maintain enhanced 911 because the tax revenue generated from the county enhanced 911 excise tax is not adequate;

(4) Counties with populations of less than seventy-five thousand will need salary assistance to create multicounty regions and counties with populations of seventy-five thousand or more, if requested by smaller counties, will need technical assistance and incentives to provide multicounty services; and

(5) Counties should not request state financial assistance for implementation and maintenance of enhanced 911 for switched access lines unless the county has imposed the maximum enhanced 911 tax authorized in RCW 82.14B.030.

**Sec. 2.** RCW 82.14B.020 and 1994 c 96 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Emergency services communication system" means a multicounty, county-wide, or district-wide radio or landline communications network, including an enhanced 911 telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for police, fire, medical, or other emergency services.

(2) "Enhanced 911 telephone system" means a public telephone system consisting of a network, data base, and on-premises equipment that is accessed by dialing 911 and that enables reporting police, fire, medical, or other emergency situations to a public safety answering point. The system includes the capability to selectively route incoming 911 calls to the appropriate public safety answering point that operates in a defined 911 service area and the capability to automatically display the name, address, and telephone number of incoming 911 calls at the appropriate public safety answering point.

(3) "Switched access line" means the telephone service line which connects a subscriber's main telephone(s) or equivalent main telephone(s) to the local exchange company's switching office.

(4) "Local exchange company" has the meaning ascribed to it in RCW 80.04.010.

(5) "Radio access line" means the telephone number assigned to or used by ~~((an end-user))~~ a subscriber for two-way local wireless voice service available to the public for hire from a radio communications service company. Radio access lines include, but are not limited to, radio-telephone communications lines used in cellular telephone service, personal communications services, and network radio access lines, or their functional and competitive equivalent. Radio access lines do not include lines that provide access to one-way signaling service, such as paging service, or to communications channels suitable only for data transmission, or to nonlocal radio access line service, such as wireless roaming service, or to a private telecommunications system.

(6) "Radio communications service company" has the meaning ascribed to it in RCW 80.04.010.

(7) "Private telecommunications system" has the meaning ascribed to it in RCW 80.04.010.

(8) "Subscriber" means the retail purchaser of telephone service as telephone service is defined in RCW 82.04.065(3).

**Sec. 3.** RCW 82.14B.030 and 1994 c 96 s 3 are each amended to read as follows:

(1) The legislative authority of a county may impose a county enhanced 911 excise tax on the use of switched access lines in an amount not exceeding fifty cents per month for each switched access line. The amount of tax shall be uniform for each switched access line. Each county shall provide notice of such tax to all local exchange companies serving in the county at least sixty days in advance of the date on which the first payment is due.

(2) The legislative authority of a county may also impose a county 911 excise tax on the use of radio access lines located within the county in an amount not exceeding twenty-five cents per month for each radio access line. The amount of tax shall be uniform for each radio access line. The county shall provide notice of such tax to all radio communications service companies serving in the county at least sixty days in advance of the date on which the first payment is due. Any county imposing this tax shall include in its ordinance a refund mechanism whereby the amount of any tax ordered to be refunded by the judgment of a court of record, or as a result of the resolution of any appeal therefrom, shall be refunded to the radio communications service company or local exchange company that collected the tax, and those companies shall reimburse the ~~((users))~~ subscribers who paid the tax. The ordinance shall further provide that to the extent the ~~((users))~~ subscribers who paid the tax cannot be identified or located, the tax paid by those ~~((users))~~ subscribers shall be returned to the county.

(3) ~~((Beginning January 1, 1992,))~~ A state enhanced 911 excise tax is imposed on all switched access lines in the state. ~~((For 1992, the tax shall be set at a rate of twenty cents per month for each switched access line. Until December 31, 1998,))~~ The amount of tax shall not exceed twenty cents per month for each switched access line ((and thereafter shall not exceed ten cents per month for each switched access line)). The tax shall be uniform for each switched access line. The tax imposed under this subsection shall be remitted to the department of revenue by local exchange companies on a tax return provided by the department. Tax proceeds shall be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540.

(4) By August 31st of each year the state enhanced 911 coordinator shall recommend the level for the next year of the state enhanced 911 excise tax, based on a systematic cost and revenue analysis, to the utilities and transportation commission. The commission shall by the following October 31st determine the level of the state enhanced 911 excise tax for the following year.

**Sec. 4.** RCW 82.14B.040 and 1994 c 96 s 4 are each amended to read as follows:

The state enhanced 911 tax and the county enhanced 911 tax on switched access lines shall be collected from the ~~((user))~~ subscriber by the local exchange company providing the switched access line. The county 911 tax on radio access lines shall be collected from the ~~((end-user))~~ subscriber by the radio communications service company providing the radio access line to the ~~((end-user))~~ subscriber. The amount of the tax shall be stated separately on the billing statement which is sent to the ~~((user))~~ subscriber.

**Sec. 5.** RCW 82.14B.060 and 1981 c 160 s 6 are each amended to read as follows:

A county legislative authority imposing a tax under this chapter shall establish by ordinance all necessary and appropriate procedures for the administration and collection of the tax, which ordinance shall provide for reimbursement to the telephone companies for actual costs of administration and collection of the tax imposed. The ordinance shall also provide that the due date for remittance of the tax collected shall be ~~((thirty days following the collection month))~~ on or before the last day of the month following the month in which the tax liability accrues.

**NEW SECTION. Sec. 6.** A new section is added to chapter 82.14B RCW to read as follows:

(1) The department of revenue shall administer and shall adopt such rules as may be necessary to enforce and administer the state enhanced 911 excise tax imposed by this chapter. Chapter 82.32 RCW, with the exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies to the administration, collection, and enforcement of the state enhanced 911 excise tax.

(2) The state enhanced 911 excise tax imposed by this chapter, along with reports and returns on forms prescribed by the department, are due monthly on or before the last day of the month following the month in which the tax liability accrues.

(3) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(4) The state enhanced 911 excise tax imposed by this chapter is in addition to any taxes imposed upon the same persons under chapters 82.08 and 82.12 RCW.

**NEW SECTION. Sec. 7.** A new section is added to chapter 82.14B RCW to read as follows:

(1) A local exchange company or radio communications service company shall file tax returns on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the company. A local exchange company or radio communications service company filing returns on a cash receipts basis is not required to pay tax on debts that are deductible as worthless for federal income tax purposes.

(2) A local exchange company or radio communications service company is entitled to a credit or refund for state enhanced 911 excise taxes previously paid on debts that are deductible as worthless for federal income tax purposes.

**NEW SECTION. Sec. 8.** A new section is added to chapter 82.14B RCW to read as follows:

The taxes imposed by this chapter do not apply to any activity that the state or county is prohibited from taxing under the constitution of this state or the constitution or laws of the United States.

**NEW SECTION. Sec. 9.** A new section is added to chapter 82.14B RCW to read as follows:

(1) The state enhanced 911 excise tax imposed by this chapter must be paid by the subscriber to the local exchange company providing the switched access line, and each local exchange company shall collect from the subscriber the full amount of the tax payable. The state enhanced 911 excise tax required by this chapter to be collected by the local exchange company is deemed to be held in trust by the local exchange company until paid to the department. Any local exchange company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any local exchange company fails to collect the state enhanced 911 excise tax or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the local exchange company is personally liable to the state for the amount of the tax, unless the local exchange company has taken from the buyer in good faith a properly executed resale certificate under section 10 of this act.

(3) The amount of tax, until paid by the subscriber to the local exchange company or to the department, constitutes a debt from the subscriber to the local exchange company. Any local exchange company that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The state enhanced 911 excise tax required by this chapter to be collected by the local exchange company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the local exchange company the state enhanced 911 excise tax imposed by this chapter and the local exchange company has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the subscriber to pay the tax to the local exchange company, regardless of when the tax is collected by the department. For the sole purpose of applying the various provisions of chapter 82.32 RCW, the last day of the month following the tax period in which the tax liability accrued is to be considered as the due date of the tax.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.14B RCW to read as follows:

(1) Unless a local exchange company has taken from the buyer a resale certificate or equivalent document under RCW 82.04.470, the burden of proving that a sale of the use of a switched access lines was not a sale to a subscriber is upon the person who made the sale.

(2) If a local exchange company does not receive a resale certificate at the time of the sale, have a resale certificate on file at the time of the sale, or obtain a resale certificate from the buyer within a reasonable time after the sale, the local exchange company remains liable for the

tax as provided in section 9 of this act, unless the local exchange company can demonstrate facts and circumstances according to rules adopted by the department of revenue that show the sale was properly made without payment of the state enhanced 911 excise tax.

(3) The penalty imposed by RCW 82.32.291 may not be assessed on state enhanced 911 excise taxes due but not paid as a result of the improper use of a resale certificate. This subsection does not prohibit or restrict the application of other penalties authorized by law.

**NEW SECTION. Sec. 11.** A new section is added to chapter 82.14B RCW to read as follows:

(1) Upon termination, dissolution, or abandonment of a corporate or limited liability company business, any officer, member, manager, or other person having control or supervision of state enhanced 911 excise tax funds collected and held in trust under section 9 of this act, or who is charged with the responsibility for the filing of returns or the payment of state enhanced 911 excise tax funds collected and held in trust under section 9 of this act, is personally liable for any unpaid taxes and interest and penalties on those taxes, if such officer or other person willfully fails to pay or to cause to be paid any state enhanced 911 excise taxes due from the corporation under this chapter. For the purposes of this section, any state enhanced 911 excise taxes that have been paid but not collected are deductible from the state enhanced 911 excise taxes collected but not paid. For purposes of this subsection "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(2) The officer, member, manager, or other person is liable only for taxes collected that became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation described in subsection (1) of this section, plus interest and penalties on those taxes.

(3) Persons liable under subsection (1) of this section are exempt from liability if nonpayment of the state enhanced 911 excise tax funds held in trust is due to reasons beyond their control as determined by the department by rule.

(4) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160 through 82.32.200.

(5) This section applies only if the department has determined that there is no reasonable means of collecting the state enhanced 911 excise tax funds held in trust directly from the corporation.

(6) This section does not relieve the corporation or limited liability company of other tax liabilities or otherwise impair other tax collection remedies afforded by law.

(7) Collection authority and procedures prescribed in chapter 82.32 RCW apply to collections under this section.

**Sec. 12.** RCW 82.32.010 and 1984 c 204 s 26 are each amended to read as follows:

The provisions of this chapter shall apply with respect to the taxes imposed under chapters 82.04 through 82.14 RCW, under RCW 82.14B.030(3), under chapters 82.16 through 82.29A RCW of this title, under chapter 84.33 RCW, and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter, or section.

**Sec. 13.** RCW 82.32.105 and 1996 c 149 s 17 are each amended to read as follows:

(1) If the department of revenue finds that the payment by a taxpayer of a tax less than that properly due or the failure of a taxpayer to pay any tax by the due date was the result of circumstances beyond the control of the taxpayer, the department of revenue shall waive or cancel any penalties imposed under this chapter with respect to such tax.

(2) The department shall waive or cancel the penalty imposed under RCW 82.32.090(1) when the circumstances under which the delinquency occurred do not qualify for waiver or cancellation under subsection (1) of this section if:

(a) The taxpayer requests the waiver for a tax return required to be filed under RCW 82.32.045, section 6 of this act, 82.23B.020, 82.27.060, 82.29A.050, or 84.33.086; and

(b) The taxpayer has timely filed and remitted payment on all tax returns due for that tax program for a period of twenty-four months immediately preceding the period covered by the return for which the waiver is being requested.

(3) The department shall waive or cancel interest imposed under this chapter if:

(a) The failure to timely pay the tax was the direct result of written instructions given the taxpayer by the department; or

(b) The extension of a due date for payment of an assessment of deficiency was not at the request of the taxpayer and was for the sole convenience of the department.

(4) The department of revenue shall adopt rules for the waiver or cancellation of penalties and interest imposed by this chapter.

**Sec. 14.** RCW 38.52.540 and 1994 c 96 s 7 are each amended to read as follows:

The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise tax imposed by RCW 82.14B.030 shall be deposited into the account. Moneys in the account shall be used only to help implement and operate enhanced 911 state-wide ~~(, and to conduct a study of the tax base and rate for the 911 excise tax)~~. Moneys in the account may be used to provide salary assistance on a temporary basis not to exceed three years to counties with a population of less than seventy-five thousand that need additional resources to cover unfunded costs that can be shown to result from handling 911 calls. Moneys in the account may be used to assist multicounty regions, including ongoing salary assistance for multicounty regions consisting of counties with populations of less than seventy-five thousand. However, funds shall not be distributed to any county that has not imposed the maximum county enhanced 911 taxes allowed under RCW 82.14B.030 (1) and (2). The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, shall specify by rule the purposes for which moneys may be expended from this account.

NEW SECTION. Sec. 15. This act takes effect January 1, 1999, except section 14 of this act which takes effect July 1, 1998."

On page 1, line 3 of the title, after "funding;" strike the remainder of the title and insert "amending RCW 82.14B.020, 82.14B.030, 82.14B.040, 82.14B.060, 82.32.010, 82.32.105, and 38.52.540; adding new sections to chapter 82.14B RCW; creating a new section; prescribing penalties; and providing effective dates.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators West, Snyder, Strannigan; Representatives Mastin, D. Schmidt.

#### MOTION

On motion of Senator Johnson, the Report of the Conference Committee on Substitute House Bill No. 1126 was adopted.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1126, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1126, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 45. Excused: Senators Horn, Patterson, Sellar and Wood - 4. SUBSTITUTE HOUSE BILL NO. 1126, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### REPORT OF CONFERENCE COMMITTEE

**ESHB 2439**

**March 10, 1998**

Includes "NEW ITEM": YES

Providing for traffic safety education

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439, traffic safety education, have had the same under consideration and we recommend that the Senate Transportation Committee striking amendment, as amended, adopted March 5, 1998, be adopted with the following change:

On page 4, line 3 of the striking amendment, after "act" insert: "during the 1997-1999 fiscal biennium. Appropriations from the regulatory account may only be made for the initial costs of establishing the bicycle and pedestrian safety programs established under section 3 of this act. To the extent that private contributions are received by the traffic safety commission for the purposes of bicycle and pedestrian safety programs established under section 3 of this act, the appropriations from the insurance commissioner's regulatory account for this purpose shall lapse.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Benton, Prince; Representatives D. Sommers, Mitchell.

#### MOTION

On motion of Senator Prince, the Report of the Conference Committee on Engrossed Substitute House Bill No. 2439 was adopted.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2439, as recommended by the Conference Committee.

#### ROLL CALL



The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2439, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Patterson and Sellar - 2. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## REPORT OF CONFERENCE COMMITTEE

SHB 2077

March 10, 1998

Includes "NEW ITEM": YES

Providing uniform exemptions to competitive bidding procedures

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SUBSTITUTE HOUSE BILL NO. 2077, competitive bidding, have had the same under consideration and we recommend that all previous amendments not be adopted, and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 39.04 RCW to read as follows:

This section provides uniform exemptions to competitive bidding requirements utilized by municipalities when awarding contracts for public works and contracts for purchases. The statutes governing a specific type of municipality may also include other exemptions from competitive bidding requirements. The purpose of this section is to supplement and not to limit the current powers of any municipality to provide exemptions from competitive bidding requirements.

(1) Competitive bidding requirements may be waived by the governing body of the municipality for:

- (a) Purchases that are clearly and legitimately limited to a single source of supply;
- (b) Purchases involving special facilities or market conditions;
- (c) Purchases in the event of an emergency;
- (d) Purchases of insurance or bonds; and
- (e) Public works in the event of an emergency.

(2)(a) The waiver of competitive bidding requirements under subsection (1) of this section may be by resolution or by the terms of written policies adopted by the municipality, at the option of the governing body of the municipality. If the governing body elects to waive competitive bidding requirements by the terms of written policies adopted by the municipality, immediately after the award of any contract, the contract and the factual basis for the exception must be recorded and open to public inspection.

If a resolution is adopted by a governing body to waive competitive bidding requirements under (b) of this subsection, the resolution must recite the factual basis for the exception. This subsection (2)(a) does not apply in the event of an emergency.

(b) If an emergency exists, the person or persons designated by the governing body of the municipality to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the municipality to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the governing body or its designee and duly entered of record no later than two weeks following the award of the contract.

(3) For purposes of this section "emergency" means unforeseen circumstances beyond the control of the municipality that either: (a) Present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

Sec. 2. RCW 35.22.620 and 1993 c 198 s 9 are each amended to read as follows:

- (1) As used in this section, the term "public works" means as defined in RCW 39.04.010.
- (2) A first class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works

construction budget, over the budget period. The amount of public works that a first class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population in excess of one hundred fifty thousand shall not have public employees perform a public works project in excess of fifty thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of twenty-five thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population of one hundred fifty thousand or less shall not have public employees perform a public works project in excess of thirty-five thousand dollars if more than one craft or trade is involved with the public works project, or a public works project in excess of twenty thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and record-keeping requirements contained in RCW 39.04.070, every first class city annually shall prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report shall indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

After September 1, 1987, each first class city with a population of one hundred fifty thousand or less shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) ~~((When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the city council shall adopt a resolution certifying the existence of this emergency situation.))~~ The competitive bidding requirements of this section may be waived by the city legislative authority pursuant to section 1 of this act if an exemption contained within that section applies to the work or contract.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first class city may use ((a)) the small works roster process ((and)) in RCW 39.04.155 to award contracts for public works projects with an estimated value of one hundred thousand dollars or less ((as provided in RCW 39.04.155)).

Whenever possible, the city shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

**Sec. 3.** RCW 35.23.352 and 1996 c 18 s 2 are each amended to read as follows:

(1) Any second class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means

a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second class city or a town may use the small works roster process provided in RCW 39.04.155 to award public works contracts with an estimated value of one hundred thousand dollars or less.

Whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(4) The form required by RCW 43.09.205 shall be to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, or equipment, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and formal sealed bidding to be dispensed with as to purchases ~~((between seven thousand five hundred and))~~ with an estimated value of fifteen thousand dollars or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

(9) ~~((These requirements for purchasing may be waived by resolution of the city or town council or commission which declared that the purchase is clearly and legitimately limited to a single source or supply within the near vicinity, or the materials, supplies, equipment, or services are subject to special market conditions, and recites why this situation exists. Such actions are subject to RCW 39.30.020.))~~ The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

(10) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(11) Nothing in this section shall prohibit any second class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

**Sec. 4.** RCW 36.32.270 and 1963 c 4 s 36.32.270 are each amended to read as follows:

~~((In the event of an emergency when the public interest or property of the county would suffer material injury or damage by delay, upon resolution of the board of county commissioners declaring the existence of such emergency and reciting the facts constituting the same, the board))~~ The county legislative authority may waive the competitive bidding requirements of this chapter ((with reference to any)) pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or ((contract)) public work.

**Sec. 5.** RCW 52.14.110 and 1993 c 198 s 11 are each amended to read as follows:

Insofar as practicable, purchases and any public works by the district shall be based on competitive bids. A formal sealed bid procedure shall be used as standard procedure for purchases and contracts for purchases executed by the board of commissioners. Formal sealed bidding shall not be required for:

(1) ~~((Emergency purchases if the sealed bidding procedure would prevent or hinder the emergency from being addressed appropriately. The term emergency means an occurrence that creates an immediate threat to life or property;~~

(2)) The purchase of any materials, supplies, or equipment if the cost will not exceed the sum of four thousand five hundred dollars. However, whenever the estimated cost ~~((is from four thousand five hundred dollars up to))~~ does not exceed ten thousand dollars, the commissioners may by resolution use the process provided in RCW 39.04.190 to award contracts;

~~((3))~~ (2) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of two thousand five hundred dollars, which includes the costs of labor, material, and equipment. However, whenever the estimated cost ~~((is from two thousand five hundred dollars up to))~~ does not exceed ten thousand dollars, the commissioner may by resolution use the small works roster process provided in RCW 39.04.155; and

~~((4) Purchases which are clearly and legitimately limited to a single source of supply, or services, in which instances the purchase price may be best established by direct negotiation: PROVIDED, That this subsection shall not apply to purchases or contracts relating to public works as defined in chapter 39.04 RCW; and~~

~~(5) Purchases of insurance and bonds.)~~ (3) Any contract for purchases or public work pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

**Sec. 6.** RCW 53.08.120 and 1993 c 198 s 13 are each amended to read as follows:

All material required by a port district may be procured in the open market or by contract and all work ordered may be done by contract or day labor. All such contracts for work, the estimated cost of which exceeds one hundred thousand dollars, shall be let at public bidding upon notice published in a newspaper of general circulation in the district at least thirteen days before the last date upon which bids will be received, calling for sealed bids upon the work, plans and specifications for which shall then be on file in the office of the commission for public inspection. The same notice may call for bids on such work or material based upon plans and specifications submitted by the bidder. The competitive bidding requirements for purchases or public works may be waived pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

Each port district shall maintain a small works roster, as provided in RCW 39.04.155, and may use the small works roster process to award contracts in lieu of calling for sealed bids whenever work is done by contract, the estimated cost of which is one hundred thousand dollars or less. Whenever possible, the managing official shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section.

When awarding such a contract for work, when utilizing proposals from the small works roster, the managing official shall give weight to the contractor submitting the lowest and best proposal, and whenever it would not violate the public interest, such contracts shall be distributed equally among contractors, including minority contractors, on the small works roster.

**Sec. 7.** RCW 54.04.070 and 1993 c 198 s 14 are each amended to read as follows:

Any item, or items of the same kind of materials, equipment, or supplies purchased, the estimated cost of which is in excess of five thousand dollars, exclusive of sales tax shall be by contract: PROVIDED, That a district may make purchases of the same kind of items of materials, equipment and supplies not exceeding five thousand dollars in any calendar month without a contract, purchasing any excess thereof over five thousand dollars by contract. Any work ordered by a district commission, the estimated cost of which is in excess of ten thousand dollars exclusive of sales tax, shall be by contract, except that a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. Prudent utility management means performing work with regularly employed personnel utilizing material of a worth not exceeding fifty thousand dollars in value without a contract: PROVIDED, That such limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment purchased or acquired and used as one unit of a project. Before awarding such a contract, the commission shall publish a notice once or more in a newspaper of general circulation in the district at least thirteen days before the last date upon which bids will be received, inviting sealed proposals for the work or materials; plans and specifications of which shall at the time of the publication be on file at the office of the district subject to public inspection. Any published notice ordering work to be performed for the district shall be mailed at the time of publication to any established trade association which files a written request with the district to receive such notices. The commission may at the same time and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by the bidders.

Notwithstanding any other provisions herein, all contract projects, the estimated cost of which is less than one hundred thousand dollars, may be awarded to a contractor using the small works roster process provided in RCW 39.04.155. All contract projects equal to or in excess of one hundred thousand dollars shall be let by competitive bidding.

Whenever equipment or materials required by a district are held by a governmental agency and are available for sale but such agency is unwilling to submit a proposal, the commission may ascertain the price of such items and file a statement of such price supported by the sworn affidavit of one member of the commission and may consider such price as a bid without a deposit or bond. ~~((In the event of an emergency when~~

~~the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the commission, or proclamation of an official designated by the board to act for the board during such emergencies, declaring the existence of such emergency and reciting the facts constituting the same, the board, or the official acting for the board, may waive the requirements of this chapter with reference to any purchase or contract, after having taken precautions to secure the lowest price practicable under the circumstances.~~

~~After determination by the commission during a public meeting that a particular purchase is available clearly and legitimately only from a single source of supply, the bidding requirements of this section may be waived by the commission.)~~

The commission may waive the competitive bidding requirements of this section pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

**Sec. 8.** RCW 57.08.050 and 1997 c 245 s 4 are each amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of five thousand dollars shall be let by contract. All contract projects, the estimated cost of which is less than fifty thousand dollars, may be awarded to a contractor using the small works roster process provided in RCW 39.04.155. The board of commissioners may set up uniform procedures to prequalify contractors for inclusion on the small works roster. All contract projects equal to or in excess of fifty thousand dollars shall be let by competitive bidding. Before awarding any such contract the board of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. ~~((However, no contract shall be let in excess of the cost of the materials or work.))~~ The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ten days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of ten thousand dollars, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of ~~((from five thousand dollars to))~~ less than fifty thousand dollars shall be made using the process provided in RCW ~~((39.04.155 or by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section))~~ 39.04.190. Any purchase of materials, supplies, or equipment with an estimated cost of fifty thousand dollars or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(3) ~~((In the event of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board of commissioners, or proclamation of an official designated by the board to act for the board during such emergencies, declaring the existence of such emergency and reciting the facts constituting the same, the board or official acting for the board may waive the requirements of this chapter with reference to any purchase or contract. In addition, these requirements may be waived for purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.))~~ The board may waive the competitive bidding requirements of this section pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

**Sec. 9.** RCW 70.44.140 and 1996 c 18 s 15 are each amended to read as follows:

(1) All materials purchased and work ordered, the estimated cost of which is in excess of five thousand dollars, shall be by contract. Before awarding any such contract, the commission shall publish a notice at least thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work. The plans and specifications must at the time of the publication of such notice be on file at the office of the public hospital district, subject to public inspection: PROVIDED, HOWEVER, That the commission may at the same time, and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by bidders. The notice shall state

generally the work to be done, and shall call for proposals for doing the same, to be sealed and filed with the commission on or before the day and hour named therein. Each bid shall be accompanied by bid proposal security in the form of a certified check, cashier's check, postal money order, or surety bond made payable to the order of the commission, for a sum not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal security. At the time and place named, such bids shall be publicly opened and read, and the commission shall proceed to canvass the bids, and may let such contract to the lowest responsible bidder upon plans and specifications on file, or to the best bidder submitting his or her own plans and specifications: PROVIDED, HOWEVER, That no contract shall be let in excess of the estimated cost of the materials or work, or if, in the opinion of the commission, all bids are unsatisfactory, they may reject all of them and readvertise, and in such case all bid proposal security shall be returned to the bidders(~~(; but if such)~~). If the contract ((be) is let, then ((and in such case)) all bid proposal security shall be returned to the bidders, except that of the successful bidder, which ((shall be) is retained until a contract shall be entered into for the purchase of such materials for doing such work, and a bond to perform such work furnished, with sureties satisfactory to the commission, in an amount to be fixed by the commission, not less than twenty-five percent of contract price in any case, between the bidder and commission, in accordance with the bid. If such bidder fails to enter into the contract in accordance with the bid and furnish such bond within ten days from the date at which the bidder is notified that he or she is the successful bidder, the bid proposal security and the amount thereof shall be forfeited to the public hospital district. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) In lieu of the procedures of subsection (1) of this section, a public hospital district may use ((a) the small works roster process provided in RCW 39.04.155 and award public works contracts for projects ((in excess of five thousand dollars up to) with an estimated value in excess of fifty thousand dollars ((as provided in RCW 39.04.155)).

(3) ~~((For advertisement and formal sealed bidding to be dispensed with as to))~~ Any purchases ((between five thousand and)) with an estimated cost of up to fifteen thousand dollars((; the commission must authorize by resolution a procedure as)) may be made using the process provided in RCW 39.04.190.

(4) The commission may waive the competitive bidding requirements of this section pursuant to section 1 of this act if an exemption contained within that section applies to the purchase or public work.

NEW SECTION. Sec. 10. A new section is added to chapter 36.34 RCW to read as follows:

In accordance with RCW 35.42.010 through 35.42.220, a county with a population of one million or more may lease space and provide for the leasing of such space through leases with an option to purchase and the acquisition of buildings erected upon land owned by the county upon the expiration of lease of such land. For the purposes of this section, "building," as defined in RCW 35.42.020 shall be construed to include any building or buildings used as part of, or in connection with, the operation of the county. The authority conferred by this section is in addition to and not in lieu of any other provision authorizing counties to lease property.

**Sec. 11.** RCW 39.04.150 and 1994 c 264 s 12 and 1994 c 243 s 2 are each reenacted and amended to read as follows:

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

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

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

(4) Construction, repair, or alteration projects estimated to cost less than one hundred thousand dollars are exempt from the requirement that the contracts be awarded after advertisement and competitive bid as defined by RCW 39.04.010. In lieu of advertisement and competitive bid, ~~((the agency shall solicit at least five quotations, confirmed in writing, from contractors chosen from the small works roster for the category of job type involved and shall award the work to the party with the lowest quotation or reject all quotations. If the agency does not receive at least two responsive quotations for a particular project, then the project shall be advertised and competitively bid. The agency shall solicit quotations from contractors selected randomly from the small works roster in a manner which will equitably distribute the opportunity for these contracts among contractors on the roster. The agency shall invite at least one proposal each from a certified minority and a certified women-owned contractor who shall otherwise qualify to perform such work. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone request. If the work is executed by competitive bid, the agency shall invite at least one proposal each from a certified minority and a certified women-owned contractor who shall otherwise qualify to perform such work))~~ each agency alone or in concert shall establish a procedure for securing telephone, electronic, or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsive and responsible bidder. This procedure shall require either that the agency make a good faith effort to request quotations from all contractors on the small works roster who have indicated the capability of performing the kind of public works being contracted or that the agency solicit quotations from at least five contractors in a manner that will equitably distribute the opportunity among contractors willing to perform in the geographic area of the work. The agency shall invite at least one proposal from a certified minority or women-owned contractor, if available, who is otherwise qualified

to perform such work. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

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

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

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

**Sec. 12.** RCW 39.04.155 and 1993 c 198 s 1 are each amended to read as follows:

(1) This section provides a uniform process to award contracts for public works projects by those municipalities that are authorized to use a small works roster in lieu of the requirements for formal sealed bidding. The state statutes governing a specific type of municipality shall establish the maximum dollar thresholds of the contracts that can be awarded under this process, and may include other matters concerning the small works roster process, for the municipality.

(2) Such municipalities may create a single general small works roster, or may create a small works roster for different categories of anticipated work. The small works roster or rosters shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. At least twice a year, the municipality shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters.

The governing body of the municipality shall establish a procedure for securing telephone or written quotations from the contractors on the general small works roster, or a specific small works roster for the appropriate category of work, to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 43.19.1911. Such invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This section does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes. Whenever possible at least five contractors shall be invited to submit bids. Once a contractor has been afforded an opportunity to submit a proposal, that contractor shall not be offered another opportunity until all other appropriate contractors on the small works roster have been afforded an opportunity to submit a proposal on a contract. Proposals may be invited from all appropriate contractors on the small works roster.

A contract awarded from a small works roster under this section need not be advertised.

Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry."

On page 1, line 1 of the title, after "bidding;" strike the remainder of the title and insert "amending RCW 35.22.620, 35.23.352, 36.32.270, 52.14.110, 53.08.120, 54.04.070, 57.08.050, 70.44.140, and 39.04.155; reenacting and amending RCW 39.04.150; adding a new section to chapter 39.04 RCW; and adding a new section to chapter 36.34 RCW.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Hale, Patterson, Horn; Representatives D. Schmidt, Wensman, Wolfe.

#### MOTION

On motion of Senator Horn, the Report of the Conference Committee on Substitute House Bill No. 2077 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2077, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2077, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senator Fairley - 1. Absent: Senator Bauer - 1. Excused: Senators Patterson and Sellar - 2. SUBSTITUTE HOUSE BILL NO. 2077, as recommended by the

Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Hale, Senator Swecker was excused.

#### MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6187 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.311 and 1997 c 58 s 807 are each amended to read as follows:

(1)(a) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as specifically permitted under RCW 46.20.342 or other provision of law. Except for a suspension under RCW 46.20.289, 46.20.291(5), or 74.20A.320, whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified. Whenever the license or driving privilege of any person is suspended as a result of certification of noncompliance with a child support order under chapter 74.20A RCW or a residential or visitation order, the suspension shall remain in effect until the person provides a release issued by the department of social and health services stating that the person is in compliance with the order.

(b)(i) The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of twenty dollars.

(ii) If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, or is the result of administrative action under RCW 46.20.308, the reissue fee shall be one hundred fifty dollars.

(2)(a) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: ((a)) (i) After the expiration of one year from the date the license or privilege to drive was revoked; ((b)) (ii) after the expiration of the applicable revocation period provided by RCW 46.20.3101 or 46.61.5055; ((c)) (iii) after the expiration of two years for persons convicted of vehicular homicide; or ((d)) (iv) after the expiration of the applicable revocation period provided by RCW 46.20.265.

(b)(i) After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of twenty dollars(~~(-but)~~).

(ii) If the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one hundred fifty dollars. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reissuance of a license, permit, or privilege to drive until enrollment and participation in an approved program has been established and the person is otherwise qualified.

(c) Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3)(a) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of twenty dollars.

(b) If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving ((a)) (i) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or ((b)) (ii) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be one hundred fifty dollars.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.68 RCW to read as follows:

The impaired driving safety account is created in the custody of the state treasurer. All receipts from fees collected under RCW 46.20.311 (1)(b)(ii), (2)(b)(ii), and (3)(b) shall be deposited according to RCW 46.68.041. Expenditures from this account may be used only to



fund projects to reduce impaired driving and to provide funding to local governments for costs associated with enforcing laws relating to driving and boating while under the influence of intoxicating liquor or any drug. The account is subject to allotment procedures under chapter 43.88 RCW. Moneys in the account may be spent only after appropriation.

**Sec. 3.** RCW 46.68.041 and 1995 2nd sp.s. c 3 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the department shall forward all funds accruing under the provisions of chapter 46.20 RCW together with a proper identifying, detailed report to the state treasurer who shall deposit such moneys to the credit of the highway safety fund.

(2) Sixty-three percent of each fee collected by the department under RCW 46.20.311 (1)(b)(ii), (2)(b)(ii), and (3)(b) shall be deposited in the impaired driving safety account."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Stevens moved that the Senate refuse to concur in the House amendment to Engrossed Substitute Senate Bill No. 6187 and requests of the House a conference thereon.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Stevens that the Senate refuse to concur in the House amendment to Engrossed Substitute Senate Bill No. 6187 and requests of the House a conference thereon.

The motion by Senator Stevens carried and the Senate refuses to concur in the House amendment to Engrossed Substitute Senate Bill No. 6187 and requests of the House a conference thereon.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 6187 and the House amendment thereto: Senators Stevens, Fairley and Roach.

#### MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

#### MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

Under suspension of the rules, ENGROSSED SUBSTITUTE SENATE BILL NO. 6328 was returned to second reading for the purpose of an amendment. The bill passed the House with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. PURPOSE.** The legislature finds that merger of the departments of fisheries and wildlife resulted in two criminal codes applicable to fish and wildlife, and that it has become increasingly difficult to administer and enforce the two criminal codes. Furthermore, laws defining crimes involving fish and wildlife have evolved over many years of changing uses and management objectives for fish and wildlife. The resulting two codes make it difficult for citizens to comply with the law and unnecessarily complicate enforcement of laws against violators.

The legislature intends by chapter . . ., Laws of 1998 (this act) to revise and recodify the criminal laws governing fish and wildlife, ensuring that all people involved with fish and wildlife are able to know and understand the requirements of the laws and the risks of violation. Additionally, the legislature intends to create a more uniform approach to criminal laws governing fish and wildlife and to the laws authorizing prosecution, sentencing, and punishments, including repealing crimes that are redundant to other provisions of the criminal code.

Chapter . . ., Laws of 1998 (this act) is not intended to alter existing powers of the commission or the director to adopt rules or exercise powers over fish and wildlife. In some places reference is made to violation of department rules, but this is intended to conform with current powers of the commission, director, or both, to adopt rules governing fish and wildlife activities.

**NEW SECTION. Sec. 2. EXEMPTION FOR DEPARTMENT ACTIONS.** A person is not guilty of a crime under this chapter if the person is an officer, employee, or agent of the department lawfully acting in the course of his or her authorized duties.

**NEW SECTION. Sec. 3. AUTHORITY TO DEFINE VIOLATION OF A RULE AS AN INFRACTION.** If the commission or director has authority to adopt a rule that is punishable as a crime under this chapter, then the commission or director may provide that violation of the rule shall be punished with notice of infraction under RCW 7.84.030.

**NEW SECTION. Sec. 4. SEPARATE OFFENSES FOR EACH BIG GAME, PROTECTED, OR ENDANGERED ANIMAL.** Where it is unlawful to hunt, take, fish, or possess big game or protected or endangered fish or wildlife, then each individual animal unlawfully taken or possessed is a separate offense.

**NEW SECTION. Sec. 5. JURISDICTION.** District courts have jurisdiction concurrent with superior courts for misdemeanors and gross misdemeanors committed in violation of this chapter and may impose the punishment provided for these offenses. Superior courts have jurisdiction over felonies committed in violation of this chapter. Venue for offenses occurring in off-shore waters shall be in a county bordering on the Pacific Ocean, or the county where fish or wildlife from the offense are landed.

**NEW SECTION. Sec. 6. CONVICTION IN A STATE OR MUNICIPAL COURT.** Unless the context clearly requires otherwise, as used in this chapter, "conviction" means a final conviction in a state or municipal court or an unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court. A plea of guilty, or a finding of guilt for a violation of this title or rule of the commission or director constitutes a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

**NEW SECTION. Sec. 7. REFERENCE TO CHAPTERS 7.84 AND 9A.20 RCW.** Crimes defined by this chapter shall be punished as infractions, misdemeanors, gross misdemeanors, or felonies, based on the classification of crimes set out in chapters 7.84 and 9A.20 RCW.

**NEW SECTION. Sec. 8. ACTING FOR COMMERCIAL PURPOSES--VALUE OF FISH OR WILDLIFE--PROOF.** (1) For purposes of this chapter, a person acts for commercial purposes if the person:

- (a) Acts with intent to sell, attempted to sell, sold, bartered, attempted to purchase, or purchased fish or wildlife;
- (b) Uses gear typical of that used in commercial fisheries;
- (c) Exceeds the bag or possession limits for personal use by taking or possessing more than three times the amount of fish or wildlife allowed;
- (d) Delivers or attempts to deliver fish or wildlife to a person who sells or resells fish or wildlife including any licensed or unlicensed wholesaler; or
- (e) Takes fish using a vessel designated on a commercial fishery license and gear not authorized in a personal use fishery.

(2) For purposes of this chapter, the value of any fish or wildlife may be proved based on evidence of legal or illegal sales involving the person charged or any other person, or offers to sell or solicitation of offers to sell by the person charged or by any other person, or of any market price for the fish or wildlife including market price for farm-raised game animals. The value assigned to specific wildlife by RCW 77.21.070 may be presumed to be the value of such wildlife. It is not relevant to proof of value that the person charged misrepresented that the fish or wildlife was taken in compliance with law if the fish or wildlife was unlawfully taken and had no lawful market value.

**NEW SECTION. Sec. 9. UNLAWFUL HUNTING OF GAME BIRDS.** (1) A person is guilty of unlawful hunting of game birds in the second degree if the person:

- (a) Hunts a game bird and the person does not have and possess all licenses, tags, stamps, and permits required under this title;
- (b) Maliciously destroys, takes, or harms the eggs or nests of a game bird except when authorized by permit; or
- (c) Violates any rule of the commission or director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas including game reserves, closed times, or other rule addressing the manner or method of hunting or possession of game birds.

(2) A person is guilty of unlawful hunting of game birds in the first degree if the person hunts game birds and the person takes or possesses two times or more than the possession or bag limit for such game birds allowed by rule of the commission or director.

(3)(a) Unlawful hunting of game birds in the second degree is a misdemeanor.

(b) Unlawful hunting of game birds in the first degree is a gross misdemeanor.

**NEW SECTION. Sec. 10. UNLAWFUL HUNTING OF BIG GAME.** (1) A person is guilty of unlawful hunting of big game in the second degree if the person:

- (a) Hunts big game and the person does not have and possess all licenses, tags, or permits required under this title; or
- (b) Violates any rule of the commission or director regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the hunting, taking, or possession of big game.

(2) A person is guilty of unlawful hunting of big game in the first degree if the person was previously convicted of any crime under this title involving unlawful hunting, killing, possessing, or taking big game, and within five years of the date that the prior conviction was entered the person hunts for big game and:

(a) The person does not have and possess all licenses, tags, or permits required under this title; or

(b) The act was in violation of any rule of the commission or director regarding seasons, bag or possession limits, closed areas including game reserves, or closed times.

(3)(a) Unlawful hunting of big game in the second degree is a gross misdemeanor.

(b) Unlawful hunting of big game in the first degree is a class C felony. Upon conviction, the department shall revoke all licenses or tags involved in the crime and the department shall order the person's hunting privileges suspended for two years.

**NEW SECTION. Sec. 11. UNLAWFUL HUNTING OF GAME ANIMALS.** (1) A person is guilty of unlawful hunting of game animals in the second degree if the person:

(a) Hunts a game animal that is not classified as big game, and does not have and possess all licenses, tags, or permits required by this title; or

(b) Violates any rule of the commission or director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas including game reserves, closed times, or other rule addressing the manner or method of hunting or possession of game animals not classified as big game.

(2)(a) A person is guilty of unlawful hunting of game animals in the first degree if the person hunts a game animal that is not classified as big game; and

(b) The person takes or possesses two times or more than the possession or bag limit for such game animals allowed by rule of the commission or director.

(3)(a) Unlawful hunting of game animals in the second degree is a misdemeanor.

(b) Unlawful hunting of game animals in the first degree is a gross misdemeanor.

**NEW SECTION. Sec. 12. WEAPONS, TRAPS, OR DOGS ON GAME RESERVES.** (1) A person is guilty of unlawful use of weapons, traps, or dogs on game reserves if:

(a) The person uses firearms, other hunting weapons, or traps on a game reserve; or

(b) The person negligently allows a dog upon a game reserve.

(2) This section does not apply to persons on a public highway or if the conduct is authorized by rule of the department.

(3) This section does not apply to a person in possession of a handgun if the person in control of the handgun possesses a valid concealed pistol license and the handgun is concealed on the person.

(4) Unlawful use of weapons, traps, or dogs on game reserves is a misdemeanor.

**NEW SECTION. Sec. 13. UNLAWFUL TAKING OF ENDANGERED FISH OR WILDLIFE.** (1) A person is guilty of unlawful taking of endangered fish or wildlife in the second degree if the person hunts, fishes, possesses, maliciously harasses or kills fish or wildlife, or maliciously destroys the nests or eggs of fish or wildlife and the fish or wildlife is designated by the commission as endangered, and the taking has not been authorized by rule of the commission.

(2) A person is guilty of unlawful taking of endangered fish or wildlife in the first degree if the person has been:

(a) Convicted under subsection (1) of this section or convicted of any crime under this title involving the killing, possessing, harassing, or harming of endangered fish or wildlife; and

(b) Within five years of the date of the prior conviction the person commits the act described by subsection (1) of this section.

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

(b) Unlawful taking of endangered fish or wildlife in the first degree is a class C felony. The department shall revoke any licenses or tags used in connection with the crime and order the person's privileges to hunt, fish, trap, or obtain licenses under this title and Title 75 RCW to be suspended for two years.

**NEW SECTION. Sec. 14. UNLAWFUL TAKING OF PROTECTED FISH OR WILDLIFE.** (1) A person is guilty of unlawful taking of protected fish or wildlife if:

(a) The person hunts, fishes, possesses, or maliciously kills protected fish or wildlife, or the person possesses or maliciously destroys the eggs or nests of protected fish or wildlife, and the taking has not been authorized by rule of the commission; or

(b) The person violates any rule of the commission regarding the taking, harming, harassment, possession, or transport of protected fish or wildlife.

(2) Unlawful taking of protected fish or wildlife is a misdemeanor.

**NEW SECTION. Sec. 15. UNLAWFUL TAKING OF UNCLASSIFIED FISH OR WILDLIFE.** (1) A person is guilty of unlawful taking of unclassified fish or wildlife if:

(a) The person kills, hunts, fishes, takes, holds, possesses, transports, or maliciously injures or harms fish or wildlife that is not classified as big game, game fish, game animals, game birds, food fish, shellfish, protected wildlife, or endangered wildlife; and

(b) The act violates any rule of the commission or the director.

(2) Unlawful taking of unclassified fish or wildlife is a misdemeanor.

**NEW SECTION. Sec. 16. UNLAWFUL USE OF POISON OR EXPLOSIVES.** (1) A person is guilty of unlawful use of poison or explosives if:

(a) The person lays out, sets out, or uses a drug, poison, or other deleterious substance that kills, injures, harms, or endangers fish or wildlife, except if the person is using the substance in compliance with federal and state laws and label instructions; or

(b) The person lays out, sets out, or uses an explosive that kills, injures, harms, or endangers fish or wildlife, except if authorized by law or permit of the director.

(2) Unlawful use of poison or explosives is a gross misdemeanor.

**NEW SECTION. Sec. 17. INFRACTION VIOLATION OF RULES GOVERNING FISH AND WILDLIFE.** A person is guilty of an infraction, which shall be cited and punished as provided under chapter 7.84 RCW, if the person:

(1) Fails to immediately record a catch of fish or shellfish on a catch record card required by RCW 75.25.190 or 77.32.050, or required by rule of the commission under this title or Title 75 RCW; or

(2) Fishes for personal use using barbed hooks in violation of any rule; or

(3) Violates any other rule of the commission or director that is designated by rule as an infraction.

**NEW SECTION. Sec. 18. UNLAWFUL RECREATIONAL FISHING IN THE SECOND DEGREE.** (1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for, takes, possesses, or harvests fish or shellfish and:

(a) The person does not have and possess the license or the catch record card required by chapter 75.25 or 77.32 RCW for such activity; or

(b) The action violates any rule of the commission or the director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing or possession of fish, except for use of a net to take fish as provided for in section 50 of this act.

(2) Unlawful recreational fishing in the second degree is a misdemeanor.

**NEW SECTION. Sec. 19. UNLAWFUL RECREATIONAL FISHING IN THE FIRST DEGREE.** (1) A person is guilty of unlawful recreational fishing in the first degree if:

(a) The person takes, possesses, or retains two times or more than the bag limit or possession limit of fish or shellfish allowed by any rule of the director or commission setting the amount of food fish, game fish, or shellfish that can be taken, possessed, or retained for noncommercial use;

(b) The person fishes in a fishway; or

(c) The person shoots, gaffs, snags, snares, spears, dipnets, or stones fish in state waters, or possesses fish taken by such means, unless such means are authorized by express rule of the commission or director.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

**NEW SECTION. Sec. 20. UNLAWFUL TAKING OF SEAWEED.** (1) A person is guilty of unlawful taking of seaweed if the person takes, possesses, or harvests seaweed and:

(a) The person does not have and possess the license required by chapter 75.25 RCW for taking seaweed; or

(b) The action violates any rule of the department or the department of natural resources regarding seasons, possession limits, closed areas, closed times, or any other rule addressing the manner or method of taking, possessing, or harvesting of seaweed.

(2) Unlawful taking of seaweed is a misdemeanor. This does not affect rights of the state to recover civilly for trespass, conversion, or theft of state-owned valuable materials.

**NEW SECTION. Sec. 21. WASTE OF FISH AND WILDLIFE.** (1) A person is guilty of waste of fish and wildlife in the second degree if:

(a) The person kills, takes, or possesses fish or wildlife and the value of the fish or wildlife is greater than twenty dollars but less than two hundred fifty dollars; and

(b) The person recklessly allows such fish or wildlife to be wasted.

(2) A person is guilty of waste of fish and wildlife in the first degree if:

(a) The person kills, takes, or possesses food fish, shellfish, game fish, game birds, or game animals having a value of two hundred fifty dollars or more; and

(b) The person recklessly allows such fish or wildlife to be wasted.

(3)(a) Waste of fish and wildlife in the second degree is a misdemeanor.

(b) Waste of fish and wildlife in the first degree is a gross misdemeanor. Upon conviction, the department shall revoke any license or tag used in the crime and shall order suspension of the person's privileges to engage in the activity in which the person committed waste of fish and wildlife in the first degree for a period of one year.

(4) It is prima facie evidence of waste if a processor purchases or engages a quantity of food fish, shellfish, or game fish that cannot be processed within sixty hours after the food fish or shellfish are taken from the water, unless the food fish or shellfish are preserved in good marketable condition.

**NEW SECTION. Sec. 22. UNLAWFUL INTERFERENCE WITH FISHING OR HUNTING GEAR.** (1) A person is guilty of unlawful interference with fishing or hunting gear in the second degree if the person:

(a) Takes or releases a wild animal from another person's trap without permission;

(b) Springs, pulls up, damages, possesses, or destroys another person's trap without the owner's permission; or

(c) Interferes with recreational gear used to take fish or shellfish.

(2) Unlawful interference with fishing or hunting gear in the second degree is a misdemeanor.

(3) A person is guilty of unlawful interference with fishing or hunting gear in the first degree if the person:

- (a) Takes or releases food fish or shellfish from commercial fishing gear without the owner's permission; or
- (b) Intentionally destroys or interferes with commercial fishing gear.
- (4) Unlawful interference with fishing or hunting gear in the first degree is a gross misdemeanor.
- (5) A person is not in violation of unlawful interference with fishing or hunting gear if the person removes a trap placed on property owned, leased, or rented by the person.

**NEW SECTION. Sec. 23. FAILING TO IDENTIFY TRAPS FOR FURBEARING ANIMALS.** (1) A person is guilty of failing to identify traps for furbearing animals if the person fails to attach to the person's traps or devices a legible metal tag with either the department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.

- (2) Failing to identify traps for furbearing animals is a misdemeanor.

**NEW SECTION. Sec. 24. OBSTRUCTING THE TAKING OF FISH OR WILDLIFE.** (1) A person is guilty of obstructing the taking of fish or wildlife if the person:

- (a) Harasses, drives, or disturbs fish or wildlife with the intent of disrupting lawful pursuit or taking thereof; or
- (b) Harasses, intimidates, or interferes with an individual engaged in the lawful taking of fish or wildlife or lawful predator control with the intent of disrupting lawful pursuit or taking thereof.

- (2) Obstructing the taking of fish or wildlife is a gross misdemeanor.

- (3) It is an affirmative defense to a prosecution for obstructing the taking of fish or wildlife that the person charged was:

- (a) Interfering with a person engaged in hunting outside the legally established hunting season; or
- (b) Preventing or attempting to prevent unauthorized trespass on private property.

- (4) The person raising a defense under subsection (3) of this section has the burden of proof by a preponderance of the evidence.

**NEW SECTION. Sec. 25. UNLAWFUL POSTING.** (1) A person is guilty of unlawful posting if the individual posts signs preventing hunting or fishing on any land not owned or leased by the individual, or without the permission of the person who owns, leases, or controls the land posted.

- (2) Unlawful posting is a misdemeanor.

**NEW SECTION. Sec. 26. UNLAWFUL USE OF DEPARTMENT LANDS OR FACILITIES.** (1) A person is guilty of unlawful use of department lands or facilities if the person enters upon, uses, or remains upon department lands or facilities in violation of any rule of the department.

- (2) Unlawful use of department lands or facilities is a misdemeanor.

**NEW SECTION. Sec. 27. SPOTLIGHTING BIG GAME.** (1) A person is guilty of spotlighting big game in the second degree if the person hunts big game with the aid of a spotlight or other artificial light while in possession or control of a firearm, bow and arrow, or cross bow.

- (2) A person is guilty of spotlighting big game in the first degree if:

(a) The person has any prior conviction for gross misdemeanor or felony for a crime under this title involving big game including but not limited to subsection (1) of this section or section 10 of this act; and

(b) Within ten years of the date that such prior conviction was entered the person commits the act described by subsection (1) of this section.

- (3)(a) Spotlighting big game in the second degree is a gross misdemeanor.

(b) Spotlighting big game in the first degree is a class C felony. Upon conviction, the department shall order suspension of all privileges to hunt wildlife for a period of two years.

**NEW SECTION. Sec. 28. UNLAWFUL USE OR POSSESSION OF A LOADED FIREARM.** (1) A person is guilty of unlawful possession of a loaded firearm in a motor vehicle if:

- (a) The person carries, transports, conveys, possesses, or controls a rifle or shotgun in a motor vehicle; and

(b) The rifle or shotgun contains shells or cartridges in the magazine or chamber, or is a muzzle-loading firearm that is loaded and capped or primed.

(2) A person is guilty of unlawful use of a loaded firearm if the person negligently shoots a firearm from, across, or along the maintained portion of a public highway.

- (3) Unlawful possession of a loaded firearm in a motor vehicle is a misdemeanor.

- (4) This section does not apply if the person:

- (a) Is a law enforcement officer who is authorized to carry a firearm and is on duty within the officer's respective jurisdiction;

(b) Possesses a disabled hunter's permit as provided by RCW 77.32.237 and complies with all rules of the department concerning hunting by persons with disabilities.

(5) For purposes of this section, a firearm shall not be considered loaded if the detachable clip or magazine is not inserted in or attached to the firearm.

**NEW SECTION. Sec. 29. UNLAWFULLY AVOIDING WILDLIFE CHECK STATIONS OR FIELD INSPECTIONS.** (1) A person is guilty of unlawfully avoiding wildlife check stations or field inspections if the person fails to:

- (a) Obey check station signs;

(b) Stop and report at a check station if directed to do so by a uniformed fish and wildlife officer; or  
(c) Produce for inspection upon request by a fish and wildlife officer: (i) Hunting or fishing equipment; (ii) seaweed, fish, shellfish, or wildlife; or (iii) licenses, permits, tags, stamps, or catch record cards required by this title or Title 75 RCW.

(2) Unlawfully avoiding wildlife check stations or field inspections is a gross misdemeanor.

(3) Wildlife check stations may not be established upon interstate highways or state routes.

**NEW SECTION. Sec. 30. UNLAWFUL USE OF DOGS--PUBLIC NUISANCE.** (1) A person is guilty of unlawful use of dogs if the person:

(a) Negligently fails to prevent a dog under the person's control from pursuing or injuring deer, elk, or an animal classified as endangered under this title;

(b) Uses the dog to hunt deer or elk; or

(c) During the closed season for a species of game animal or game bird, negligently fails to prevent the dog from pursuing such animal or destroying the nest of a game bird.

(2) Unlawful use of dogs is a misdemeanor. A dog that is the basis for a violation of this section may be declared a public nuisance.

**NEW SECTION. Sec. 31. UNLAWFUL RELEASE OF FISH OR WILDLIFE.** (1)(a) A person is guilty of unlawfully releasing, planting, or placing fish or wildlife if the person knowingly releases, plants, or places live fish, wildlife, or aquatic plants within the state, except for a release of game fish into private waters for which a game fish stocking permit has been obtained or the planting of food fish or shellfish by permit of the commission.

(b) A violation of this subsection is a gross misdemeanor. In addition, the department shall order the person to pay all costs the department incurred in capturing, killing, or controlling the fish or wildlife released or its progeny. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, controlling the fish or wildlife released or their progeny, or restoration of habitat necessitated by the unlawful release.

(2)(a) A person is guilty of unlawful release of deleterious exotic wildlife if the person knowingly releases, plants, or places live fish or wildlife within the state and such fish or wildlife has been classified as deleterious exotic wildlife by rule of the commission.

(b) A violation of this subsection is a class C felony. In addition, the department shall also order the person to pay all costs the department incurred in capturing, killing, or controlling the fish or wildlife released or its progeny. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, controlling the fish or wildlife released or their progeny, or restoration of habitat necessitated by the unlawful release.

**NEW SECTION. Sec. 32. ENGAGING IN COMMERCIAL WILDLIFE ACTIVITY WITHOUT A LICENSE.** (1) A person is guilty of engaging in commercial wildlife activity without a license if the person:

(a) Deals in raw furs for commercial purposes and does not hold a fur dealer license required by chapter 77.32 RCW;

(b) Practices taxidermy for profit and does not hold a taxidermy license required by chapter 77.32 RCW; or

(c) Operates a game farm without a license required by chapter 77.32 RCW.

(2) Engaging in commercial wildlife activities without a license is a gross misdemeanor.

**NEW SECTION. Sec. 33. UNLAWFUL USE OF A COMMERCIAL WILDLIFE LICENSE.** (1) A person who holds a fur buyer's license or taxidermy license is guilty of unlawful use of a commercial wildlife license if the person:

(a) Fails to have the license in possession while engaged in fur buying or practicing taxidermy for commercial purposes; or

(b) Violates any rule of the department regarding the use, possession, display, or presentation of the taxidermy or fur buyer's license.

(2) Unlawful use of a commercial wildlife license is a misdemeanor.

**NEW SECTION. Sec. 34. UNLAWFUL TRAPPING.** (1) A person is guilty of unlawful trapping if the person:

(a) Sets out traps that are capable of taking wild animals, game animals, or furbearing mammals and does not possess all licenses, tags, or permits required under this title; or

(b) Violates any rule of the commission or director regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the trapping of wild animals.

(2) Unlawful trapping is a misdemeanor.

**NEW SECTION. Sec. 35. COMMERCIAL FISHING WITHOUT A LICENSE.** (1) A person is guilty of commercial fishing without a license in the second degree if the person fishes for, takes, or delivers food fish, shellfish, or game fish while acting for commercial purposes and:

(a) The person does not hold a fishery license or delivery license under chapter 75.28 RCW for the food fish or shellfish; or

(b) The person is not a licensed operator designated as an alternate operator on a fishery or delivery license under chapter 75.28 RCW for the food fish or shellfish.

(2) A person is guilty of commercial fishing without a license in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The violation involves taking, delivery, or possession of food fish or shellfish with a value of two hundred fifty dollars or more; or

(b) The violation involves taking, delivery, or possession of food fish or shellfish from an area that was closed to the taking of such food fish or shellfish by any statute or rule.

(3)(a) Commercial fishing without a license in the second degree is a gross misdemeanor.

(b) Commercial fishing without a license in the first degree is a class C felony.

**NEW SECTION. Sec. 36. COMMERCIAL FISH GUIDING OR CHARTERING WITHOUT A LICENSE.** (1) A person is guilty of commercial fish guiding or chartering without a license if:

(a) The person operates a charter boat and does not hold the charter boat license required for the food fish taken;

(b) The person acts as a professional salmon guide and does not hold a professional salmon guide license; or

(c) The person acts as a game fish guide and does not hold a professional game fish guide license.

(2) Commercial fish guiding or chartering without a license is a gross misdemeanor.

**NEW SECTION. Sec. 37. COMMERCIAL FISHING USING UNLAWFUL GEAR OR METHODS.** (1) A person is guilty of commercial fishing using unlawful gear or methods if the person acts for commercial purposes and takes or fishes for any fish or shellfish using any gear or method in violation of a rule of the department specifying, regulating, or limiting the gear or method for taking, fishing, or harvesting of such fish or shellfish.

(2) Commercial fishing using unlawful gear or methods is a gross misdemeanor.

**NEW SECTION. Sec. 38. UNLAWFUL USE OF A NONDESIGNATED VESSEL.** (1) A person who holds a fishery license required by chapter 75.28 RCW, or who holds an operator's license and is designated as an alternate operator on a fishery license required by chapter 75.28 RCW, is guilty of unlawful use of a nondesignated vessel if the person takes, fishes for, or delivers from that fishery using a vessel not designated on the person's license, when vessel designation is required by chapter 75.28 RCW.

(2) Unlawful use of a nondesignated vessel is a gross misdemeanor.

(3) A nondesignated vessel may be used, subject to appropriate notification to the department and in accordance with rules established by the commission, when a designated vessel is inoperative because of accidental damage or mechanical breakdown.

(4) If the person commits the act described by subsection (1) of this section and the vessel designated on the person's fishery license was used by any person in the fishery on the same day, then the violation for using a nondesignated vessel is a class C felony. Upon conviction the department shall order revocation and suspension of all commercial fishing privileges under chapter 75.28 RCW for a period of one year.

**NEW SECTION. Sec. 39. UNLAWFUL USE OF A COMMERCIAL FISHERY LICENSE.** (1) A person who holds a fishery license required by chapter 75.28 RCW, or who holds an operator's license and is designated as an alternate operator on a fishery license required by chapter 75.28 RCW, is guilty of unlawful use of a commercial fishery license if the person:

(a) Does not have the commercial fishery license or operator's license in possession during fishing or delivery; or

(b) Violates any rule of the department regarding the use, possession, display, or presentation of the person's license, decals, or vessel numbers.

(2) Unlawful use of a commercial fishery license is a misdemeanor.

**NEW SECTION. Sec. 40. VIOLATION OF COMMERCIAL FISHING AREA OR TIME.** (1) A person is guilty of violating commercial fishing area or time in the second degree if the person acts for commercial purposes and takes, fishes for, delivers, or receives food fish or shellfish:

(a) At a time not authorized by statute or rule; or

(b) From an area that was closed to the taking of such food fish or shellfish for commercial purposes by statute or rule.

(2) A person is guilty of violating commercial fishing area or time in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The person acted with knowledge that the area or time was not open to the taking or fishing of food fish or shellfish for commercial purposes; and

(b) The violation involved two hundred fifty dollars or more worth of food fish or shellfish.

(3)(a) Violating commercial fishing area or time in the second degree is a gross misdemeanor.

(b) Violating commercial fishing area or time in the first degree is a class C felony.

**NEW SECTION. Sec. 41. FAILURE TO REPORT COMMERCIAL FISH HARVEST OR DELIVERY.** (1) Except as provided in section 45 of this act, a person is guilty of failing to report a commercial fish or shellfish harvest or delivery if the person acts for commercial purposes and takes or delivers any fish or shellfish, and the person:

(a) Fails to sign a fish-receiving ticket that documents the delivery of fish or shellfish or otherwise documents the taking or delivery;

or

(b) Fails to report or document the taking, landing, or delivery as required by any rule of the department.

(2) Failing to report a commercial fish harvest or delivery is a gross misdemeanor.

(3) For purposes of this section, "delivery" of fish or shellfish occurs when there is a transfer or conveyance of title or control from the person who took, fished for, or otherwise harvested the fish or shellfish.

**NEW SECTION. Sec. 42. UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE.** (1) A person is guilty of unlawful trafficking in fish or wildlife in the second degree if the person traffics in fish or wildlife with a wholesale value of less than two hundred fifty dollars and:

(a) The fish or wildlife is classified as game, food fish, shellfish, game fish, or protected wildlife and the trafficking is not authorized by statute or rule of the department; or

(b) The fish or wildlife is unclassified and the trafficking violates any rule of the department.

(2) A person is guilty of unlawful trafficking in fish or wildlife in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The fish or wildlife has a value of two hundred fifty dollars or more; or

(b) The fish or wildlife is designated as endangered or deleterious exotic wildlife and such trafficking is not authorized by any statute or rule of the department.

(3)(a) Unlawful trafficking in fish or wildlife in the second degree is a gross misdemeanor.

(b) Unlawful trafficking in fish or wildlife in the first degree is a class C felony.

**NEW SECTION. Sec. 43. ENGAGING IN FISH DEALING ACTIVITY WITHOUT A LICENSE.** (1) A person is guilty of engaging in fish dealing activity without a license in the second degree if the person:

(a) Engages in the commercial processing of fish or shellfish, including custom canning or processing of personal use fish or shellfish and does not hold a wholesale dealer's license required by RCW 75.28.300(1) or 77.32.211 for anadromous game fish;

(b) Engages in the wholesale selling, buying, or brokering of food fish or shellfish and does not hold a wholesale dealer's or buying license required by RCW 75.28.300(2) or 77.32.211 for anadromous game fish;

(c) Is a fisher who lands and sells his or her catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state and does not hold a wholesale dealer's license required by RCW 75.28.300(3) or 77.32.211 for anadromous game fish; or

(d) Engages in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other byproducts from food fish or shellfish and does not hold a wholesale dealer's license required by RCW 75.28.300(4) or 77.32.211 for anadromous game fish.

(2) Engaging in fish dealing activity without a license in the second degree is a gross misdemeanor.

(3) A person is guilty of engaging in fish dealing activity without a license in the first degree if the person commits the act described by subsection (1) of this section and the violation involves fish or shellfish worth two hundred fifty dollars or more. Engaging in fish dealing activity without a license in the first degree is a class C felony.

**NEW SECTION. Sec. 44. UNLAWFUL USE OF FISH BUYING AND DEALING LICENSES.** (1) A person who holds a fish dealer's license required by RCW 75.28.300, an anadromous game fish buyer's license required by RCW 77.32.211, or a fish buyer's license required by RCW 75.28.340 is guilty of unlawful use of fish buying and dealing licenses in the second degree if the person:

(a) Possesses or receives fish or shellfish for commercial purposes worth less than two hundred fifty dollars; and

(b) Fails to document such fish or shellfish with a fish-receiving ticket required by statute or rule of the department.

(2) A person is guilty of unlawful use of fish buying and dealing licenses in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The violation involves fish or shellfish worth two hundred fifty dollars or more;

(b) The person acted with knowledge that the fish or shellfish were taken from a closed area, at a closed time, or by a person not licensed to take such fish or shellfish for commercial purposes; or

(c) The person acted with knowledge that the fish or shellfish were taken in violation of any tribal law.

(3)(a) Unlawful use of fish buying and dealing licenses in the second degree is a gross misdemeanor.

(b) Unlawful use of fish buying and dealing licenses in the first degree is a class C felony. Upon conviction, the department shall suspend all privileges to engage in fish buying or dealing for two years.

**NEW SECTION. Sec. 45. VIOLATING RULES GOVERNING WHOLESALE FISH BUYING AND DEALING.** (1) A person who holds a wholesale fish dealer's license required by RCW 75.28.300, an anadromous game fish buyer's license required by RCW 77.32.211, or a fish buyer's license required by RCW 75.28.340 is guilty of violating rules governing wholesale fish buying and dealing if the person:

(a) Fails to possess or display his or her license when engaged in any act requiring the license;

(b) Fails to display or uses the license in violation of any rule of the department;

(c) Files a signed fish-receiving ticket but fails to provide all information required by rule of the department; or

(d) Violates any other rule of the department regarding wholesale fish buying and dealing.

(2) Violating rules governing wholesale fish buying and dealing is a gross misdemeanor.

**NEW SECTION. Sec. 46. PROVIDING FALSE INFORMATION REGARDING FISH OR WILDLIFE.** (1) A person is guilty of providing false information regarding fish or wildlife if the person knowingly provides false or misleading information required by any statute or rule to be provided to the department regarding the taking, delivery, possession, transportation, sale, transfer, or any other use of fish or wildlife.

(2) Providing false information regarding fish or wildlife is a gross misdemeanor.

**NEW SECTION. Sec. 47. VIOLATING RULES REQUIRING REPORTING OF FISH OR WILDLIFE HARVEST.** (1) A person is guilty of violating rules requiring reporting of fish or wildlife harvest if the person:



- (a) Fails to make a harvest log report of a commercial fish or shellfish catch in violation of any rule of the commission or the director;
- (b) Fails to maintain a trapper's report or taxidermist ledger in violation of any rule of the commission or the director;
- (c) Fails to submit any portion of a big game animal for a required inspection required by rule of the commission or the director; or
- (d) Fails to return a catch record card or wildlife harvest report to the department as required by rule of the commission or director.

(2) Violating rules requiring reporting of fish or wildlife harvest is a misdemeanor.

**NEW SECTION. Sec. 48. UNLAWFUL TRANSPORTATION OF FISH OR WILDLIFE.** (1) A person is guilty of unlawful transportation of fish or wildlife in the second degree if the person:

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

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

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

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

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

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

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

**Sec. 49.** RCW 75.12.320 and 1983 1st ex.s. c 46 s 63 are each amended to read as follows:

(1) Except as provided in subsection ~~((2))~~ (3) of this section, it is unlawful for a person who is not a treaty Indian fisherman to participate in the taking of ~~((fish))~~ fish or shellfish in a treaty Indian fishery, or to be on board a vessel, or associated equipment, operating in a treaty Indian fishery. A violation of this subsection is a gross misdemeanor.

(2) A person who violates subsection (1) of this section with the intent of acting for commercial purposes, including any sale of catch, control of catch, profit from catch, or payment for fishing assistance, is guilty of a class C felony. Upon conviction, the department shall order revocation of any license and a one-year suspension of all commercial fishing privileges requiring a license under chapter 75.28 or 75.30 RCW.

(3)(a) The spouse, forebears, siblings, children, and grandchildren of a treaty Indian fisherman may assist the fisherman in exercising treaty Indian fishing rights when the treaty Indian fisherman is present at the fishing site.

(b) Other treaty Indian fishermen with off-reservation treaty fishing rights in the same usual and accustomed places, whether or not the fishermen are members of the same tribe or another treaty tribe, may assist a treaty Indian fisherman in exercising treaty Indian fishing rights when the treaty Indian fisherman is present at the fishing site.

(c) Biologists approved by the department may be on board a vessel operating in a treaty Indian fishery.

~~((3))~~ (4) For the purposes of this section:

(a) "Treaty Indian fisherman" means a person who may exercise treaty Indian fishing rights as determined under United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and post-trial orders of those courts;

(b) "Treaty Indian fishery" means a fishery open to only treaty Indian fishermen by tribal or federal regulation;

(c) "To participate" and its derivatives mean an effort to operate a vessel or fishing equipment, provide immediate supervision in the operation of a vessel or fishing equipment, or otherwise assist in the fishing operation, ~~((to))~~ to claim possession of a share of the catch, or to represent that the catch was lawfully taken in an Indian fishery.

~~((4))~~ (5) A violation of this section ~~((involving salmon))~~ constitutes illegal fishing and is subject to the ~~((sanctions provided under RCW 75.10.130))~~ suspensions provided for commercial fishing violations.

**NEW SECTION. Sec. 50. UNLAWFUL USE OF NETS TO TAKE FISH.** (1) A person is guilty of unlawful use of a net to take fish in the second degree if the person:

(a) Lays, sets, uses, or controls a net or other device or equipment capable of taking fish from the waters of this state, except if the person has a valid license for such fishing gear from the director under this title and is acting in accordance with all rules of the commission and director; or

(b) Fails to return unauthorized fish to the water immediately while otherwise lawfully operating a net under a valid license.

(2) A person is guilty of unlawful use of a net to take fish in the first degree if the person:

(a) Commits the act described by subsection (1) of this section; and

(b) The violation occurs within five years of entry of a prior conviction for a gross misdemeanor or felony under this title or Title 75 RCW involving fish, other than a recreational fishing violation, or involving unlawful use of nets.

(3)(a) Unlawful use of a net to take fish in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any license held under this title or Title 75 RCW allowing commercial net fishing used in connection with the crime.

(b) Unlawful use of a net to take fish in the first degree is a class C felony. Upon conviction, the department shall order a one-year suspension of all commercial fishing privileges requiring a license under this title or Title 75 RCW.

(4) Notwithstanding subsections (1) and (2) of this section, it is lawful to use a landing net to land fish otherwise legally hooked.

**NEW SECTION. Sec. 51. UNLAWFUL USE OF COMMERCIAL FISHING VESSEL FOR RECREATIONAL OR CHARTER FISHING.** (1) A person is guilty of unlawful use of a commercial fishing vessel, except as may be authorized by rule of the commission, for recreational or charter fishing if the person uses, operates, or controls a vessel on the same day for both:

- (a) Charter or recreational fishing; and
- (b) Commercial fishing or shellfish harvesting.

(2) Unlawful use of a commercial fishing vessel for recreational or charter fishing is a gross misdemeanor.

**NEW SECTION. Sec. 52. UNLAWFUL HYDRAULIC PROJECT ACTIVITIES.** (1) A person is guilty of unlawfully undertaking hydraulic project activities if the person constructs any form of hydraulic project or performs other work on a hydraulic project and:

- (a) Fails to have a hydraulic project approval required under chapter 75.20 RCW for such construction or work; or
- (b) Violates any requirements or conditions of the hydraulic project approval for such construction or work.

(2) Unlawfully undertaking hydraulic project activities is a gross misdemeanor.

**NEW SECTION. Sec. 53. UNLAWFUL FAILURE TO USE OR MAINTAIN APPROVED FISH GUARD ON WATER DIVERSION DEVICE.** (1) A person is guilty of unlawful failure to use or maintain an approved fish guard on a diversion device if the person owns, controls, or operates a device used for diverting or conducting water from a lake, river, or stream and:

(a) The device is not equipped with a fish guard, screen, or bypass approved by the director as required by RCW 75.20.040 or 77.16.220; or

(b) The person knowingly fails to maintain or operate an approved fish guard, screen, or bypass so as to effectively screen or prevent fish from entering the intake.

(2) Unlawful failure to use or maintain an approved fish guard, screen, or bypass on a diversion device is a gross misdemeanor.

Following written notification to the person from the department that there is a violation, each day that a diversion device is operated without an approved or maintained fish guard, screen, or bypass is a separate offense.

**NEW SECTION. Sec. 54. UNLAWFUL FAILURE TO PROVIDE, MAINTAIN, OR OPERATE FISHWAY FOR DAM OR OTHER OBSTRUCTION.** (1) A person is guilty of unlawful failure to provide, maintain, or operate a fishway for dam or other obstruction if the person owns, operates, or controls a dam or other obstruction to fish passage on a river or stream and:

(a) The dam or obstruction is not provided with a durable and efficient fishway approved by the director as required by RCW 75.20.060;

(b) Fails to maintain a fishway in efficient operating condition; or

(c) Fails to continuously supply a fishway with a sufficient supply of water to allow the free passage of fish.

(2) Unlawful failure to provide, maintain, or operate a fishway for dam or other obstruction is a gross misdemeanor. Following written notification to the person from the department that there is a violation, each day of unlawful failure to provide, maintain, or operate a fishway is a separate offense.

**NEW SECTION. Sec. 55. UNLAWFUL USE OF SCIENTIFIC PERMIT.** (1) A person is guilty of unlawful use of a scientific permit if the person:

(a) Violates any terms or conditions of a scientific permit issued by the director;

(b) Buys or sells fish or wildlife taken with a scientific permit; or

(c) Violates any rule of the commission or the director applicable to the issuance or use of scientific permits.

(2) Unlawful use of a scientific permit is a gross misdemeanor.

**NEW SECTION. Sec. 56. UNLAWFUL HUNTING OR FISHING CONTESTS.** (1) A person is guilty of unlawfully holding a hunting or fishing contest if the person:

(a) Conducts, holds, or sponsors a hunting contest, a fishing contest involving game fish, or a competitive field trial using live wildlife without the permit required by RCW 77.32.211; or

(b) Violates any rule of the commission or the director applicable to a hunting contest, fishing contest involving game fish, or a competitive field trial using live wildlife.

(2) Unlawfully holding a hunting or fishing contest is a misdemeanor.

**NEW SECTION. Sec. 57. UNLAWFUL OPERATION OF A GAME FARM.** (1) A person is guilty of unlawful operation of a game farm if the person (a) operates a game farm without the license required by RCW 77.32.211; or (b) violates any rule of the commission or the director applicable to game farms under RCW 77.12.570, 77.12.580, and 77.12.590.

(2) Unlawful operation of a game farm is a gross misdemeanor.

**NEW SECTION. Sec. 58. VIOLATION OF A RULE REGARDING INSPECTION AND CONTROL OF AQUATIC FARMS.** (1) A person is guilty of violating a rule regarding inspection and disease control of aquatic farms if the person:

(a) Violates any rule adopted under chapter 75.58 RCW regarding the inspection and disease control program for an aquatic farm; or

(b) Fails to register or report production from an aquatic farm as required by chapter 75.58 RCW.

(2) A violation of a rule regarding inspection and disease control of aquatic farms is a misdemeanor.

**NEW SECTION. Sec. 59. UNLAWFUL PURCHASE OR USE OF A LICENSE.** (1) A person is guilty of unlawful purchase or use of a license in the second degree if the person buys, holds, uses, displays, transfers, or obtains any license, tag, permit, or approval required by this title or Title 75 RCW and the person:

(a) Uses false information to buy, hold, use, display, or obtain a license, permit, tag, or approval;

(b) Acquires, holds, or buys in excess of one license, permit, or tag for a license year if only one license, permit, or tag is allowed per license year;

(c) Uses or displays a license, permit, tag, or approval that was issued to another person;

(d) Permits or allows a license, permit, tag, or approval to be used or displayed by another person not named on the license, permit, tag, or approval;

(e) Acquires or holds a license while privileges for the license are revoked or suspended.

(2) A person is guilty of unlawful purchase or use of a license in the first degree if the person commits the act described by subsection (1) of this section and the person was acting with intent that the license, permit, tag, or approval be used for any commercial purpose. A person is presumed to be acting with such intent if the violation involved obtaining, holding, displaying, or using a license or permit for participation in any commercial fishery issued under this title or Title 75 RCW or a license authorizing fish or wildlife buying, trafficking, or wholesaling.

(3)(a) Unlawful purchase or use of a license in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a two-year suspension of participation in the activities for which the person unlawfully obtained, held, or used a license.

(b) Unlawful purchase or use of a license in the first degree is a class C felony. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a five-year suspension of participation in any activities for which the person unlawfully obtained, held, or used a license.

(4) For purposes of this section, a person "uses" a license, permit, tag, or approval if the person engages in any activity authorized by the license, permit, tag, or approval held or possessed by the person. Such uses include but are not limited to fishing, hunting, taking, trapping, delivery or landing fish or wildlife, and selling, buying, or wholesaling of fish or wildlife.

(5) Any license obtained in violation of this section is void upon issuance and is of no legal effect.

**NEW SECTION. Sec. 60. UNLAWFUL HUNTING OR FISHING WHEN PRIVILEGES ARE REVOKED OR SUSPENDED.** (1) A person is guilty of unlawful hunting or fishing when privileges are revoked or suspended in the second degree if the person hunts or fishes and the person's privilege to engage in such hunting or fishing were revoked or suspended by any court or the department.

(2) A person is guilty of unlawful hunting or fishing when privileges are revoked or suspended in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The suspension of privileges that was violated was a permanent suspension;

(b) The person takes or possesses more than two hundred fifty dollars' worth of unlawfully taken food fish, wildlife, game fish, seaweed, or shellfish; or

(c) The violation involves the hunting, taking, or possession of fish or wildlife classified as endangered or threatened or big game.

(3)(a) Unlawful hunting or fishing when privileges are revoked or suspended in the second degree is a gross misdemeanor. Upon conviction, the department shall order permanent suspension of the person's privileges to engage in such hunting or fishing activities.

(b) Unlawful hunting or fishing when privileges are revoked or suspended in the first degree is a class C felony. Upon conviction, the department shall order permanent suspension of all privileges to hunt, fish, trap, or take wildlife, food fish, or shellfish.

(4) As used in this section, hunting includes trapping with a trapping license.

**NEW SECTION. Sec. 61. UNLAWFUL INTERFERING IN DEPARTMENT OPERATIONS.** (1) A person is guilty of unlawful interfering in department operations if the person prevents department employees from carrying out duties authorized by this title or Title 75 RCW, including but not limited to interfering in the operation of department vehicles, vessels, or aircraft.

(2) Unlawful interfering in department operations is a gross misdemeanor.

**NEW SECTION. Sec. 62. CRIMINAL WILDLIFE PENALTY ASSESSMENT FOR ILLEGALLY TAKEN OR POSSESSED WILDLIFE.** (1) If a person is convicted of violating section 10 of this act and that violation results in the death of wildlife listed in this section, the court shall require payment of the following amounts for each animal killed or possessed. This shall be a criminal wildlife penalty assessment that shall be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the public safety and education account.

(a) Moose, mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission, except for mountain caribou and grizzly bear as listed under (d) of this subsection

\$ 4,000

(b) Elk, deer, black bear, and cougar

\$ 2,000

(c) Trophy animal elk and deer

\$ 6,000

(d) Mountain caribou, grizzly bear, and trophy animal mountain sheep

\$12,000

(2) No forfeiture of bail may be less than the amount of the bail established for hunting during closed season plus the amount of the criminal wildlife penalty assessment in subsection (1) of this section.

(3) For the purpose of this section a "trophy animal" is:

- (a) A buck deer with four or more antler points on both sides, not including eyeguards;
- (b) A bull elk with five or more antler points on both sides, not including eyeguards; or
- (c) A mountain sheep with a horn curl of three-quarter curl or greater.

For purposes of this subsection, "eyeguard" means an antler protrusion on the main beam of the antler closest to the eye of the animal.

(4) If two or more persons are convicted of illegally possessing wildlife in subsection (1) of this section, the criminal wildlife penalty assessment shall be imposed on them jointly and separately.

(5) The criminal wildlife penalty assessment shall be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this title. The criminal wildlife penalty assessment shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. This section may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(6) A defaulted criminal wildlife penalty assessment may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(7) A person assessed a criminal wildlife penalty assessment under this section shall have his or her hunting license revoked and all hunting privileges suspended until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

**NEW SECTION. Sec. 63. DISPOSITION OF FORFEITED WILDLIFE AND ARTICLES.** (1) Unless otherwise provided in this title or Title 75 RCW, fish, shellfish, or wildlife unlawfully taken or possessed, or involved in a violation shall be forfeited to the state upon conviction. Unless already held by, sold, destroyed, or disposed of by the department, the court shall order such fish or wildlife to be delivered to the department. Where delay will cause loss to the value of the property and a ready wholesale buying market exists, the department may sell property to a wholesale buyer at a fair market value.

(2) The department may use, sell, or destroy any other property forfeited by the court or the department. Any sale of other property shall be at public auction or after public advertisement reasonably designed to obtain the highest price. The time, place, and manner of holding the sale shall be determined by the director. The director may contract for the sale to be through the department of general administration as state surplus property, or, except where not justifiable by the value of the property, the director shall publish notice of the sale once a week for at least two consecutive weeks before the sale in at least one newspaper of general circulation in the county in which the sale is to be held. Proceeds of the sale shall be deposited in the state treasury to be credited to the state wildlife fund.

**NEW SECTION. Sec. 64. DEPARTMENT AUTHORITY TO REVOKE LICENSES.** (1) Upon any conviction of any violation of this chapter, the department may revoke any license, tag, or stamp, or other permit involved in the violation or held by the person convicted, in addition to other penalties provided by law.

(2) If the department orders that a license, tag, stamp, or other permit be revoked, that order is effective upon entry of the order and any such revoked license, tag, stamp, or other permit is void as a result of such order of revocation. The department shall order such license, tag, stamp, or other permit turned over to the department, and shall order the person not to acquire a replacement or duplicate for the remainder of the period for which the revoked license, tag, stamp, or other permit would have been valid. During this period when a license is revoked, the person is subject to punishment under this chapter. If the person appeals the sentence by the court, the revocation shall be effective during the appeal.

(3) If an existing license, tag, stamp, or other permit is voided and revoked under this chapter, the department and its agents shall not be required to refund or restore any fees, costs, or money paid for the license, nor shall any person have any right to bring a collateral appeal under chapter 34.05 RCW to attack the department order.

**NEW SECTION. Sec. 65. DEPARTMENT AUTHORITY TO SUSPEND PRIVILEGES--FORM AND PROCEDURE.** (1) If any crime in this chapter is punishable by a suspension of privileges, then the department shall issue an order that specifies the privileges suspended and period when such suspension shall begin and end. The department has no authority to issue licenses, permits, tags, or stamps for the suspended activity until the suspension ends and any license, tag, stamp, or other permission obtained in violation of an order of suspension is void and ineffective.

(2) A court sentence may include a suspension of privileges only if grounds are provided by statute. There is no right to seek reinstatement of privileges from the department during a period of court-ordered suspension.

(3) If this chapter makes revocation or suspension of privileges mandatory, then the department shall impose the punishment in addition to any other punishments authorized by law.

**NEW SECTION. Sec. 66. GROUNDS FOR DEPARTMENT REVOCATION AND SUSPENSION OF PRIVILEGES.** The department shall impose revocation and suspension of privileges upon conviction in the following circumstances:

- (1) If directed by statute for an offense;
- (2) If the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife. Such suspension of privileges may be permanent;
- (3) If a person is convicted twice within ten years for a violation involving unlawful hunting, killing, or possessing big game, the department shall order revocation and suspension of all hunting privileges for two years. RCW 77.16.020 or 77.16.050 as it existed before the effective date of this section may comprise one of the convictions constituting the basis for revocation and suspension under this subsection;
- (4) If a person is convicted three times in ten years of any violation of recreational hunting or fishing laws or rules, the department shall order a revocation and suspension of all recreational hunting and fishing privileges for two years;
- (5) If a person is convicted twice within five years of a gross misdemeanor or felony involving unlawful commercial fish or shellfish harvesting, buying, or selling, the department shall impose a revocation and suspension of the person's commercial fishing privileges for one year. A commercial fishery license suspended under this subsection may not be used by an alternate operator or transferred during the period of suspension.

**Sec. 67.** RCW 77.16.135 and 1995 1st sp.s. c 2 s 43 are each amended to read as follows:

(1) The commission shall revoke all licenses and order a ten-year suspension of all privileges extended under ~~((Title 77 RCW))~~ the authority of the department of a person convicted of assault on a ~~((state wildlife agent))~~ fish and wildlife officer or other law enforcement officer provided that:

- (a) The ~~((wildlife agent))~~ fish and wildlife officer or other law enforcement officer was on duty at the time of the assault; and
- (b) The ~~((wildlife agent))~~ fish and wildlife officer or other law enforcement officer was enforcing the provisions of this title ~~((77 RCW))~~.

(2) For the purposes of this section, the definition of assault includes:

- (a) RCW 9A.32.030; murder in the first degree;
- (b) RCW 9A.32.050; murder in the second degree;
- (c) RCW 9A.32.060; manslaughter in the first degree;
- (d) RCW 9A.32.070; manslaughter in the second degree;
- (e) RCW 9A.36.011; assault in the first degree;
- (f) RCW 9A.36.021; assault in the second degree; and
- (g) RCW 9A.36.031; assault in the third degree.

~~((3) For the purposes of this section, a conviction includes:~~

- ~~(a) A determination of guilt by the court;~~
- ~~(b) The entering of a guilty plea to the charge or charges by the accused;~~
- ~~(c) A forfeiture of bail or a vacation of bail posted to the court; or~~
- ~~(d) The imposition of a deferred or suspended sentence by the court.~~

~~(4) No license described under Title 77 RCW shall be reissued to a person violating this section for a minimum of ten years, at which time a person may petition the director for a reinstatement of his or her license or licenses. The ten-year period shall be tolled during any time the convicted person is incarcerated in any state or local correctional or penal institution, in community supervision, or home detention for an offense under this section. Upon review by the director, and if all provisions of the court that imposed sentencing have been completed, the director may reinstate in whole or in part the licenses and privileges under Title 77 RCW.)~~

**NEW SECTION. Sec. 68. DIRECTOR'S AUTHORITY TO SUSPEND PRIVILEGES.** (1) If a person shoots another person or domestic livestock while hunting, the director shall suspend all hunting privileges for three years. If the shooting of another person or livestock is the result of criminal negligence or reckless or intentional conduct, then the person's privileges shall be suspended for ten years. The suspension may be continued beyond these periods if damages owed to the victim or livestock owner have not been paid by the suspended person.

(2) If a person commits any assault upon employees, agents, or personnel acting for the department, the director shall suspend hunting or fishing privileges for ten years.

(3) Within twenty days of service of an order suspending privileges or imposing conditions under this section, a person may petition for administrative review under chapter 34.05 RCW by serving the director with a petition for review. The order is final and unappealable if there is no timely petition for administrative review.

(4) The commission may by rule authorize petitions for reinstatement of administrative suspensions and define circumstances under which reinstatement will be allowed.

**NEW SECTION. Sec. 69. CIVIL FORFEITURE OF PROPERTY USED FOR VIOLATION OF THIS CHAPTER.** (1) Fish and wildlife officers and ex officio fish and wildlife officers may seize without warrant boats, airplanes, vehicles, gear, appliances, or other articles they have probable cause to believe have been used in violation of this chapter. However, fish and wildlife officers may not seize any item or article, other than for evidence, if under the circumstances, it is reasonable to conclude that the violation was inadvertent. The property seized is subject to forfeiture to the state under this section regardless of ownership. Property seized may be recovered by its owner by depositing into court a cash bond equal to the value of the seized property but not more than twenty-five thousand dollars. Such cash bond is subject to forfeiture

in lieu of the property. Forfeiture of property seized under this section is a civil forfeiture against property intended to be a remedial civil sanction.

(2) In the event of a seizure of property under this section, jurisdiction to begin the forfeiture proceedings shall commence upon seizure. Within fifteen days following the seizure, the seizing authority shall serve a written notice of intent to forfeit property on the owner of the property seized and on any person having any known right or interest in the property seized. Notice may be served by any method authorized by law or court rule, including service by certified mail with return receipt requested. Service by mail is deemed complete upon mailing within the fifteen-day period following the seizure.

(3) Persons claiming a right of ownership or right to possession of property are entitled to a hearing to contest forfeiture. Such a claim shall specify the claim of ownership or possession and shall be made in writing and served on the director within forty-five days of the seizure. If the seizing authority has complied with notice requirements and there is no claim made within forty-five days, then the property shall be forfeited to the state.

(4) If any person timely serves the director with a claim to property, the person shall be afforded an opportunity to be heard as to the person's claim or right. The hearing shall be before the director or director's designee, or before an administrative law judge appointed under chapter 34.12 RCW, except that a person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the property seized is more than five thousand dollars.

(5) The hearing to contest forfeiture and any subsequent appeal shall be as provided for in Title 34 RCW. The seizing authority has the burden to demonstrate that it had reason to believe the property was held with intent to violate or was used in violation of this title or rule of the commission or director. The person contesting forfeiture has the burden of production and proof by a preponderance of evidence that the person owns or has a right to possess the property and:

(a) That the property was not held with intent to violate or used in violation of this title or Title 75 RCW; or

(b) If the property is a boat, airplane, or vehicle, that the illegal use or planned illegal use of the boat, airplane, or vehicle occurred without the owner's knowledge or consent, and that the owner acted reasonably to prevent illegal uses of such boat, airplane, or vehicle.

(6) A forfeiture of a conveyance encumbered by a perfected security interest is subject to the interest of the secured party if the secured party neither had knowledge nor consented to the act or omission. No security interest in seized property may be perfected after seizure.

(7) If seized property is forfeited under this section the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release such property to the agency for the use of enforcing this title, or sell such property, and deposit the proceeds to the wildlife fund, as provided for in RCW 77.12.170.

**Sec. 70.** RCW 75.08.011 and 1996 c 267 s 2 are each amended to read as follows:

As used in this title or Title 77 RCW or rules ~~((of the department))~~ adopted under those titles, unless the context clearly requires otherwise:

(1) "Commission" means the fish and wildlife commission.

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

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

(4) "Person" means an individual or a public or private entity or organization. The term "person" includes local, state, and federal government agencies, and all business organizations, including corporations and partnerships.

(5) "~~((Fisheries patrol))~~ Fish and wildlife officer" means a person appointed and commissioned by the commission, with authority to enforce this title, rules of the department, and other statutes as prescribed by the legislature. ~~((Fisheries patrol))~~ Fish and wildlife officers are peace officers. Fish and wildlife officer includes a person commissioned before the effective date of this section as a fisheries patrol officer.

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

(7) "To fish," "to harvest," and "to take" and their derivatives mean an effort to kill, injure, harass, or catch ~~((feed))~~ fish or shellfish.

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

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

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

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

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

(13) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that have been classified and that shall not be fished for except as authorized by rule of the commission. The term "food fish" includes all stages of development and the bodily parts of food fish species.

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

(15) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in Title 77 RCW, and includes:

Scientific Name	Common Name
<i>Oncorhynchus tshawytscha</i>	Chinook salmon
<i>Oncorhynchus kisutch</i>	Coho salmon
<i>Oncorhynchus keta</i>	Chum salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye salmon

(16) "Commercial" means related to or connected with buying, selling, or bartering. Fishing for food fish or shellfish with gear unlawful for fishing for personal use, or possessing food fish or shellfish in excess of the limits permitted for personal use are commercial activities.

(17) "To process" and its derivatives mean preparing or preserving food fish or shellfish.

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

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

(20) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful fishing, taking, or possession of food fish or shellfish. "Open season" includes the first and last days of the established time.

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

(22) "Limited-entry license" means a license subject to a license limitation program established in chapter 75.30 RCW.

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

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

**Sec. 71.** RCW 75.08.160 and 1983 1st ex.s. c 46 s 19 are each amended to read as follows:

The director, ~~((fisheries patrol))~~ fish and wildlife officers, ex officio ~~((fisheries patrol))~~ fish and wildlife officers, and department employees may enter upon any land or waters and remain there while performing their duties without liability for trespass.

It is lawful for aircraft operated by the department to land and take off from the beaches or waters of the state. ~~((It is unlawful for a person to interfere with the operation of these aircraft.))~~

**Sec. 72.** RCW 75.08.274 and 1995 1st sp.s. c 2 s 15 are each amended to read as follows:

~~((Except by permit of))~~ The commission~~((, it is unlawful to))~~ may adopt rules to authorize issuance of permits to take food fish or shellfish for propagation or scientific purposes within state waters.

**Sec. 73.** RCW 75.08.295 and 1995 1st sp.s. c 2 s 17 are each amended to read as follows:

~~((Except by permit of))~~ The commission~~((, it is unlawful to))~~ may adopt rules to authorize issuance of permits to release, plant, or place food fish or shellfish in state waters.

**Sec. 74.** RCW 75.08.300 and 1985 c 457 s 12 are each amended to read as follows:

~~((1) It is unlawful for any))~~ A person other than the United States, an Indian tribe recognized as such by the federal government, the state, a subdivision of the state, or a municipal corporation or an agency of such a unit of government ~~((to))~~ shall not release salmon or steelhead trout into the public waters of the state and subsequently to recapture and commercially harvest such salmon or trout. This section shall not prevent any person from rearing salmon or steelhead trout in pens or in a confined area under circumstances where the salmon or steelhead trout are confined and never permitted to swim freely in open water.

~~((2) A violation of this section constitutes a gross misdemeanor.))~~

**Sec. 75.** RCW 75.12.010 and 1995 1st sp.s. c 2 s 25 are each amended to read as follows:

~~((1) (Except as provided in this section, it is unlawful to fish commercially for salmon within the waters described in subsection (2) of this section.))~~ The commission may authorize commercial fishing for sockeye salmon within the waters described in subsection (2) of this

section only during the period June 10th to July 25th and for other salmon only from the second Monday of September through November 30th, except during the hours between 4:00 p.m. of Friday and 4:00 p.m. of the following Sunday.

(2) All waters east and south of a line commencing at a concrete monument on Angeles Point in Clallam county near the mouth of the Elwha River on which is inscribed "Angeles Point Monument" (latitude 48° 9' 3" north, longitude 123° 33' 01" west of Greenwich Meridian); thence running east on a line 81° 30' true across the flashlight and bell buoy off Partridge Point and thence continued to longitude 122° 40' west; thence north to the southerly shore of Sinclair Island; thence along the southerly shore of the island to the most easterly point of the island; thence 46° true to Carter Point, the most southerly point of Lummi Island; thence northwesterly along the westerly shore line of Lummi Island to where the shore line intersects line of longitude 122° 40' west; thence north to the mainland, including: The southerly portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and their inlets, passages, waters, waterways, and tributaries.

~~(3) ((The commission may authorize commercial fishing for sockeye salmon within the waters described in subsection (2) of this section during the period June 10 to July 25 and for other salmon from the second Monday of September through November 30, except during the hours between 4:00 p.m. of Friday and 4:00 p.m. of the following Sunday.~~

(4)) The commission may authorize commercial fishing for salmon with gill net gear prior to the second Monday in September within the waters of Hale Passage, Bellingham Bay, Samish Bay, Padilla Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, and Similk Bay, to wit: Those waters northerly and easterly of a line commencing at Stanwood, thence along the south shore of Skagit Bay to Rocky Point on Camano Island; thence northerly to Polnell Point on Whidbey Island.

~~((5))~~ (4) Whenever the commission determines that a stock or run of salmon cannot be harvested in the usual manner, and that the stock or run of salmon may be in danger of being wasted and surplus to natural or artificial spawning requirements, the commission may authorize units of gill net and purse seine gear in any number or equivalents, by time and area, to fully utilize the harvestable portions of these salmon runs for the economic well being of the citizens of this state. Gill net and purse seine gear other than emergency and test gear authorized by the director shall not be used in Lake Washington.

~~((6))~~ (5) The commission may authorize commercial fishing for pink salmon in each odd-numbered year from August 1<sup>st</sup> through September 1<sup>st</sup> in the waters lying inside of a line commencing at the most easterly point of Dungeness Spit and thence projected to Point Partridge on Whidbey Island and a line commencing at Olele Point and thence projected easterly to Bush Point on Whidbey Island.

**Sec. 76.** RCW 75.12.015 and 1995 1st sp.s. c 2 s 26 are each amended to read as follows:

~~((Except as provided in this section, it is unlawful to fish commercially for chinook or coho salmon in the Pacific Ocean and the Straits of Juan de Fuca.))~~

(1) The commission may authorize commercial fishing for coho salmon in the Pacific Ocean and the Straits of Juan de Fuca only from June 16<sup>th</sup> through October 31<sup>st</sup>.

(2) The commission may authorize commercial fishing for chinook salmon in the Pacific Ocean and the Straits of Juan de Fuca only from March 15<sup>th</sup> through October 31<sup>st</sup>.

**Sec. 77.** RCW 75.12.040 and 1993 sp.s. c 2 s 27 are each amended to read as follows:

(1) ~~((It is unlawful to))~~ A person shall not use, operate, or maintain a gill net which exceeds ~~((250 fathoms))~~ 1500 feet in length or a drag seine in the waters of the Columbia river for catching salmon.

(2) ~~((It is unlawful to))~~ A person shall not construct, install, use, operate, or maintain within state waters a pound net, round haul net, lampara net, fish trap, fish wheel, scow fish wheel, set net, weir, or fixed appliance for catching salmon or steelhead. The director may authorize the use of this gear for scientific investigations.

(3) The department, in coordination with the Oregon department of fish and wildlife, shall adopt rules to regulate the use of monofilament in gill net webbing on the Columbia river.

**Sec. 78.** RCW 75.12.132 and 1984 c 80 s 5 are each amended to read as follows:

~~(1) ((It is unlawful to fish for or take salmon commercially with a net within the waters of the tributaries and sloughs described in subsection (2) of this section which flow into or are connected with the Columbia river.~~

~~(2))~~ The ~~((director))~~ commission shall adopt rules defining geographical boundaries of the following Columbia river tributaries and sloughs:

- (a) Washougal river;
- (b) Camas slough;
- (c) Lewis river;
- (d) Kalama river;
- (e) Cowlitz river;
- (f) Elokomin river;
- (g) Elokomin sloughs;
- (h) Skamokawa sloughs;
- (i) Grays river;



(j) Deep river;

(k) Grays bay.

~~((3))~~ (2) The ~~((director))~~ commission may authorize commercial net fishing for salmon in the tributaries and sloughs from September 1<sup>st</sup> to November 30<sup>th</sup> only, if the time, areas, and level of effort are regulated in order to maximize the recreational fishing opportunity while minimizing excess returns of fish to hatcheries. The ~~((director))~~ commission shall not authorize commercial net fishing if a significant catch of steelhead would occur.

**Sec. 79.** RCW 75.12.140 and 1983 1st ex.s. c 46 s 59 are each amended to read as follows:

~~((It is unlawful to fish for salmon with))~~ The commission shall not authorize use of reef net fishing gear ~~((in state waters;))~~ except in the reef net areas described in this section.

(1) Point Roberts reef net fishing area includes those waters within 250 feet on each side of a line projected 129° true from a point at longitude 123° 01' 15" W. latitude 48° 58' 38" N. to a point one mile distant, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6300, published September, 1941, in Washington, D.C., eleventh edition.

(2) Cherry Point reef net fishing area includes those waters inland and inside the 10-fathom line between lines projected 205° true from points on the mainland at longitude 122° 44' 54" latitude 48° 51' 48" and longitude 122° 44' 18" latitude 48° 51' 33", a [as] such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(3) Lummi Island reef net fishing area includes those waters inland and inside a line projected from Village Point 208° true to a point 900 yards distant, thence 129° true to the point of intersection with a line projected 259° true from the shore of Lummi Island 122° 40' 42" latitude 48° 41' 32", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition, revised 11-25-57, save and except that there shall be excluded therefrom all waters lying inside of a line projected 259° true from a point at 122° 40' 42" latitude 48° 41' 32" to a point 300 yards distant from high tide, thence in a northerly direction to the United States Coast and Geodetic Survey reference mark number 2, 1941-1950, located on that point on Lummi Island known as Lovers Point, as such descriptions are shown upon the United States Coast and Geodetic Survey map number 6380 as aforesaid. The term "Village Point" as used herein shall be construed to mean a point of location on Village Point, Lummi Island, at the mean high tide line on a true bearing of 43° 53' a distance of 457 feet to the center of the chimney of a wood frame house on the east side of the county road. Said chimney and house being described as Village Point Chimney on page 612 of the United States Coast and Geodetic Survey list of geographic positions No. G-5455, Rosario Strait.

(4) Sinclair Island reef net fishing area includes those waters inland and inside a line projected from the northern point of Sinclair Island to Boulder reef, thence 200° true to the northwesterly point of Sinclair Island, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(5) Flat Point reef net fishing area includes those waters within a radius of 175 feet of a point off Lopez Island located at longitude 122° 55' 24" latitude 48° 32' 33", as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(6) Lopez Island reef net fishing area includes those waters within 400 yards of shore between lines projected true west from points on the shore of Lopez Island at longitude 122° 55' 04" latitude 48° 31' 59" and longitude 122° 55' 54" latitude 48° 30' 55", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(7) Iceberg Point reef net fishing area includes those waters inland and inside a line projected from Davis Point on Lopez Island to the west point of Long Island, thence to the southern point of Hall Island, thence to the eastern point at the entrance to Jones Bay, and thence to the southern point at the entrance to Mackaye Harbor on Lopez Island; and those waters inland and inside a line projected 320° from Iceberg Point light on Lopez Island, a distance of 400 feet, thence easterly to the point on Lopez Island at longitude 122° 53' 00" latitude 48° 25' 39", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(8) Aleck Bay reef net fishing area includes those waters inland and inside a line projected from the southwestern point at the entrance to Aleck Bay on Lopez Island at longitude 122° 51' 11" latitude 48° 25' 14" southeasterly 800 yards to the submerged rock shown on U.S.G.S. map number 6380, thence northerly to the cove on Lopez Island at longitude 122° 50' 49" latitude 48° 25' 42", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(9) Shaw Island reef net fishing area number 1 includes those waters within 300 yards of shore between lines projected true south from points on Shaw Island at longitude 122° 56' 14" latitude 48° 33' 28" and longitude 122° 57' 29" latitude 48° 32' 58", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(10) Shaw Island reef net fishing area number 2 includes those waters inland and inside a line projected from Point George on Shaw Island to the westerly point of Neck Point on Shaw Island, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(11) Stuart Island reef net fishing area number 1 includes those waters within 600 feet of the shore of Stuart Island between lines projected true east from points at longitude 123° 10' 47" latitude 48° 39' 47" and longitude 123° 10' 47" latitude 48° 39' 33", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(12) Stuart Island reef net fishing area number 2 includes those waters within 250 feet of Gossip Island, also known as Happy Island, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(13) Johns Island reef net fishing area includes those waters inland and inside a line projected from the eastern point of Johns Island to the northwestern point of Little Cactus Island, thence northwesterly to a point on Johns Island at longitude 123° 09' 24" latitude 48° 39' 59", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(14) Battleship Island reef net fishing area includes those waters lying within 350 feet of Battleship Island, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(15) Open Bay reef net fishing area includes those waters lying within 150 feet of shore between lines projected true east from a point on Henry Island at longitude 123° 11' 34 1/2" latitude 48° 35' 27 1/2" at a point 250 feet south, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(16) Mitchell Reef net fishing area includes those waters within a line beginning at the rock shown on U.S.G.S. map number 6380 at longitude 123° 10' 56" latitude 48° 34' 49 1/2", and projected 50 feet northwesterly, thence southwesterly 250 feet, thence southeasterly 300 feet, thence northeasterly 250 feet, thence to the point of beginning, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(17) Smugglers Cove reef fishing area includes those waters within 200 feet of shore between lines projected true west from points on the shore of San Juan Island at longitude 123° 10' 29" latitude 48° 33' 50" and longitude 123° 10' 31" latitude 48° 33' 45", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(18) Andrews Bay reef net fishing area includes those waters lying within 300 feet of the shore of San Juan Island between a line projected true south from a point at the northern entrance of Andrews Bay at longitude 123° 09' 53 1/2" latitude 48° 33' 00" and the cable crossing sign in Andrews Bay, at longitude 123° 09' 45" latitude 48° 33' 04", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(19) Orcas Island reef net fishing area includes those waters inland and inside a line projected true west a distance of 1,000 yards from the shore of Orcas Island at longitude 122° 57' 40" latitude 48° 41' 06" thence northeasterly to a point 500 feet true west of Point Doughty, then true east to Point Doughty, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

**Sec. 80.** RCW 75.12.210 and 1993 c 20 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, ~~((it is unlawful to fish for or take salmon with))~~ the commission shall not authorize gear other than troll gear or angling gear for taking salmon within the offshore waters or the waters of the Pacific Ocean over which the state has jurisdiction lying west of the following line: Commencing at the point of intersection of the international boundary line in the Strait of Juan de Fuca and a line drawn between the lighthouse on Tatoosh Island in Clallam County and Bonilla Point on Vancouver Island; thence southerly to the lighthouse on Tatoosh Island; thence southerly to the most westerly point of Cape Flattery; thence southerly along the state shoreline of the Pacific Ocean, crossing any river mouths at their most westerly points of land, to Point Brown at the entrance to Grays Harbor; thence southerly to Point Chehalis Light on Point Chehalis; thence southerly from Point Chehalis along the state shoreline of the Pacific Ocean to the Cape Shoalwater tower at the entrance to Willapa Bay; thence southerly to Leadbetter Point; thence southerly along the state shoreline of the Pacific Ocean to the inshore end of the North jetty at the entrance to the Columbia River; thence southerly to the knuckle of the South jetty at the entrance to said river.

(2) The ~~((director))~~ commission may authorize the use of nets for taking salmon in the waters described in subsection (1) of this section for scientific investigations.

**Sec. 81.** RCW 75.12.230 and 1983 1st ex.s. c 46 s 61 are each amended to read as follows:

Within the waters described in RCW 75.12.210, ~~((it is unlawful to))~~ a person shall not transport or possess salmon on board a vessel carrying fishing gear of a type other than troll lines or angling gear, unless accompanied by a certificate issued by a state or country showing that the salmon have been lawfully taken within the territorial waters of the state or country.

**Sec. 82.** RCW 75.12.390 and 1989 c 172 s 1 are each amended to read as follows:

The commission shall not authorize commercial bottom trawling for food fish and shellfish ~~((is unlawful))~~ in all areas of Hood Canal south of a line projected from Tala Point to Foulweather Bluff and in Puget Sound south of a line projected from Foulweather Bluff to Double Bluff and including all marine waters east of Whidbey Island and Camano Island.

**Sec. 83.** RCW 75.12.440 and 1993 c 340 s 50 are each amended to read as follows:

~~((It is unlawful to use))~~ The commission shall not authorize any commercial fisher to use more than fifty shrimp pots while commercially fishing for shrimp in that portion of Hood Canal lying south of the Hood Canal floating bridge.

**Sec. 84.** RCW 75.12.650 and 1996 c 267 s 24 are each amended to read as follows:

~~((It is unlawful to fish commercially for salmon using fishing gear not authorized for commercial salmon fishing by rule of the department.))~~ The commission shall not authorize angling gear or other personal use gear for commercial salmon fishing.

**Sec. 85.** RCW 75.20.040 and 1983 1st ex.s. c 46 s 70 are each amended to read as follows:

A diversion device used for conducting water from a lake, river, or stream for any purpose shall be equipped with a fish guard approved by the director to prevent the passage of fish into the diversion device. The fish guard shall be maintained at all times when water is taken into the diversion device. The fish guards shall be installed at places and times prescribed by the director upon thirty days' notice to the owner of the diversion device. ~~((It is unlawful for the owner of a diversion device to fail to comply with this section.))~~

Each day the diversion device is not equipped with an approved fish guard is a separate offense. If within thirty days after notice to equip a diversion device the owner fails to do so, the director may take possession of the diversion device and close the device until it is properly equipped. Expenses incurred by the department constitute the value of a lien upon the diversion device and upon the real and personal property of the owner. Notice of the lien shall be filed and recorded in the office of the county auditor of the county in which the action is taken.

**Sec. 86.** RCW 75.20.060 and 1983 1st ex.s. c 46 s 72 are each amended to read as follows:

A dam or other obstruction across or in a stream shall be provided with a durable and efficient fishway approved by the director. Plans and specifications shall be provided to the department prior to the director's approval. The fishway shall be maintained in an effective condition and continuously supplied with sufficient water to freely pass fish. ~~((It is unlawful for the owner, manager, agent, or person in charge of the dam or obstruction to fail to comply with this section.))~~

If a person fails to construct and maintain a fishway or to remove the dam or obstruction in a manner satisfactory to the director, then within thirty days after written notice to comply has been served upon the owner, his agent, or the person in charge, the director may construct a fishway or remove the dam or obstruction. Expenses incurred by the department constitute the value of a lien upon the dam and upon the personal property of the person owning the dam. Notice of the lien shall be filed and recorded in the office of the county auditor of the county in which the dam or obstruction is situated. The lien may be foreclosed in an action brought in the name of the state.

If, within thirty days after notice to construct a fishway or remove a dam or obstruction, the owner, his agent, or the person in charge fails to do so, the dam or obstruction is a public nuisance and the director may take possession of the dam or obstruction and destroy it. No liability shall attach for the destruction.

**Sec. 87.** RCW 75.20.100 and 1997 c 385 s 1 and 1997 c 290 s 4 are each reenacted and amended to read as follows:

(1) In the event that any person or government agency desires to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, such person or government agency shall, before commencing construction or work thereon and to ensure the proper protection of fish life, secure the approval of the department as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld.

(2)(a) Except as provided in RCW 75.20.1001, the department shall grant or deny approval of a standard permit within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the state environmental policy act, made in the manner prescribed in this section.

(b) The applicant may document receipt of application by filing in person or by registered mail. A complete application for approval shall contain general plans for the overall project, complete plans and specifications of the proposed construction or work within the mean higher high water line in salt water or within the ordinary high water line in fresh water, and complete plans and specifications for the proper protection of fish life.

(c) The forty-five day requirement shall be suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection; or

(iii) The applicant requests delay. Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(d) For purposes of this section, "standard permit" means a written permit issued by the department when the conditions under subsections (3) and ~~((6))~~(5)(b) of this section are not met.

(3)(a) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources. Expedited permit requests require a complete written application as provided in subsection (2)(b) of this section and shall be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance.

(b) For the purposes of this subsection, "imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(d) The department or the county legislative authority may determine if an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists.

(4) Approval of a standard permit is valid for a period of up to five years from date of issuance. The permittee must demonstrate substantial progress on construction of that portion of the project relating to the approval within two years of the date of issuance. If the department denies approval, the department shall provide the applicant, in writing, a statement of the specific reasons why and how the proposed project would adversely affect fish life. Protection of fish life shall be the only ground upon which approval may be denied or conditioned. Chapter 34.05 RCW applies to any denial of project approval, conditional approval, or requirements for project modification upon which approval may be contingent.

~~(5) (If any person or government agency commences construction on any hydraulic works or projects subject to this section without first having obtained approval of the department as to the adequacy of the means proposed for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, the person or director of the agency is guilty of a gross misdemeanor. If any such person or government agency is convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.~~

~~(6))~~(a) In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department, through its authorized representatives, shall issue immediately, upon request, oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written approval prior to commencing work. Conditions of an oral approval to protect fish life shall be established by the department and reduced to writing within thirty days and complied with as provided for in this section. Oral approval shall be granted immediately, upon request, for a stream crossing during an emergency situation.

(b) For purposes of this section and RCW 75.20.103, "emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(c) The department or the county legislative authority may declare and continue an emergency when one or more of the criteria under (b) of this subsection are met. The county legislative authority shall immediately notify the department if it declares an emergency under this subsection.

~~((7))~~ (6) The department shall, at the request of a county, develop five-year maintenance approval agreements, consistent with comprehensive flood control management plans adopted under the authority of RCW 86.12.200, or other watershed plan approved by a county legislative authority, to allow for work on public and private property for bank stabilization, bridge repair, removal of sand bars and debris, channel maintenance, and other flood damage repair and reduction activity under agreed-upon conditions and times without obtaining permits for specific projects.

~~((8))~~ (7) This section shall not apply to the construction of any form of hydraulic project or other work which diverts water for agricultural irrigation or stock watering purposes authorized under or recognized as being valid by the state's water codes, or when such hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020. These irrigation or stock watering diversion and streambank stabilization projects shall be governed by RCW 75.20.103.

A landscape management plan approved by the department and the department of natural resources under RCW 76.09.350(2), shall serve as a hydraulic project approval for the life of the plan if fish are selected as one of the public resources for coverage under such a plan.

~~((9))~~ (8) For the purposes of this section and RCW 75.20.103, "bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

~~((10))~~ (9) The phrase "to construct any form of hydraulic project or perform other work" does not include the act of driving across an established ford. Driving across streams or on wetted stream beds at areas other than established fords requires approval. Work within the ordinary high water line of state waters to construct or repair a ford or crossing requires approval.

**Sec. 88.** RCW 75.20.103 and 1993 sp.s. c 2 s 32 are each amended to read as follows:

In the event that any person or government agency desires to construct any form of hydraulic project or other work that diverts water for agricultural irrigation or stock watering purposes, or when such hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, and when such diversion or streambank stabilization will use, divert, obstruct, or change the natural flow or bed of any river or stream or will utilize any waters of the state or materials from the stream beds, the person or government agency shall, before commencing construction or work thereon and to ensure the proper protection of fish life, secure a written approval from the department as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld. Except as provided in RCW 75.20.1001 ~~((and 75.20.1002))~~, the department shall grant or deny the approval within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the state environmental policy act, made in the manner prescribed in this section. The applicant may document receipt of application by filing in person or by registered mail. A complete application for an approval shall contain general plans for the overall project, complete plans and specifications of the proposed construction or work within ordinary high water line, and complete plans and specifications for the proper protection of fish life. The forty-five day requirement shall be suspended if (1) after ten working days of receipt of the application, the applicant remains unavailable or unable to

arrange for a timely field evaluation of the proposed project; (2) the site is physically inaccessible for inspection; or (3) the applicant requests delay.

Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

An approval shall remain in effect without need for periodic renewal for projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. Approval for streambank stabilization projects shall remain in effect without need for periodic renewal if the problem causing the need for the streambank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the approval.

The permittee must demonstrate substantial progress on construction of that portion of the project relating to the approval within two years of the date of issuance. If the department denies approval, the department shall provide the applicant, in writing, a statement of the specific reasons why and how the proposed project would adversely affect fish life. Protection of fish life shall be the only ground upon which approval may be denied or conditioned. Issuance, denial, conditioning, or modification shall be appealable to the hydraulic appeals board established in RCW 43.21B.005 within thirty days of the notice of decision. The burden shall be upon the department to show that the denial or conditioning of an approval is solely aimed at the protection of fish life.

The department may, after consultation with the permittee, modify an approval due to changed conditions. The modifications shall become effective unless appealed to the hydraulic appeals board within thirty days from the notice of the proposed modification. The burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

A permittee may request modification of an approval due to changed conditions. The request shall be processed within forty-five calendar days of receipt of the written request. A decision by the department may be appealed to the hydraulic appeals board within thirty days of the notice of the decision. The burden is on the permittee to show that changed conditions warrant the requested modification and that such modification will not impair fish life.

~~(If any person or government agency commences construction on any hydraulic works or projects subject to this section without first having obtained written approval of the department as to the adequacy of the means proposed for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, the person or director of the agency is guilty of a gross misdemeanor. If any such person or government agency is convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.)~~

In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department, through its authorized representatives, shall issue immediately upon request oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written approval prior to commencing work. Conditions of an oral approval shall be reduced to writing within thirty days and complied with as provided for in this section.

For purposes of this chapter, "streambank stabilization" shall include but not be limited to log and debris removal, bank protection (including riprap, jetties, and groins), gravel removal and erosion control.

**Sec. 89.** RCW 75.20.110 and 1995 1st sp.s. c 2 s 27 are each amended to read as follows:

(1) Except for the north fork of the Lewis river and the White Salmon river, all streams and rivers tributary to the Columbia river downstream from McNary dam are established as an anadromous fish sanctuary. This sanctuary is created to preserve and develop the food fish and game fish resources in these streams and rivers and to protect them against undue industrial encroachment.

(2) Within the sanctuary area:

(a) ~~((It is unlawful))~~ The department shall not issue hydraulic project approval to construct a dam greater than twenty-five feet high within the migration range of anadromous fish as determined by the ~~((commission))~~ department.

(b) ~~((Except by order of the commission, it is unlawful to))~~ A person shall not divert water from rivers and streams in quantities that will reduce the respective stream flow below the annual average low flow, based upon data published in United States geological survey reports.

(3) The commission may acquire and abate a dam or other obstruction, or acquire any water right vested on a sanctuary stream or river, which is in conflict with the provisions of subsection (2) of this section.

(4) Subsection (2)(a) of this section does not apply to the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers.

**Sec. 90.** RCW 75.24.080 and 1983 1st ex.s. c 46 s 83 are each amended to read as follows:

The director may designate as "restricted shellfish areas" those areas in which infection or infestation of shellfish is present. ~~((Except by))~~ A permit (of) issued by the director~~((-it))~~ is ~~((unlawful))~~ required to transplant or transport into or out of a restricted area shellfish or equipment used in culturing, taking, handling, or processing shellfish.

**Sec. 91.** RCW 75.24.100 and 1995 1st sp.s. c 2 s 29 are each amended to read as follows:

(1) ~~((It is unlawful))~~ The department may not authorize a person to take geoduck clams for commercial purposes outside the harvest area designated in a current department of natural resources geoduck harvesting agreement issued under RCW 79.96.080. ~~((It is unlawful to~~

~~commercially~~) The department may not authorize commercial harvest of geoduck clams from bottoms that are shallower than eighteen feet below mean lower low water (0.0. ft.), or that lie in an area bounded by the line of ordinary high tide (mean high tide) and a line two hundred yards seaward from and parallel to the line of ordinary high tide. This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

(2) Commercial geoduck harvesting shall be done with a hand-held, manually operated water jet or suction device guided and controlled from under water by a diver. Periodically, the commission shall determine the effect of each type or unit of gear upon the geoduck population or the substrate they inhabit. The commission may require modification of the gear or stop its use if it is being operated in a wasteful or destructive manner or if its operation may cause permanent damage to the bottom or adjacent shellfish populations.

**Sec. 92.** RCW 75.24.110 and 1983 1st ex.s. c 46 s 87 are each amended to read as follows:

~~(It is unlawful for)~~ The department may not authorize a person to import oysters or oyster seed into this state for the purpose of planting them in state waters without a permit from the director. The director shall issue a permit only after an adequate inspection has been made and the oysters or oyster seed are found to be free of disease, pests, and other substances which might endanger oysters in state waters.

**Sec. 93.** RCW 75.28.010 and 1997 c 58 s 883 are each amended to read as follows:

(1) Except as otherwise provided by this title, ~~((it is unlawful to))~~ a person may not engage in any of the following activities without a license or permit issued by the director:

- (a) Commercially fish for or take food fish or shellfish;
- (b) Deliver food fish or shellfish taken in offshore waters;
- (c) Operate a charter boat or commercial fishing vessel engaged in a fishery;
- (d) Engage in processing or wholesaling food fish or shellfish; or
- (e) Act as a guide for salmon for personal use in freshwater rivers and streams, other than that part of the Columbia river below the bridge at Longview.

(2) No person may engage in the activities described in subsection (1) of this section unless the licenses or permits required by this title are in the person's possession, and the person is the named license holder or an alternate operator designated on the license and the person's license is not suspended.

(3) A valid Oregon license that is equivalent to a license under this title is valid in the concurrent waters of the Columbia river if the state of Oregon recognizes as valid the equivalent Washington license. The director may identify by rule what Oregon licenses are equivalent.

(4) No license or permit is required for the production or harvesting of private sector cultured aquatic products as defined in RCW 15.85.020 or for the delivery, processing, or wholesaling of such aquatic products. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, the exemption from licensing or permit requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

**Sec. 94.** RCW 75.28.045 and 1993 c 340 s 7 are each amended to read as follows:

This section applies to all commercial fishery licenses, delivery licenses, and charter licenses.

(1) An applicant for a license subject to this section may designate a vessel to be used with the license. Except for emergency salmon delivery licenses, the director may issue a license regardless of whether the applicant designates a vessel. An applicant may designate no more than one vessel on a license subject to this section.

(2) A license for a fishery that requires a vessel authorizes no taking or delivery of food fish or shellfish unless a vessel is designated on the license. A delivery license authorizes no delivery of food fish or shellfish unless a vessel is designated on the license.

~~(3) ((It is unlawful to take food fish or shellfish in a fishery that requires a vessel except from a vessel designated on a commercial fishery license for that fishery.~~

~~(4) It is unlawful to operate a vessel as a charter boat unless the vessel is designated on a charter license.~~

~~(5))~~ No vessel may be designated on more than one commercial fishery license unless the licenses are for different fisheries. No vessel may be designated on more than one delivery license, on more than one salmon charter license, or on more than one nonsalmon charter license.

**Sec. 95.** RCW 75.28.095 and 1997 c 76 s 2 are each amended to read as follows:

(1) The director shall issue the charter licenses and angler permits listed in this section according to the requirements of this title. The licenses and permits and their annual fees and surcharges are:

License or Permit Annual Fee Governing  
(RCW 75.50.100 Surcharge) Section

Resident Nonresident

- (a) Nonsalmon charter \$225 \$375
- (b) Salmon charter \$380 \$685 RCW 75.30.065

(plus \$100) (plus \$100)

(c) Salmon angler \$ 0 \$ 0 RCW 75.30.070

(d) Salmon roe \$ 95 \$ 95 RCW 75.28.690

(2) (~~Except as provided in subsection (5) of this section, it is unlawful to operate a vessel as a charter boat from which salmon or salmon and other food fish or shellfish are taken without a salmon charter license designating the vessel~~) A salmon charter license designating a vessel is required to operate a charter boat to take salmon, other food fish, and shellfish. The director may issue a salmon charter license only to a person who meets the qualifications of RCW 75.30.065.

(3) (~~Except as provided in subsections (2) and (5) of this section, it is unlawful to operate a vessel as a charter boat from which food fish or shellfish are taken without a nonsalmon charter license~~) A nonsalmon charter license designating a vessel is required to operate a charter boat to take food fish other than salmon and shellfish. As used in this subsection, "food fish" does not include salmon.

(4) "Charter boat" means a vessel from which persons may, for a fee, fish for food fish or shellfish for personal use, and that brings food fish or shellfish into state ports or brings food fish or shellfish taken from state waters into United States ports. The director may specify by rule when a vessel is a "charter boat" within this definition. "Charter boat" does not mean a vessel used by a guide for clients fishing for food fish for personal use in freshwater rivers, streams, and lakes, other than Lake Washington or that part of the Columbia River below the bridge at Longview.

(5) A charter boat licensed in Oregon may fish without a Washington charter license under the same rules as Washington charter boat operators in ocean waters within the jurisdiction of Washington state from the southern border of the state of Washington to Leadbetter Point, as long as the Oregon vessel does not land at any Washington port with the purpose of taking on or discharging passengers. The provisions of this subsection shall be in effect as long as the state of Oregon has reciprocal laws and regulations.

(6) A salmon charter license under subsection (1)(b) of this section may be renewed if the license holder notifies the department by May 1st of that year that he or she will not participate in the fishery during that calendar year. The license holder must pay the one hundred-dollar enhancement surcharge, plus a fifteen-dollar handling charge, in order to be considered a valid renewal and eligible to renew the license the following year.

**Sec. 96.** RCW 75.28.113 and 1994 c 260 s 22 are each amended to read as follows:

(1) (~~It is unlawful to deliver salmon taken in offshore waters to a place or port in the state without~~) A salmon delivery license (from the director) is required to deliver salmon taken in offshore waters to a place or port in the state. The annual fee for a salmon delivery license is three hundred eighty dollars for residents and six hundred eighty-five dollars for nonresidents. The annual surcharge under RCW 75.50.100 is one hundred dollars for each license. Holders of nonlimited entry delivery licenses issued under RCW 75.28.125 may apply the nonlimited entry delivery license fee against the salmon delivery license fee.

(2) Only a person who meets the qualifications established in RCW 75.30.120 may hold a salmon delivery license issued under this section.

(3) A salmon delivery license authorizes no taking of salmon or other food fish or shellfish from the waters of the state.

(4) If the director determines that the operation of a vessel under a salmon delivery license results in the depletion or destruction of the state's salmon resource or the delivery into this state of salmon products prohibited by law, the director may revoke the license under the procedures of chapter 34.05 RCW.

**Sec. 97.** RCW 75.28.125 and 1994 c 260 s 21 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, (~~it is unlawful to deliver with~~) a person may not use a commercial fishing vessel to deliver food fish or shellfish taken in offshore waters to a port in the state without a nonlimited entry delivery license. As used in this section, "food fish" does not include salmon. As used in this section, "shellfish" does not include ocean pink shrimp or coastal crab. The annual license fee for a nonlimited entry delivery license is one hundred ten dollars for residents and two hundred dollars for nonresidents.

(2) Holders of salmon troll fishery licenses issued under RCW 75.28.110, salmon delivery licenses issued under RCW 75.28.113, crab pot fishery licenses issued under RCW 75.28.130, food fish trawl—Non-Puget Sound fishery licenses issued under RCW 75.28.120, Dungeness crab—coastal fishery licenses, ocean pink shrimp delivery licenses, and shrimp trawl—Non-Puget Sound fishery licenses issued under RCW 75.28.130 may deliver food fish or shellfish taken in offshore waters without a nonlimited entry delivery license.

(3) A nonlimited entry delivery license authorizes no taking of food fish or shellfish from state waters.

**Sec. 98.** RCW 75.28.710 and 1993 c 340 s 26 are each amended to read as follows:

(1) (~~It is unlawful to~~) A person shall not offer or perform the services of a professional salmon guide in the taking of salmon for personal use in freshwater rivers and streams, other than in that part of the Columbia river below the bridge at Longview, without a professional salmon guide license.

(2) Only an individual at least sixteen years of age may hold a professional salmon guide license. No individual may hold more than one professional salmon guide license.

**Sec. 99.** RCW 75.28.740 and 1993 c 340 s 18 are each amended to read as follows:

(1) The director may by rule designate a fishery as an emerging commercial fishery. The director shall include in the designation whether the fishery is one that requires a vessel.

(2) "Emerging commercial fishery" means the commercial taking of a newly classified species of food fish or shellfish, the commercial taking of a classified species with gear not previously used for that species, or the commercial taking of a classified species in an area from which that species has not previously been commercially taken. Any species of food fish or shellfish commercially harvested in Washington state as of June 7, 1990, may be designated as a species in an emerging commercial fishery, except that no fishery subject to a license limitation program in chapter 75.30 RCW may be designated as an emerging commercial fishery.

(3) ~~((It is unlawful to))~~ A person shall not take food fish or shellfish in a fishery designated as an emerging commercial fishery without an emerging commercial fishery license and a permit from the director. The director shall issue two types of permits to accompany emerging commercial fishery licenses: Trial fishery permits and experimental fishery permits. Trial fishery permits are governed by subsection (4) of this section. Experimental fishery permits are governed by RCW 75.30.220.

(4) The director shall issue trial fishery permits for a fishery designated as an emerging commercial fishery unless the director determines there is a need to limit the number of participants under RCW 75.30.220. A person who meets the qualifications of RCW 75.28.020 may hold a trial fishery permit. The holder of a trial fishery permit shall comply with the terms of the permit. Trial fishery permits are not transferable from the permit holder to any other person.

**Sec. 100.** RCW 75.30.070 and 1993 c 340 s 29 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, ~~((it is unlawful to))~~ a person shall not operate a vessel as a charter boat from which salmon are taken in salt water without an angler permit. The angler permit shall specify the maximum number of persons that may fish from the charter boat per trip. The angler permit expires if the salmon charter license is not renewed.

(2) Only a person who holds a salmon charter license issued under RCW 75.28.095 and 75.30.065 may hold an angler permit.

(3) An angler permit shall not be required for charter boats licensed in Oregon and fishing in ocean waters within the jurisdiction of Washington state from the southern border of the state of Washington to Leadbetter Point under the same regulations as Washington charter boat operators, as long as the Oregon vessel does not land at any Washington port with the purpose of taking on or discharging passengers. The provisions of this subsection shall be in effect as long as the state of Oregon has reciprocal laws and regulations.

**Sec. 101.** RCW 75.30.130 and 1997 c 233 s 1 and 1997 c 115 s 1 are each reenacted and amended to read as follows:

(1) ~~((It is unlawful to))~~ A person shall not commercially take Dungeness crab (Cancer magister) in Puget Sound without first obtaining a Dungeness crab--Puget Sound fishery license. As used in this section, "Puget Sound" has the meaning given in RCW 75.28.110(5)(a). A Dungeness crab--Puget Sound fishery license is not required to take other species of crab, including red rock crab (Cancer productus).

(2) Except as provided in subsections (3) and (6) of this section, after January 1, 1982, the director shall issue no new Dungeness crab--Puget Sound fishery licenses. Only a person who meets the following qualification may renew an existing license: The person shall have held the Dungeness crab--Puget Sound fishery license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and shall not have subsequently transferred the license to another person.

(3) Where the person failed to obtain the license during the previous year because of a license suspension, the person may qualify for a license by establishing that the person held such a license during the last year in which the license was not suspended.

(4) This section does not restrict the issuance of commercial crab licenses for areas other than Puget Sound or for species other than Dungeness crab.

(5) Dungeness crab--Puget Sound fishery licenses are transferable from one license holder to another.

(6) If fewer than one hundred twenty-five persons are eligible for Dungeness crab--Puget Sound fishery licenses, the director may accept applications for new licenses. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain one hundred twenty-five licenses in the Puget Sound Dungeness crab fishery. The director shall adopt rules governing the application, selection, and issuance procedures for new Dungeness crab--Puget Sound fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050.

**Sec. 102.** RCW 75.30.140 and 1993 c 340 s 35 are each amended to read as follows:

(1) ~~((It is unlawful to))~~ A person shall not fish commercially for herring in state waters without a herring fishery license. As used in this section, "herring fishery license" means any of the following commercial fishery licenses issued under RCW 75.28.120: Herring dip bag net; herring drag seine; herring gill net; herring lampara; herring purse seine.

(2) Except as provided in this section, a herring fishery license may be issued only to a person who

~~(a) Established initial eligibility for a herring fishery license as provided in subsection (3) of this section or acquired such a license by transfer;~~

~~(b) Held a herring fishery license during the previous year or acquired such a license by transfer; and~~

~~(c) Has not subsequently transferred the license to another person.~~

(3) A person may establish initial eligibility for a herring fishery license by:

~~(a) Documenting to the department that the person landed herring during the period January 1, 1971, through April 15, 1973;~~



~~(b) Documenting to the department that the person landed herring during the period January 1, 1969, through December 31, 1970, if the person was in the armed forces of the United States during the period January 1, 1971, through April 15, 1973; or~~

~~(c) Applying to the department and qualifying for a herring fishery license under hardship criteria established by rule of the director. Landings may be documented only by a department fish receiving ticket.~~

~~(4) A herring fishery license may be issued only for the type of fishing gear used to establish initial eligibility for the license.~~

~~(5) The director may establish rules governing the administration of this section based upon recommendations of a board of review established under RCW 75.30.050.~~

~~(6) Except as provided in subsection (8) of this section, after January 1, 1995, the director shall issue no new herring fishery licenses. After January 1, 1995, a person may renew an existing license only if the person)) held the license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and if the person has not subsequently transferred the license to another person.~~

~~((7))~~ (3) Herring fishery licenses may be renewed each year. A herring fishery license that is not renewed each year shall not be renewed further.

~~((8))~~ (4) The department may issue additional herring fishery licenses if the stocks of herring will not be jeopardized by granting additional licenses.

~~((9))~~ (5) Subject to the restrictions of ~~((section 11 of this act))~~ RCW 75.28.011, herring fishery licenses are transferable from one license holder to another.

**Sec. 103.** RCW 75.30.160 and 1993 c 340 s 38 are each amended to read as follows:

~~((It is unlawful to))~~ A person shall not commercially take whiting from areas that the department designates within the waters described in RCW 75.28.110(5)(a) without a whiting--Puget Sound fishery license.

**Sec. 104.** RCW 75.30.210 and 1993 c 340 s 41 are each amended to read as follows:

(1) ~~((It is unlawful to))~~ A person shall not commercially take any species of sea urchin using shellfish diver gear without first obtaining a sea urchin dive fishery license.

(2) Except as provided in subsections (3) and (6) of this section, after December 31, 1991, the director shall issue no new sea urchin dive fishery licenses. Only a person who meets the following qualifications may renew an existing license:

(a) The person shall have held the sea urchin dive fishery license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year; and

(b) The person shall document, by valid shellfish receiving tickets issued by the department, that twenty thousand pounds of sea urchins were caught and sold under the license sought to be renewed during the two-year period ending March 31 of the most recent odd-numbered year.

(3) Where the person failed to obtain the license during the previous year because of a license suspension or revocation by the department or the court, the person may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) The director may reduce or waive the poundage requirement of subsection (2)(b) of this section upon the recommendation of a board of review established under RCW 75.30.050. The board of review may recommend a reduction or waiver of the poundage requirement in individual cases if, in the board's judgment, extenuating circumstances prevent achievement of the poundage requirement. The director shall adopt rules governing the operation of the board of review and defining "extenuating circumstances."

(5) Sea urchin dive fishery licenses are not transferable from one license holder to another, except from parent to child, or from spouse to spouse during marriage or as a result of marriage dissolution, or upon the death of the license holder.

(6) If fewer than forty-five persons are eligible for sea urchin dive fishery licenses, the director may accept applications for new licenses. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain up to forty-five licenses in the sea urchin dive fishery. The director shall adopt rules governing the application, selection, and issuance procedure for new sea urchin dive fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050.

**Sec. 105.** RCW 75.30.250 and 1993 c 340 s 44 are each amended to read as follows:

(1) ~~((It is unlawful to))~~ A person shall not commercially take while using shellfish diver gear any species of sea cucumber without first obtaining a sea cucumber dive fishery license.

(2) Except as provided in subsection (6) of this section, after December 31, 1991, the director shall issue no new sea cucumber dive fishery licenses. Only a person who meets the following qualifications may renew an existing license:

(a) The person shall have held the sea cucumber dive fishery license sought to be renewed during the previous two years or acquired the license by transfer from someone who held it during the previous year; and

(b) The person shall establish, by means of dated shellfish receiving documents issued by the department, that thirty landings of sea cucumbers totaling at least ten thousand pounds were made under the license during the previous two-year period ending December 31 of the odd-numbered year.

(3) Where the person failed to obtain the license during either of the previous two years because of a license suspension by the department or the court, the person may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) The director may reduce or waive any landing or poundage requirement established under this section upon the recommendation of a board of review established under RCW 75.30.050. The board of review may recommend a reduction or waiver of any landing or poundage requirement in individual cases if, in the board's judgment, extenuating circumstances prevent achievement of the landing or poundage requirement. The director shall adopt rules governing the operation of the board of review and defining "extenuating circumstances."

(5) Sea cucumber dive fishery licenses are not transferable from one license holder to another except from parent to child, from spouse to spouse during marriage or as a result of marriage dissolution, or upon death of the license holder.

(6) If fewer than fifty persons are eligible for sea cucumber dive fishery licenses, the director may accept applications for new licenses from those persons who can demonstrate two years' experience in the Washington state sea cucumber dive fishery. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain up to fifty licenses in the sea cucumber dive fishery. The director shall adopt rules governing the application, selection, and issuance procedure for new sea cucumber dive fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050.

**Sec. 106.** RCW 75.30.280 and 1993 c 340 s 46 are each amended to read as follows:

(1) ~~(It is unlawful to)~~ A person shall not harvest geoduck clams commercially without a geoduck fishery license. This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

(2) Only a person who has entered into a geoduck harvesting agreement with the department of natural resources under RCW 79.96.080 may hold a geoduck fishery license.

(3) A geoduck fishery license authorizes no taking of geoducks outside the boundaries of the public lands designated in the underlying harvesting agreement, or beyond the harvest ceiling set in the underlying harvesting agreement.

(4) A geoduck fishery license expires when the underlying geoduck harvesting agreement terminates.

(5) The director shall determine the number of geoduck fishery licenses that may be issued for each geoduck harvesting agreement, the number of units of gear whose use the license authorizes, and the type of gear that may be used, subject to RCW 75.24.100. In making those determinations, the director shall seek to conserve the geoduck resource and prevent damage to its habitat.

(6) The holder of a geoduck fishery license and the holder's agents and representatives shall comply with all applicable commercial diving safety regulations adopted by the federal occupational safety and health administration established under the federal occupational safety and health act of 1970 as such law exists on May 8, 1979, 84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et seq. A violation of those regulations is a violation of this subsection. For the purposes of this section, persons who dive for geoducks are "employees" as defined by the federal occupational safety and health act. A violation of this subsection is grounds for suspension or revocation of a geoduck fishery license following a hearing under the procedures of chapter 34.05 RCW. The department shall not suspend or revoke a geoduck fishery license if the violation has been corrected within ten days of the date the license holder receives written notice of the violation. If there is a substantial probability that a violation of the commercial diving standards could result in death or serious physical harm to a person engaged in harvesting geoduck clams, the department shall suspend the license immediately until the violation has been corrected. If the license holder is not the operator of the harvest vessel and has contracted with another person for the harvesting of geoducks, the department shall not suspend or revoke the license if the license holder terminates its business relationship with that person until compliance with this subsection is secured.

**Sec. 107.** RCW 75.30.290 and 1993 c 376 s 5 are each amended to read as follows:

~~(After December 31, 1993, it is unlawful to)~~ A person shall not commercially deliver into any Washington state port ocean pink shrimp caught in offshore waters without an ocean pink shrimp delivery license issued under RCW 75.28.730, or an ocean pink shrimp single delivery license issued under RCW 75.30.320. An ocean pink shrimp delivery license shall be issued to a vessel that:

(1) Landed a total of at least five thousand pounds of ocean pink shrimp in Washington in any single calendar year between January 1, 1983, and December 31, 1992, as documented by a valid shellfish receiving ticket; and

(2) Can show continuous participation in the Washington, Oregon, or California ocean pink shrimp fishery by being eligible to land ocean pink shrimp in either Washington, Oregon, or California each year since the landing made under subsection (1) of this section. Evidence of such eligibility shall be a certified statement from the relevant state licensing agency that the applicant for a Washington ocean pink shrimp delivery license held at least one of the following permits:

(a) For Washington: Possession of a delivery permit or delivery license issued under RCW 75.28.125 or a trawl license (other than Puget Sound) issued under RCW 75.28.140;

(b) For Oregon: Possession of a vessel permit issued under Oregon Revised Statute 508.880; or

(c) For California: A trawl permit issued under California Fish and Game Code sec. 8842.

**Sec. 108.** RCW 75.30.350 and 1995 c 252 s 1 are each amended to read as follows:

(1) ~~(Effective January 1, 1995, it is unlawful to)~~ A person shall not commercially fish for coastal crab in Washington state waters without a Dungeness crab—coastal or a Dungeness crab—coastal class B fishery license. Gear used must consist of one buoy attached to each crab pot. Each crab pot must be fished individually.

(2) A Dungeness crab—coastal fishery license is transferable. Except as provided in subsection (3) of this section, such a license shall only be issued to a person who proved active historical participation in the coastal crab fishery by having designated, after December 31, 1993, a vessel or a replacement vessel on the qualifying license that singly or in combination meets the following criteria:

(a) Made a minimum of eight coastal crab landings totaling a minimum of five thousand pounds per season in at least two of the four qualifying seasons identified in subsection (5) of this section, as documented by valid Washington state shellfish receiving tickets; and showed historical and continuous participation in the coastal crab fishery by having held one of the following licenses or their equivalents each calendar year beginning 1990 through 1993, and was designated on the qualifying license of the person who held one of the following licenses in 1994:

- (i) Crab pot—Non-Puget Sound license, issued under RCW 75.28.130(1)(b);
- (ii) Nonsalmon delivery license, issued under RCW 75.28.125;
- (iii) Salmon troll license, issued under RCW 75.28.110;
- (iv) Salmon delivery license, issued under RCW 75.28.113;
- (v) Food fish trawl license, issued under RCW 75.28.120; or
- (vi) Shrimp trawl license, issued under RCW 75.28.130; or

(b) Made a minimum of four Washington landings of coastal crab totaling two thousand pounds during the period from December 1, 1991, to March 20, 1992, and made a minimum of eight crab landings totaling a minimum of five thousand pounds of coastal crab during each of the following periods: December 1, 1991, to September 15, 1992; December 1, 1992, to September 15, 1993; and December 1, 1993, to September 15, 1994. For landings made after December 31, 1993, the vessel shall have been designated on the qualifying license of the person making the landings; or

(c) Made any number of coastal crab landings totaling a minimum of twenty thousand pounds per season in at least two of the four qualifying seasons identified in subsection (5) of this section, as documented by valid Washington state shellfish receiving tickets, showed historical and continuous participation in the coastal crab fishery by having held one of the qualifying licenses each calendar year beginning 1990 through 1993, and the vessel was designated on the qualifying license of the person who held that license in 1994.

(3) A Dungeness crab—coastal fishery license shall be issued to a person who had a new vessel under construction between December 1, 1988, and September 15, 1992, if the vessel made coastal crab landings totaling a minimum of five thousand pounds by September 15, 1993, and the new vessel was designated on the qualifying license of the person who held that license in 1994. All landings shall be documented by valid Washington state shellfish receiving tickets. License applications under this subsection may be subject to review by the advisory review board in accordance with RCW 75.30.050. For purposes of this subsection, "under construction" means either:

- (a)(i) A contract for any part of the work was signed before September 15, 1992; and
- (ii) The contract for the vessel under construction was not transferred or otherwise alienated from the contract holder between the date of the contract and the issuance of the Dungeness crab—coastal fishery license; and
- (iii) Construction had not been completed before December 1, 1988; or
- (b)(i) The keel was laid before September 15, 1992; and
- (ii) Vessel ownership was not transferred or otherwise alienated from the owner between the time the keel was laid and the issuance of the Dungeness crab—coastal fishery license; and
- (iii) Construction had not been completed before December 1, 1988.

(4) A Dungeness crab—coastal class B fishery license is not transferable. Such a license shall be issued to persons who do not meet the qualification criteria for a Dungeness crab—coastal fishery license, if the person has designated on a qualifying license after December 31, 1993, a vessel or replacement vessel that, singly or in combination, made a minimum of four landings totaling a minimum of two thousand pounds of coastal crab, documented by valid Washington state shellfish receiving tickets, during at least one of the four qualifying seasons, and if the person has participated continuously in the coastal crab fishery by having held or by having owned a vessel that held one or more of the licenses listed in subsection (2) of this section in each calendar year subsequent to the qualifying season in which qualifying landings were made through 1994. Dungeness crab—coastal class B fishery licenses cease to exist after December 31, 1999, and the continuing license provisions of RCW 34.05.422(3) are not applicable.

(5) The four qualifying seasons for purposes of this section are:

- (a) December 1, 1988, through September 15, 1989;
- (b) December 1, 1989, through September 15, 1990;
- (c) December 1, 1990, through September 15, 1991; and
- (d) December 1, 1991, through September 15, 1992.

(6) For purposes of this section and RCW 75.30.420, "coastal crab" means Dungeness crab (cancer magister) taken in all Washington territorial and offshore waters south of the United States-Canada boundary and west of the Bonilla-Tatoosh line (a line from the western end of Cape Flattery to Tatoosh Island lighthouse, then to the buoy adjacent to Duntz Rock, then in a straight line to Bonilla Point of Vancouver island), Grays Harbor, Willapa Bay, and the Columbia river.

(7) For purposes of this section, "replacement vessel" means a vessel used in the coastal crab fishery in 1994, and that replaces a vessel used in the coastal crab fishery during any period from 1988 through 1993, and which vessel's licensing and catch history, together with

the licensing and catch history of the vessel it replaces, qualifies a single applicant for a Dungeness crab—coastal or Dungeness crab—coastal class B fishery license. A Dungeness crab—coastal or Dungeness crab—coastal class B fishery license may only be issued to a person who designated a vessel in the 1994 coastal crab fishery and who designated the same vessel in 1995.

**Sec. 109.** RCW 75.30.450 and 1994 c 260 s 16 are each amended to read as follows:

(1) ~~((It is unlawful for))~~ A Dungeness crab—coastal fishery ~~((licensee to))~~ licensee shall not take Dungeness crab in the waters of the exclusive economic zone westward of the states of Oregon or California and land crab taken in those waters into Washington state unless the licensee also holds the licenses, permits, or endorsements, required by Oregon or California to land crab into Oregon or California, respectively.

(2) This section becomes effective only upon reciprocal legislation being enacted by both the states of Oregon and California. For purposes of this section, "exclusive economic zone" means that zone defined in the federal fishery conservation and management act (16 U.S.C. Sec. 1802) as of January 1, 1995, or as of a subsequent date adopted by rule of the director.

**Sec. 110.** RCW 75.58.010 and 1993 sp.s. c 2 s 55 are each amended to read as follows:

(1) The director of agriculture and the director shall jointly develop a program of disease inspection and control for aquatic farmers as defined in RCW 15.85.020. The program shall be administered by the department under rules established under this section. The purpose of the program is to protect the aquaculture industry and wildstock fisheries from a loss of productivity due to aquatic diseases or maladies. As used in this section "diseases" means, in addition to its ordinary meaning, infestations of parasites or pests. The disease program may include, but is not limited to, the following elements:

- (a) Disease diagnosis;
- (b) Import and transfer requirements;
- (c) Provision for certification of stocks;
- (d) Classification of diseases by severity;
- (e) Provision for treatment of selected high-risk diseases;
- (f) Provision for containment and eradication of high-risk diseases;
- (g) Provision for destruction of diseased cultured aquatic products;
- (h) Provision for quarantine of diseased cultured aquatic products;
- (i) Provision for coordination with state and federal agencies;
- (j) Provision for development of preventative or control measures;
- (k) Provision for cooperative consultation service to aquatic farmers; and
- (l) Provision for disease history records.

(2) The ~~((director))~~ commission shall adopt rules implementing this section. However, such rules shall have the prior approval of the director of agriculture and shall provide therein that the director of agriculture has provided such approval. The director of agriculture or the director's designee shall attend the rule-making hearings conducted under chapter 34.05 RCW and shall assist in conducting those hearings. The authorities granted the department by these rules and by RCW 75.08.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020, 75.58.030, and 75.58.040 constitute the only authorities of the department to regulate private sector cultured aquatic products and aquatic farmers as defined in RCW 15.85.020. Except as provided in subsection (3) of this section, no action may be taken against any person to enforce these rules unless the department has first provided the person an opportunity for a hearing. In such a case, if the hearing is requested, no enforcement action may be taken before the conclusion of that hearing.

(3) The rules adopted under this section shall specify the emergency enforcement actions that may be taken by the department, and the circumstances under which they may be taken, without first providing the affected party with an opportunity for a hearing. Neither the provisions of this subsection nor the provisions of subsection (2) of this section shall preclude the department from requesting the initiation of criminal proceedings for violations of the disease inspection and control rules.

(4) ~~((It is unlawful for any person to))~~ A person shall not violate the rules adopted under subsection (2) or (3) of this section or ~~((to))~~ violate RCW 75.58.040.

(5) In administering the program established under this section, the department shall use the services of a pathologist licensed to practice veterinary medicine.

(6) The director in administering the program shall not place constraints on or take enforcement actions in respect to the aquaculture industry that are more rigorous than those placed on the department or other fish-rearing entities.

**Sec. 111.** RCW 77.08.010 and 1996 c 207 s 2 are each amended to read as follows:

As used in this title or Title 75 RCW or rules adopted pursuant to ~~((this))~~ those titles, unless the context clearly requires otherwise:

- (1) "Director" means the director of fish and wildlife.
- (2) "Department" means the department of fish and wildlife.
- (3) "Commission" means the state fish and wildlife commission.
- (4) "Person" means and includes an individual, a corporation, or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(5) "Fish and wildlife ((agent)) officer" means a person appointed and commissioned by the director, with authority to enforce laws and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before the effective date of this section as a wildlife agent.

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

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

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

(9) "To fish" and its derivatives means an effort to kill, injure, harass, or catch a ~~((game))~~ fish.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 112.** RCW 77.12.055 and 1993 sp.s. c 2 s 67 are each amended to read as follows:

(1) ~~((Jurisdiction and authority granted under RCW 77.12.060, 77.12.070, and 77.12.080 to the director, wildlife agents,))~~ Fish and wildlife officers and ex officio ~~((wildlife agents is limited to the laws and rules adopted pursuant to this title pertaining to wildlife or to the management, operation, maintenance, or use of or conduct on real property used, owned, leased, or controlled by the department))~~ fish and wildlife officers shall enforce this title, Title 75 RCW, rules of the department, and other statutes as prescribed by the legislature. However, when acting within the scope of these duties and when an offense occurs in the presence of the ~~((wildlife agent))~~ fish and wildlife officer who is not an ex officio ~~((wildlife agent, the wildlife agent))~~ fish and wildlife officer, the fish and wildlife officer may enforce all criminal laws of the state. The ~~((wildlife agent))~~ fish and wildlife officer must have successfully completed the basic law enforcement academy course sponsored by the

criminal justice training commission, or a ~~((supplemental))~~ course ~~((in criminal law enforcement as))~~ approved by the department and the criminal justice training commission and provided by the department or the criminal justice training commission, prior to enforcing the criminal laws of the state.

(2) ~~((Wildlife agents))~~ Fish and wildlife officers are peace officers.

(3) Any liability or claim of liability ~~((which))~~ under chapter 4.92 RCW that arises out of the exercise or alleged exercise of authority by a ~~((wildlife agent))~~ fish and wildlife officer rests with the department unless the ~~((wildlife agent))~~ fish and wildlife officer acts under the direction and control of another agency or unless the liability is otherwise assumed under ~~((a written))~~ an agreement between the department and another agency.

(4) ~~((Wildlife agents))~~ Fish and wildlife officers may serve and execute warrants and processes issued by the courts.

(5) Fish and wildlife officers may enforce RCW 79.01.805 and 79.01.810.

(6) To enforce the laws of this title and Title 75 RCW, fish and wildlife officers may call to their aid any ex officio fish and wildlife officer or citizen and that person shall render aid.

**NEW SECTION. Sec. 113.** Based upon articulable facts that a person is engaged in fishing or hunting activities, fish and wildlife officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish and wildlife in possession as well as the equipment being used to ensure compliance with the requirements of this title and Title 75 RCW.

**Sec. 114.** RCW 77.12.080 and 1987 c 506 s 19 are each amended to read as follows:

~~((Wildlife agents))~~ Fish and wildlife officers and ex officio ~~((wildlife agents))~~ fish and wildlife officers may arrest without warrant persons found violating the law or rules adopted pursuant to this title and Title 75 RCW.

**Sec. 115.** RCW 77.12.090 and 1987 c 506 s 20 are each amended to read as follows:

~~((Wildlife agents,))~~ Fish and wildlife officers and ex officio ~~((wildlife agents))~~ fish and wildlife officers may make a reasonable search without warrant of a vessel, container, or conveyances, vehicles, packages, game baskets, game coats, or other receptacles for fish and wildlife, or tents, camps, or similar places which they have reason to believe contain evidence of a violation of law or rules adopted pursuant to this title or Title 75 RCW and seize evidence as needed for law enforcement. This does not preclude seizure of property if authorized for forfeiture as authorized by law.

**Sec. 116.** RCW 77.12.095 and 1982 c 152 s 1 are each amended to read as follows:

~~((Wildlife agents))~~ Fish and wildlife officers may inspect without warrant at reasonable times and in a reasonable manner the premises, containers, fishing equipment, fish, and wildlife, and records required by the department of any ~~((commercial enterprise operating under the authority of a license or permit issued by the department or any commercial business that sells, stores, transports, or possesses wildlife))~~ commercial fisher or wholesale dealer or fish buyer. Fish and wildlife officers may similarly inspect without warrant the premises, containers, fishing equipment, fish and wildlife, and records required by the department of any shipping agent or other person placing or attempting to place fish or wildlife into interstate commerce, any cold storage plant that the department has probable cause to believe contains fish or wildlife, or of any taxidermist or fur buyer. Fish and wildlife officers may inspect without warrant the records required by the department of any retail outlet selling fish or wildlife or both, and, if the officers have probable cause to believe a violation of this title or rules of the commission has occurred, they may inspect without warrant the premises, containers, and fish and wildlife of any retail outlet selling fish or wildlife or both.

**Sec. 117.** RCW 77.12.120 and 1980 c 78 s 26 are each amended to read as follows:

~~((Upon complaint showing probable cause for believing that wildlife unlawfully caught, taken, killed, controlled, possessed, or transported, is concealed or kept in a game basket, game coat, package, or other receptacle for wildlife, or at a business place, vehicle, or other place, the))~~ On a showing of probable cause that there has been a violation of any fish or wildlife law of the state of Washington, or upon a showing of probable cause to believe that evidence of such violation may be found at a place, a court shall issue a search warrant ((and have the place searched for wildlife)) or arrest warrant. Fish and wildlife officers may execute any such arrest or search warrant reasonably necessary to their duties under this title or Title 75 RCW and may seize fish and wildlife or any evidence of a crime and the fruits or instrumentalities of a crime as provided by warrant. The court may have a building, enclosure, vehicle, vessel, container, or receptacle opened or entered and the contents examined.

**Sec. 118.** RCW 77.16.010 and 1987 c 506 s 58 are each amended to read as follows:

~~((It is unlawful to))~~ A person shall not promote, conduct, hold, or sponsor a contest for the hunting or fishing of wildlife or a competitive field trial involving live wildlife for hunting dogs without first obtaining a hunting or fishing contest permit. Contests and field trials shall be held in accordance with established rules.

**Sec. 119.** RCW 77.16.020 and 1996 c 207 s 3 are each amended to read as follows:

~~((1) It is unlawful to hunt, fish, or possess a game animal, game bird, or game fish during closed season for that game animal, game bird, or game fish except as provided in RCW 77.12.105 or 77.12.265.~~

~~(2) It is unlawful to kill, take, catch, possess, or control a game animal, game bird, or game fish in excess of the number fixed as the bag limit for that game animal, game bird, or game fish.~~

~~(3) It is unlawful to hunt within a game reserve or to fish for game fish within closed waters.~~

~~(4) It is unlawful to hunt wild birds or wild animals within a closed area except as authorized by rule of the commission.~~

~~(5) It is unlawful to hunt or fish for wildlife, practice taxidermy for profit, deal in raw furs for profit, act as a fishing guide, or operate a game farm, stock game fish, or collect wildlife for research or display, without having in possession the license, permit, tag, stamp, or catch record card required by chapter 77.32 RCW or rule of the department. The activities described in this subsection shall be conducted in accordance with rules adopted pursuant to this title.~~

(6)) For the purposes of ~~((this section))~~ establishing a season or bag limit restriction on Canada goose hunting, the department shall not consider leg length or bill length of dusky Canada geese (*Branta canadensis occidentalis*).

**Sec. 120.** RCW 77.16.095 and 1987 c 506 s 63 are each amended to read as follows:

~~((It is unlawful to mutilate))~~ The commission may adopt rules governing the possession of fish and wildlife so that the size, species, or sex ~~((cannot))~~ can be determined visually in the field or while being transported. ~~((The director may prescribe specific criteria for field identification to satisfy this section.))~~

**Sec. 121.** RCW 77.16.170 and 1993 sp.s. c 2 s 75 are each amended to read as follows:

~~((It is unlawful to take a wild animal from another person's trap without permission, or to spring, pull up, damage, possess, or destroy the trap; however, it is not unlawful for))~~ A property owner, lessee, or tenant ~~((to))~~ may remove a trap placed on the owner's, lessee's, or tenant's posted or fenced property by a trapper.

Trappers shall attach to the chain of their traps or devices a legible metal tag with either the department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.

When ~~((an individual))~~ a property owner, lessee, or tenant presents a trapper identification number to the department for a trap found upon the property of the owner, lessee, or tenant and requests identification of the trapper, the department shall provide the ~~((individual))~~ requestor with the name and address of the trapper. Prior to disclosure of the trapper's name and address, the department shall obtain the name and address of the requesting individual in writing and after disclosing the trapper's name and address to the requesting individual, the requesting individual's name and address shall be disclosed in writing to the trapper whose name and address was disclosed.

**Sec. 122.** RCW 77.16.220 and 1980 c 78 s 89 are each amended to read as follows:

~~((It is unlawful to))~~ A person shall not divert water from a lake, river, or stream containing game fish unless the water diversion device is equipped at or near its intake with a fish guard or screen to prevent the passage of game fish into the device and, if necessary, with a means of returning game fish from immediately in front of the fish guard or screen to the waters of origin. A person who is now otherwise lawfully diverting water from a lake, river or stream shall not be deemed guilty of a violation of this section.

Plans for the fish guard, screen, and bypass shall be approved by the director prior to construction. The installation shall be approved by the director prior to the diversion of water.

The director may close a water diversion device operated in violation of this section and keep it closed until it is properly equipped with a fish guard, screen, or bypass.

**Sec. 123.** RCW 77.32.350 and 1992 c 41 s 1 are each amended to read as follows:

In addition to a basic hunting license, a supplemental license, permit, or stamp is required to hunt for quail, partridge, pheasant, or migratory waterfowl, to hunt with a raptor, or to hunt wild animals with a dog.

(1) A hound permit is required to hunt wild animals, except rabbits and hares, with a dog. The fee for this permit is twelve dollars.

(2) An eastern Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in eastern Washington. The fee for this permit is ten dollars.

(3) A western Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in western Washington. The fee for this permit is thirty-five dollars. Western Washington upland game bird permits must contain numbered spaces for recording the location and date of harvest of each western Washington pheasant. ~~((It is unlawful to))~~ A person shall not harvest a western Washington pheasant without immediately recording this information on the permit.

(4) Effective January 1, 1993, the permit shall be available as a season option, a juvenile full season option, or a two-day option. The fee for this permit is:

(a) For the full season option, thirty-five dollars;

(b) For the juvenile full season or the two-day option, twenty dollars.

For the purposes of this subsection a juvenile is defined as a person under fifteen years of age upon the opening date of the western Washington pheasant season.

(5) Western Washington upland game permits are valid for the following number of pheasants and harvesting pheasants in excess of these numbers requires another permit:

(a) A full season permit is valid for no more than ten pheasants;

(b) A juvenile full season permit is valid for no more than six pheasants;

(c) A two-day permit is valid for no more than four pheasants.

(6) A falconry license is required to possess or hunt with a raptor, including seasons established exclusively for hunting in that manner. The fee for this license is thirty-six dollars.

(7) A migratory waterfowl stamp affixed to a basic hunting license is required for all persons sixteen years of age or older to hunt migratory waterfowl. The fee for the stamp is six dollars.

(8) The migratory waterfowl stamp shall be validated by the signature of the licensee written across the face of the stamp.

(9) The migratory waterfowl stamps required by this section expire on March 31st following the date of issuance.

**NEW SECTION. Sec. 124. REPEALER.** The following acts or parts of acts are each repealed:

- (1) RCW 75.10.010 and 1996 c 267 s 4;
- (2) RCW 75.10.020 and 1996 c 267 s 5, 1983 1st ex.s. c 46 s 33, & 1955 c 12 s 75.08.170;
- (3) RCW 75.10.030 and 1996 c 267 s 6, 1990 c 144 s 5, 1983 1st ex.s. c 46 s 34, & 1955 c 12 s 75.36.010;
- (4) RCW 75.10.040 and 1996 c 267 s 7, 1983 1st ex.s. c 46 s 35, 1980 c 78 s 134, & 1955 c 12 s 75.08.200;
- (5) RCW 75.10.050 and 1996 c 267 s 8, 1983 1st ex.s. c 46 s 36, & 1955 c 12 s 75.08.280;
- (6) RCW 75.10.060 and 1983 1st ex.s. c 46 s 37 & 1955 c 12 s 75.36.040;
- (7) RCW 75.10.080 and 1983 1st ex.s. c 46 s 39 & 1955 c 12 s 75.36.050;
- (8) RCW 75.10.090 and 1983 1st ex.s. c 46 s 40 & 1955 c 12 s 75.08.180;
- (9) RCW 75.10.110 and 1996 c 267 s 10, 1990 c 144 s 6, 1987 c 380 s 16, 1983 1st ex.s. c 46 s 42, 1979 ex.s. c 99 s 1, & 1955 c 12 s 75.08.260;
- (10) RCW 75.10.120 and 1996 c 267 s 11, 1990 c 144 s 7, 1983 1st ex.s. c 46 s 43, 1979 ex.s. c 99 s 2, 1957 c 171 s 5, & 1955 c 12 s 75.28.380;
- (11) RCW 75.10.130 and 1996 c 267 s 12, 1983 1st ex.s. c 46 s 44, & 1979 ex.s. c 99 s 3;
- (12) RCW 75.10.140 and 1996 c 267 s 13, 1990 c 163 s 7, 1984 c 80 s 4, 1983 1st ex.s. c 46 s 45, & 1979 ex.s. c 141 s 7;
- (13) RCW 75.10.170 and 1996 c 267 s 15 & 1990 c 63 s 5;
- (14) RCW 75.10.180 and 1996 c 267 s 16 & 1990 c 144 s 1;
- (15) RCW 75.10.190 and 1996 c 267 s 17 & 1990 c 144 s 2;
- (16) RCW 75.10.200 and 1996 c 267 s 18, 1993 sp.s. c 2 s 26, & 1990 c 144 s 3;
- (17) RCW 75.10.210 and 1990 c 144 s 4;
- (18) RCW 75.12.020 and 1996 c 267 s 19, 1983 1st ex.s. c 46 s 49, & 1955 c 12 s 75.12.020;
- (19) RCW 75.12.031 and 1983 1st ex.s. c 46 s 51 & 1955 c 12 s 75.20.070;
- (20) RCW 75.12.070 and 1996 c 267 s 20, 1983 1st ex.s. c 46 s 53, & 1955 c 12 s 75.12.070;
- (21) RCW 75.12.090 and 1990 c 144 s 8, 1983 1st ex.s. c 46 s 54, 1982 c 14 s 1, & 1955 c 12 s 75.12.090;
- (22) RCW 75.12.100 and 1996 c 267 s 21, 1983 1st ex.s. c 46 s 55, & 1955 c 12 s 75.12.100;
- (23) RCW 75.12.115 and 1996 c 267 s 22, 1983 1st ex.s. c 46 s 56, & 1971 ex.s. c 106 s 1;
- (24) RCW 75.12.120 and 1985 c 51 s 7, 1983 1st ex.s. c 46 s 57, & 1955 c 12 s 75.12.120;
- (25) RCW 75.12.125 and 1983 1st ex.s. c 46 s 58;
- (26) RCW 75.12.127 and 1993 c 340 s 49;
- (27) RCW 75.12.400 and 1983 1st ex.s. c 46 s 64 & 1982 c 14 s 2;
- (28) RCW 75.12.410 and 1983 1st ex.s. c 46 s 66 & 1955 c 12 s 75.08.130;
- (29) RCW 75.12.420 and 1996 c 267 s 23, 1983 1st ex.s. c 46 s 67, & 1955 c 12 s 75.08.210;
- (30) RCW 75.12.430 and 1983 1st ex.s. c 46 s 68 & 1955 c 12 s 75.08.220;
- (31) RCW 75.24.050 and 1996 c 267 s 25, 1983 1st ex.s. c 46 s 80, & 1955 c 12 s 75.24.050;
- (32) RCW 75.24.090 and 1996 c 267 s 26, 1983 1st ex.s. c 46 s 84, 1955 c 212 s 7, & 1955 c 12 s 75.24.090;
- (33) RCW 75.25.150 and 1994 c 255 s 7, 1993 sp.s. c 17 s 9, 1989 c 305 s 13, 1984 c 80 s 9, & 1983 1st ex.s. c 46 s 99;
- (34) RCW 77.12.060 and 1987 c 506 s 17, 1980 c 78 s 18, 1961 c 68 s 1, & 1955 c 36 s 77.12.060;
- (35) RCW 77.12.070 and 1987 c 506 s 18, 1980 c 78 s 19, 1971 ex.s. c 173 s 1, 1961 c 68 s 2, & 1955 c 36 s 77.12.070;
- (36) RCW 77.16.040 and 1987 c 506 s 60, 1980 c 78 s 72, 1971 ex.s. c 166 s 4, 1961 c 75 s 1, & 1955 c 36 s 77.16.040;
- (37) RCW 77.16.050 and 1980 c 78 s 73 & 1955 c 36 s 77.16.050;
- (38) RCW 77.16.060 and 1993 sp.s. c 2 s 73, 1987 c 506 s 61, 1980 c 78 s 74, & 1955 c 36 s 77.16.060;
- (39) RCW 77.16.080 and 1987 c 506 s 62, 1980 c 78 s 76, & 1955 c 36 s 77.16.080;
- (40) RCW 77.16.090 and 1980 c 78 s 77 & 1955 c 36 s 77.16.090;
- (41) RCW 77.16.100 and 1980 c 78 s 79, 1977 ex.s. c 275 s 1, & 1955 c 36 s 77.16.100;
- (42) RCW 77.16.110 and 1987 c 506 s 64, 1980 c 78 s 80, & 1955 c 36 s 77.16.110;
- (43) RCW 77.16.120 and 1980 c 78 s 81 & 1955 c 36 s 77.16.120;
- (44) RCW 77.16.130 and 1987 c 506 s 65, 1980 c 78 s 82, & 1955 c 36 s 77.16.130;
- (45) RCW 77.16.150 and 1987 c 506 s 66, 1980 c 78 s 83, & 1955 c 36 s 77.16.150;
- (46) RCW 77.16.160 and 1980 c 78 s 84 & 1955 c 36 s 77.16.160;
- (47) RCW 77.16.180 and 1987 c 506 s 67, 1980 c 78 s 86, & 1955 c 36 s 77.16.180;



- (48) RCW 77.16.190 and 1980 c 78 s 87 & 1955 c 36 s 77.16.190;
- (49) RCW 77.16.250 and 1989 c 297 s 5, 1980 c 78 s 93, & 1955 c 36 s 77.16.250;
- (50) RCW 77.16.260 and 1980 c 78 s 94, 1955 c 85 s 1, & 1955 c 36 s 77.16.260;
- (51) RCW 77.16.310 and 1981 c 310 s 4, 1980 c 78 s 125, & 1979 ex.s. c 127 s 1;
- (52) RCW 77.16.320 and 1987 c 506 s 68, 1981 c 310 s 5, & 1980 c 44 s 1;
- (53) RCW 77.16.330 and 1987 c 506 s 104 & 1985 c 243 s 3;
- (54) RCW 77.16.610 and 1982 c 155 s 3;
- (55) RCW 77.21.010 and 1988 c 265 s 3;
- (56) RCW 77.21.040 and 1989 c 314 s 5, 1987 c 506 s 72, 1980 c 78 s 25, & 1955 c 36 s 77.12.110; and
- (57) RCW 77.21.060 and 1989 c 314 s 6, 1987 c 506 s 73, 1980 c 78 s 122, & 1955 c 36 s 77.32.260.

**NEW SECTION. Sec. 125. RECODIFICATION.** The following sections are recodified as new sections in the chapter created in section 128 of this act:

RCW 75.10.100  
RCW 75.10.220  
RCW 75.12.320  
RCW 77.12.120  
RCW 77.12.130  
RCW 77.16.135

**NEW SECTION. Sec. 126. SHORT TITLE.** This chapter may be known and cited as the fish and wildlife enforcement code.

**NEW SECTION. Sec. 127. CAPTIONS NOT LAW.** Captions used in this chapter are not any part of the law.

**NEW SECTION. Sec. 128.** Sections 1 through 48, 50 through 66, 68, 69, 113, 126, and 127 of this act constitute a new chapter in Title 77 RCW.

**NEW SECTION. Sec. 129.** The enactment of chapter . . . , Laws of 1998 (this act) does not terminate, or in any way modify, any liability, civil or criminal, that was in existence on the effective date of this section."

On page 1, line 1 of the title, after "enforcement;" strike the remainder of the title and insert "amending RCW 75.12.320, 77.16.135, 75.08.011, 75.08.160, 75.08.274, 75.08.295, 75.08.300, 75.12.010, 75.12.015, 75.12.040, 75.12.132, 75.12.140, 75.12.210, 75.12.230, 75.12.390, 75.12.440, 75.12.650, 75.20.040, 75.20.060, 75.20.103, 75.20.110, 75.24.080, 75.24.100, 75.24.110, 75.28.010, 75.28.045, 75.28.095, 75.28.113, 75.28.125, 75.28.710, 75.28.740, 75.30.070, 75.30.140, 75.30.160, 75.30.210, 75.30.250, 75.30.280, 75.30.290, 75.30.350, 75.30.450, 75.58.010, 77.08.010, 77.12.055, 77.12.080, 77.12.090, 77.12.095, 77.12.120, 77.16.010, 77.16.020, 77.16.095, 77.16.170, 77.16.220, and 77.32.350; reenacting and amending RCW 75.20.100 and 75.30.130; adding a new chapter to Title 77 RCW; creating a new section; recodifying RCW 75.10.100, 75.10.220, 75.12.320, 77.12.120, 77.12.130, and 77.16.135; repealing RCW 75.10.010, 75.10.020, 75.10.030, 75.10.040, 75.10.050, 75.10.060, 75.10.080, 75.10.090, 75.10.110, 75.10.120, 75.10.130, 75.10.140, 75.10.170, 75.10.180, 75.10.190, 75.10.200, 75.10.210, 75.12.020, 75.12.031, 75.12.070, 75.12.090, 75.12.100, 75.12.115, 75.12.120, 75.12.125, 75.12.127, 75.12.400, 75.12.410, 75.12.420, 75.12.430, 75.24.050, 75.24.090, 75.25.150, 77.12.060, 77.12.070, 77.16.040, 77.16.050, 77.16.060, 77.16.080, 77.16.090, 77.16.100, 77.16.110, 77.16.120, 77.16.130, 77.16.150, 77.16.160, 77.16.180, 77.16.190, 77.16.250, 77.16.260, 77.16.310, 77.16.320, 77.16.330, 77.16.610, 77.21.010, 77.21.040, and 77.21.060; and prescribing penalties.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Oke moved that the Senate concur in the House amendments to Engrossed Substitute Senate Bill No. 6328.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Oke to concur in the House amendments to Engrossed Substitute Senate Bill No. 6328.

The motion by Senator Oke carried and the Senate concurred in the House amendments to Engrossed Substitute Senate Bill No. 6328.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6328, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6328, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Bauer - 1. Excused: Senators Patterson, Sellar and Swecker - 3. ENGROSSED SUBSTITUTE SENATE BILL NO. 6328, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Heavey: "Thank you, Mr. President, I rise for two points of personal privilege. The first point is, I know it is customary for freshman after their torturous first speech to give a present to the body. Having given a number of those speeches over the last four years, I wanted to add an additional present. It should be on your desk. They are brass name plates for most of us who purchased Senate chairs--and they go perfect--I will show you how to put them on the chair. They are self-adhesive; I am guaranteed they won't come off. They will be very attractive for your chair, wherever it may be--in your office or in your home. I hope you accept this with my compliments and with the compliments of Senator Snyder, who is paying for half of them also--a gift from both of us. Thank you."

#### REPLY BY THE PRESIDENT

President Owen: "Thank you. Senator Heavey, your second point of personal privilege."

Senator Heavey: "The second point of personal privilege, Mr. President, revolves around you. You served in this body in a distinguished career, but you didn't get a chair. So, in behalf of the Senate, we got you a chair and I get the opportunity to present it to you. Could somebody please bring it out here? It also has a brass name plate and we are very honored that you were a Senator, even though you have gone on to loftier things and we hope you find a use for your Senate chair."

#### REPLY BY THE PRESIDENT

President Owen: "Well, Senator Heavey, I quite often expect Senator Snyder to catch me by surprise, but not you. I certainly do appreciate it. It is very, very much appreciated and I do have a wonderful place for that tremendous gift. Thank you all very much., I am very grateful."

#### POINT OF INQUIRY

Senator Deccio: "Senator Heavey, you indicated that there is a gift given by a freshman after making a tortuous speech. Is the little plaque you gave us for all the other tortuous speeches that you have given?"

Senator Heavey: "I realize I owe you eight plaques, but this will have to do."

#### PERSONAL PRIVILEGE

Senator McCaslin: "I have a single point of personal privilege, Mr. President. Senator Heavey, I am so grateful that you didn't ding us in your speech there and I really appreciate it, but 'Bob' only has one 'o' in it."

#### PERSONAL PRIVILEGE

Senator Franklin: "Mr. President, a point of personal privilege. Senator Heavey is really--he does great things. Even sometimes his speeches sort of dings a lot of us, but let me just take this moment to tell what happened to me during my first term in the House and with my first bill. I had what I thought was an innocuous bill--not really knowing what the process was all about. I was new, starry-eyed, serving, and then Mr. Heavey--I had this bill--had worked really hard on--and I did not know that he played tricks on the Representatives--and my bill came up to be voted on and when the lights went on and everybody said 'no,' I sat there dumbfounded. He looked over innocently and the lights changed in the House and that was my introduction to what happens in the Legislature. It is always great serving with Senator Heavey and he does wonderful things. Thank you."

#### PERSONAL PRIVILEGE

Senator Thibaudeau: "A point of personal privilege. I am acknowledging Senator Heavey's gift to us--and my appreciation to Senator Snyder, also. Senator Heavey grew up in my district. I am going to speak with the Seattle City Council about that soon, but I also wanted to acknowledge Ralph Johnson. If any of you here hear from Ralph Johnson on your private line, hang up. So, thanks again, Senators. We appreciate you."

#### PERSONAL PRIVILEGE

Senator Tim Sheldon: "Thank you, Mr. President. A point of personal privilege. I would just like to correct Senator Thibaudeau. Senator Heavey did not grow up--in her district."

There being no objection, the President advanced the Senate to the eighth order of business.

#### MOTION

On motion of Senator Heavey, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8732

By Senators Schow, Heavey, Fraser, Winsley, Benton, B. Sheldon, Newhouse, Anderson, Prentice, Franklin, McDonald, Kline, Rasmussen, Jacobsen, Bauer, Wojahn, Oke, Fairley, Johnson, Spanel, Hargrove, Kohl, Snyder, Prince, Deccio, Thibaudeau, Zarelli, Long, Hochstatter, Stevens, Swecker, T. Sheldon, Roach, Haugen, Morton, Strannigan, Goings, McCaslin, Brown, West, McAuliffe, Loveland and Horn

WHEREAS, Patrick Woods has served the Washington State Senate for over fifteen years; and  
WHEREAS, Patrick Woods left the Emerald Isle without losing his singing voice or the gift of blarney; and  
WHEREAS, Patrick Woods has blessed the Senate with his beautiful singing voice, his speechifying, his generosity of spirit, and his skills as researcher, analyst, committee coordinator, and all-around fixer; and  
WHEREAS, Patrick's smile and warmth bring even more joy to others than his singing; and  
WHEREAS, Patrick has exemplified the helpfulness, the service, and the commitment to excellence that has set the standard for Senate employees; and  
WHEREAS, Patrick has been in one institution or another since he was fourteen; and  
WHEREAS, Patrick will now be leaving the institution of the Senate for a new career challenge at the Department of Labor and Industries;

NOW, THEREFORE, BE IT RESOLVED, By the Senate of the State of Washington, That:

From Ireland came young Patrick Woods

To the Senate, so he could do good

He'd so often sing

The rotunda'd ring

We'd keep him if we possibly could; and

BE IT FURTHER RESOLVED, That:

An Irishman named Woods came out West;

To the Senate, where he gave his best.

Fifteen years of his skills,

On commerce/labor ills,

Put his merry nature to the test; and

BE IT FURTHER RESOLVED, That:

Patrick long served the C & L Committee

Where he was very urbane and witty

If he disliked your bill

With a song he would kill:

"There's always next year, 'tis a pity"; and

BE IT FURTHER RESOLVED, That:

With each issue he went the full mile.

Knowing good research would take a while.  
Yet he found time to croon;  
A St. Paddy's Day tune.  
To the joy of us needing a smile; and  
BE IT FURTHER RESOLVED, That:  
For our well-being he'll always care  
His high hopes for us all he will share  
We should strive to be  
Cheerful, happy like he  
Professional, compassionate, and fair; and

BE IT FURTHER RESOLVED, That:  
Our friend Patrick's departure is nigh  
And without him, we'll have to get by  
But we find some relief  
In our solid belief:  
Things will n'er be the same at L & I; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Patrick Woods and his family.

Senators Heavey, Anderson, Newhouse, Hargrove, Deccio, Fraser, Horn, Oke, Haugen, McCaslin, Prentice, Schow and Snyder spoke to Senate Resolution 1998-8732.

The President read a Proclamation from Governor Locke, thanking Patrick Woods for his service to the state of Washington and bestowing on him honorary state citizenship and proclaiming March 11, 1998, as Patrick Woods Day in the state of Washington.

#### PERSONAL PRIVILEGE

Senator Wojahn: "A point of personal privilege, Mr. President. I was out of the chamber when the talks were given on this wonderful man who I know well, because I served on Commerce for several years. I want to tell you that I hope when you go to L&I they make you the legislative liaison."

#### MOTION

On motion of Senator Jacobsen, the remarks by Patrick Woods will be spread upon the Journal.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced Patrick Woods, who was seated on the rostrum.

#### REMARKS BY PATRICK WOODS

Patrick Woods: "Thank you very much. I didn't expect this, so as Mike mentioned, I am usually able to speak on issues, but it is a little bit of a challenge for me when you receive this type of a commendation. I do want to speak, and probably what got me geared up for it was Irv Newhouse's party a few nights ago. This is an historic institution and you feel a lot of emotion in meeting and working here and especially in leaving.

"But, I want to speak in two aspects. One, as an Irishman, coming to America, I am so impressed and so amazed with Americans. My grandfather came over to America and got homesick and went back to Ireland, but my grandmother always said, 'God bless America.' In many ways, you never understand that until you come here, because you are a very generous people. You are a very tendentious people and a very principled people. You only appreciate that when you live among you. No other nation that I can think of or that I could have been a part in would have so easily allowed a foreign national to be a part of your staff--to be a party to the decisions that you make on a daily basis. In the fifteen and a half years that I have been here, never once--to my amazement--did I ever hear anybody say, 'Well, how would you know about that, you are not from here?' America

has this tremendous ability to bring people in and bring the best out of them. Now, that is a key element to bring the best out of them and then move them into positions where they can be of impact. You have a lot to be proud of.

"There are a couple of things that as an Irishman, I am proud of too, that I just learned in the last couple of years. I am actually reading a book at the moment that has brought out that the three people in the British Parliament that stood with the colonies against the decision of the King, were three Irishmen, Edmund Burke, Captain Fitzroy and the Earl of Shelburne--all born in Ireland. One other little thing that I am proud of here today--my boys are here today--is when Captain Travis was in the Alamo, and I learned this when I went to NCSL--I was chair of that four years--when Captain Travis was in the Alamo, thirteen of the men who stood with him were from Ireland. Those are some of the things that I am proud to be able to come and share with you.

"Now, as a staff analyst and as a member of your staff that has served you, I want to say that I am so proud to have been able to be with you, because people ask me, 'How can you deal with people with different positions on issues?' Really, it came to me that I really never have seen one member ever, in the years that I have been here, ever do anything against anybody else. They have done things for other people, because they thought that was the right thing to do, but never have I found anybody doing anything against anybody. I have had wonderful memories here and I always have that little quote--'In the twilight of my years, I will come back through here.'

"And the memories that I have had--some of those memories are, as Senator Snyder said, John A. Cherberg--the 'Gov'- when he was here. One day he said to me--and we have so many memories, Sid and I--but one day, we had a travel ban and the Gov said, 'I want you to go and represent me down in San Francisco.' I said, 'We can't do that, because, you know, there is no travel.' Then, I got a call from Sid saying, 'Come on over, your travel has been approved, without you even applying.'

"There have been other things that I have had, standing on the corner there with Senator Moore, at three o'clock in the morning, getting ready for his gubernatorial speeches that would be coming the next day. I also have had some very poignant things--I have held my chairman in my arms four days before he died--Senator Matson--and heard him say that he was at peace with his God and said that he was at peace with his life. Those were very special memories. I've had great chairmen, wonderful, wonderful people, that will always stick in my mind, ranging from the conservative Senator Matson, to the liberal Dwight Pelz. They have all been great people. One had a picture of a director of the agency, who they considered Enemy Number One and the other one had a picture of John Lennon, saying 'imagine.' I'll let you imagine which member it was.

"Finally, I do want to say--I want to thank all of the people who are here. There is one thing that I have learned, being allowed to be here for these years--the three lessons that I have learned in the Legislature are the three 'Rs.'--The Rules of the Legislature, the Reasons for bills and the Relationships. I encourage you to keep those relationships. You are a wonderful, wonderful people. It is not until you leave, that you begin to realize the value of each person and I also want to say the value of your staff. In the committee services, in the caucuses, the people like Bernie Ryan, Marty Brown, Eugene Green, Deanne Kopkas and many others that I don't have time to say all of them. They are wonderful, wonderful people. I cherish them.

"Now, I have a job to do and that is to do a song--and I probably will do a little parting one, because it is really dedicated to Olympia. This is going to speak to how much I really appreciate this place and you--and the funny things that happened here, too."

Patrick Woods entertained with an Irish Ballad depicting life in Olympia.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mrs. Woods and sons, who were seated in the gallery.

#### MOTION

At 11:49 a.m., on motion of Senator Johnson, the Senate recessed until 2:15 p.m.

The Senate was called to order at 2:15 p.m. by President Owen.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGES FROM THE HOUSE

March 9, 1998

MR. PRESIDENT:

The House grants the request of the Senate for a conference on SECOND SUBSTITUTE SENATE BILL NO. 6190. The Speaker has appointed the following members as conferees: Representatives Mitchell, Robertson and Scott.

TIMOTHY A. MARTIN, Chief Clerk

March 10, 1998

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE SENATE BILL NO. 5309,  
SENATE BILL NO. 5631,  
SUBSTITUTE SENATE BILL NO. 6077,  
SENATE BILL NO. 6270,  
SENATE BILL NO. 6449,  
SENATE BILL NO. 6552,  
SENATE BILL NO. 6599,  
SUBSTITUTE SENATE BILL NO. 6602,  
SENATE BILL NO. 6662,  
SENATE BILL NO. 6668, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 11, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following House Bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1441,  
SUBSTITUTE HOUSE BILL NO. 2459.

TIMOTHY A. MARTIN, Chief Clerk

#### MESSAGES FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SUBSTITUTE HOUSE BILL NO. 2077 and has passed the bill as recommended by the Conference Committee.

TIMOTHY A. MARTIN, Chief Clerk

March 11, 1998

MR. PRESIDENT:

The House grants the request of the Senate for a conference on SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354. The Speaker has appointed the following members as conferees: Representatives Schoesler, Pennington and Cooper.

TIMOTHY A. MARTIN, Chief Clerk

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1074,  
SUBSTITUTE HOUSE BILL NO. 1121,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1223,  
SUBSTITUTE HOUSE BILL NO. 1504,  
SUBSTITUTE HOUSE BILL NO. 1829,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2345,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2496,  
ENGROSSED HOUSE BILL NO. 2501,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2514,  
HOUSE BILL NO. 2542,  
HOUSE BILL NO. 2557,  
HOUSE BILL NO. 2558,  
SUBSTITUTE HOUSE BILL NO. 2611,  
SUBSTITUTE HOUSE BILL NO. 2710,  
SUBSTITUTE HOUSE BILL NO. 2724,

SUBSTITUTE HOUSE BILL NO. 2836,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2880,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2881,  
SUBSTITUTE HOUSE BILL NO. 2885,  
HOUSE BILL NO. 2905,  
SUBSTITUTE HOUSE BILL NO. 2960,  
HOUSE BILL NO. 3052,  
SECOND SUBSTITUTE HOUSE BILL NO. 3070,  
SUBSTITUTE HOUSE BILL NO. 3096,  
SUBSTITUTE HOUSE BILL NO. 3099, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5309,  
SENATE BILL NO. 5631,  
SUBSTITUTE SENATE BILL NO. 6077,  
SENATE BILL NO. 6270,  
SENATE BILL NO. 6449,  
SENATE BILL NO. 6552,  
SENATE BILL NO. 6599,  
SUBSTITUTE SENATE BILL NO. 6602,  
SENATE BILL NO. 6662,  
SENATE BILL NO. 6668.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 6161,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6418,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6509,  
SENATE BILL NO. 6539,

ENGROSSED SUBSTITUTE SENATE BILL NO. 6622,  
SENATE BILL NO. 6699,  
SUBSTITUTE SENATE BILL NO. 6727.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1074,  
SUBSTITUTE HOUSE BILL NO. 1121,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1223,  
SUBSTITUTE HOUSE BILL NO. 1504,  
SUBSTITUTE HOUSE BILL NO. 1829,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2345,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2496,  
ENGROSSED HOUSE BILL NO. 2501,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2514,  
HOUSE BILL NO. 2542,  
HOUSE BILL NO. 2557,  
HOUSE BILL NO. 2558,  
SUBSTITUTE HOUSE BILL NO. 2611,  
SUBSTITUTE HOUSE BILL NO. 2710,  
SUBSTITUTE HOUSE BILL NO. 2724,  
SUBSTITUTE HOUSE BILL NO. 2836,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2880,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2881,  
SUBSTITUTE HOUSE BILL NO. 2885,  
HOUSE BILL NO. 2905,  
SUBSTITUTE HOUSE BILL NO. 2960,  
HOUSE BILL NO. 3052,  
SECOND SUBSTITUTE HOUSE BILL NO. 3070,  
SUBSTITUTE HOUSE BILL NO. 3096,  
SUBSTITUTE HOUSE BILL NO. 3099.

There being no objection, the President advanced the Senate to the sixth order of business.

MOTION

On motion of Senator Hale, Senator Long was excused.

SECOND READING  
GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9312, Bob Craves, as Chair of the Higher Education Coordinating Board, was confirmed.

APPOINTMENT OF BOB CRAVES

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 38; Nays, 0; Absent, 9; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Fairley, Franklin, Fraser, Goings, Hale, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Wojahn



and Wood - 38. Absent: Senators Brown, Deccio, Finkbeiner, Hargrove, Haugen, Prince, Strannigan, West and Zarelli - 9. Excused: Senators Long and Sellar - 2.

#### MOTIONS

On motion of Senator Hale, Senator Finkbeiner was excused.  
On motion of Senator Goings, Senator Hargrove was excused.

#### MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9264, Larry L. Hanson, as a member of the Higher Education Coordinating Board, was confirmed.

#### APPOINTMENT OF LARRY L. HANSON

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 44. Absent: Senator Zarelli - 1. Excused: Senators Finkbeiner, Hargrove, Long and Sellar - 4.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

Under suspension of the rules, ENGROSSED SUBSTITUTE SENATE BILL NO. 5703 was returned to second reading for the purpose of an amendment. The bill passed the House with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) If a person placed surface or ground water to beneficial use before January 1, 1993, for irrigation, stock watering, or domestic use supplied by a public water supply system with one hundred or fewer service connections for which a permit or certificate was not issued by the department or its predecessors, the person or the public water supply system, or their respective successors may continue to use water on an interim basis as provided in section 2 of this act and only in the amount that has been beneficially used if:

(a) The person or the public water supply system files with the department a statement of claim and the evidence required under subsections (2) and (3) of this section during the period beginning September 1, 1998, and ending midnight June 30, 1999, using the standard form prescribed by RCW 90.14.051;

(b) The person or public water supply system has applied the water to beneficial use to the full extent stated in the statement of claim during at least three of the five years preceding the date the statement is filed and the person attests to having done so on the statement; and

(c) The claimant has filed or simultaneously files with the statement of claim an application to appropriate public water under RCW 90.03.250 or 90.44.060 for the quantity of water being put to beneficial use.

(2) The person or public water supply system must file with the statement of claim evidence that the quantity of water described in the claim was used beneficially before January 1, 1993, and during three of the five years preceding the date the statement was filed in the form of any two of the following:

(a) A statement signed by two persons other than the person filing the statement of claim verifying that the claimant beneficially used the water before January 1, 1993, and during three of the five years preceding the date the statement was filed as described in the statement of claim;

(b) A copy of a dated photograph clearly demonstrating the presence of grass or a crop requiring irrigation in the amounts asserted in the statement of claim or of livestock requiring water in such amounts; or records of receipts of the sale of crops by the person or the person's successor indicating that irrigation in the amount claimed was required to produce the crops;

(c) Receipts or records of irrigation or stockwatering equipment purchases or repairs associated with the water use specified in the statement of claim;

(d) Water well construction records identifying the date the well specified in the statement of claim as the point of withdrawal was constructed;

- (e) Records of electricity bills directly associated with the withdrawal of water as specified in the statement of claim;
  - (f) Personal records such as photographs, journals, or correspondence indicating the use of water as asserted in the statement of claim.
- (3) Public water supply systems must, in addition to the requirements of subsection (2) of this section, provide evidence of service connections existing and using water as of January 1, 1993, including documentation that the homes were built and occupied.

(4) A claimant who has filed both a statement of claim and an application for a water right has standing to assert a claim of a water right in a general adjudication under RCW 90.03.105 through 90.03.245 for the water use stated in the statement of claim. The statement of claim shall be reviewed by the court as provided in section 2(5) of this act.

**NEW SECTION. Sec. 2.** (1) A person may continue to use water on an interim basis for the purposes claimed as provided in section 1 of this act until one of the following occurs:

(a) The department makes its final decision granting or denying the water right application filed by the applicant. However, for an application filed under chapter . . . , Laws of 1998 (this act) located within a watershed in which a watershed management planning process established under chapter 90.82 or 90.54 RCW has been initiated prior to July 1, 2000, the department shall make a final decision on the application only after completion of the watershed management plan. The decision must be consistent with an approved and adopted watershed management plan. If the watershed management plan recommends granting applications for water rights or for transfer of water or water rights to uses that are represented by claims filed under section 1 of this act, the department shall grant the application according to the plan. If the planning effort is abandoned or if a watershed management plan is not completed within four years of the date it was initiated, whichever comes earlier, the department shall thereafter make a final decision on the application; or

(b) If the department has not made a final decision on the water right application and a court of competent jurisdiction issues a decree pursuant to a general adjudication under RCW 90.03.200 that defines or denies the claimant's right to appropriate water as provided in subsection (5) of this section.

(2) The department shall notify the claimant/applicant of the instream flow conditions with which each diversion or withdrawal must comply pending the completion of a watershed management plan or general adjudication. If instream flows have been established by rule, the department shall use those flows to regulate the diversion or withdrawal of water during times when the flows are not being met. For areas in which instream flows have not been established by rule, the department shall specify the flow conditions, determined in consultation with the department of fish and wildlife, to which the diversions or withdrawals will be conditioned pending completion of watershed management planning or general adjudication. Upon the completion of a watershed management plan and adoption of instream flows by rule, the diversions or withdrawals permitted under this section shall thereafter be conditioned in accordance with the rule adopting the flows.

(3) In making decisions regarding an application associated with such a claim in the watershed, the department shall consider alternative sources or augmented sources of water for the water use in the application, including but not limited to water supplied through storage enhancements or through the substitution of the use of ground water for the use of surface water. The department may approve the use of such an alternative or augmented source under the application without requiring the application to be resubmitted and without affecting the priority date of the application.

(4) If a watershed management plan adopts locally based standards for water use efficiency, any certificates issued thereafter under this section shall be conditioned accordingly.

(5) The department or the court may authorize the continued use of water under subsection (1) of this section only if the claimant's application meets the requirements of RCW 90.03.247 through 90.03.330, chapter 90.44 RCW, and RCW 90.54.020. If the department finds that the applicable requirements are met, it shall grant the water right application and issue a certificate under RCW 90.03.330 authorizing the person to use that quantity of water that has been put to beneficial use, not to exceed that quantity requested in the application or documented in the statement of claim under section 1 of this act, whichever is less. If in a general adjudication the court finds that the requirements are met, it shall confirm such use of water in a decree issued under RCW 90.03.200 and the department shall issue a certificate under RCW 90.03.240. The claimant has the burden of presenting evidence that the claim and application meet the requirements for granting a water right. The court shall consider all relevant evidence in making its findings and decision. The court may not confirm a right in excess of the quantity of water that has been applied to beneficial use as documented in the statement of claim under section 1 of this act or the quantity requested in the application for a water right, whichever is less. The priority date of any right issued by the department or confirmed by a court under sections 1 through 9 of this act shall be the effective date of this act.

(6) If the department or the court denies the claimant's use of water under subsection (5) of this section, the claimant must cease the use of the water. A decision by the department or a court limiting or denying a claimant's right to continue using water does not constitute a compensable taking under state or federal law because such claimants have no continuing legal right to use water.

**NEW SECTION. Sec. 3.** If no watershed management planning process under chapter 90.82 or 90.54 RCW has been initiated as of July 1, 2000, in the water resource inventory area in which a water use affected by section 1 of this act is made, the claimant/applicant may

continue to use water, subject to the same limitation provided in section 2 (2) and (4) of this act, for the purposes described in the statement of claim until the department makes its decision to grant or deny the application or a court makes its findings and decision under section 2(5) of this act. The department shall make its findings and decision on an application as soon as it is able to do so, taking into consideration its total permit processing workload. A water right certificate issued under this section is subject to the same limitations and conditions as are provided in section 2 of this act.

NEW SECTION. **Sec. 4.** Sections 1 through 9 of this act do not apply to or authorize any use of water that was the subject of a water right application filed with the department, where the department denied such application.

NEW SECTION. **Sec. 5.** A continuing interim use of water authorized under sections 1 through 9 of this act shall not affect or impair in any respect whatsoever a water right existing before the effective date of this act. Sections 1 through 9 of this act do not limit the ability of a senior water right holder to take legal action against any other water user to prevent impairment of his or her water right. A right granted under sections 1 through 9 of this act is junior in every respect to a right with a more senior date of priority. Any right granted under sections 1 through 9 of this act may only be exercised in a manner that does not impair or interfere with a water right that is senior to it. The filing of a statement of claim under this section does not constitute an adjudication of any claim to the right to the use of waters as between the claimant and the state, or as between one or more water use claimants. A statement of claim filed under this section shall be admissible in a general adjudication of water rights as prima facie evidence of the times of use and the quantity of water the claimant was withdrawing or diverting to the same extent as is provided by RCW 90.14.081 for a statement of claim in the water rights claims registry on the effective date of this act.

NEW SECTION. **Sec. 6.** Sections 1 through 9 of this act do not apply to ground water in an area that is, during the period established by section 1(1)(a) of this act, the subject of a general adjudication proceeding for water rights in superior court under RCW 90.03.110 through 90.03.245 and the proceeding applies to ground water rights. Sections 1 through 9 of this act do not apply to surface water in an area that is, during the period established by section 1(1)(a) of this act, the subject of a general adjudication proceeding for water rights in superior court under RCW 90.03.110 through 90.03.245 and the proceeding applies to surface water rights.

NEW SECTION. **Sec. 7.** The two-dollar fee for filing a water right claim required in RCW 90.14.061 is waived for purposes of claims filed under section 1(1)(a) of this act.

NEW SECTION. **Sec. 8.** Sections 1 through 9 of this act do not apply to rights embodied in a water right permit or certificate issued by the department or its predecessors, a water right represented by a claim in the water rights claims registry, created under RCW 90.14.111, before September 1, 1998, or a water right exempted from permit and application requirements by RCW 90.44.050.

NEW SECTION. **Sec. 9.** Sections 1 through 9 of this act do not apply to claims for the use of water in a ground water area or subarea for which a management program adopted by the department by rule and in effect on the effective date of this act establishes acreage expansion limitations for the use of ground water.

NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act are each added to chapter 90.03 RCW."  
Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Anderson moved that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 5703.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Anderson to concur in the House amendment to Engrossed Substitute Senate Bill No. 5703.

The motion by Senator Anderson carried and the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 5703.

#### MOTIONS

On motion of Senator Swecker, Senator Schow was excused.

On motion of Senator Hale, Senator Zarelli was excused.

On motion of Senator Goings, Senators Brown and Heavey were excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5703, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5703, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 11; Absent, 0; Excused, 6.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Haugen, Hochstatter, Horn, Johnson, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley and Wood - 32. Voting nay: Senators Fairley, Franklin, Fraser, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Thibaudeau and Wojahn - 11. Excused: Senators Brown, Hargrove, Heavey, Long, Schow and Zarelli - 6. ENGROSSED SUBSTITUTE SENATE BILL NO. 5703, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6205 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 84.56.025 and 1984 c 185 s 1 are each amended to read as follows:

(1) The interest and penalties for delinquencies on property taxes, which taxes are levied on real estate in the year of a conveyance of the real estate and which are collected in the following year, shall be waived by the county treasurer under the following circumstances:

~~((1))~~ (a) Records conveying the real estate were filed with the county auditor on or before November 30 of the year the taxes are levied;

~~((2))~~ (b) A grantee's name and address are included in the records; and

~~((3))~~ (c) The notice for these taxes due, as provided in RCW 84.56.050, was not sent to a grantee due to error by the county. Where such waiver of interest and penalties has occurred, the full amount of interest and penalties shall be reinstated if the grantee fails to pay the delinquent taxes within thirty days of receiving notice that the taxes are due. Each county treasurer shall, subject to guidelines prepared by the department of revenue, establish administrative procedures to determine if grantees are eligible for this waiver.

(2) In addition to the waiver under subsection (1) of this section, the interest and penalties for delinquencies on property taxes shall be waived by the county treasurer under the following circumstances:

(a) The taxpayer fails to make one payment under RCW 84.56.020 by the due date on the taxpayer's personal residence because of hardship caused by the death of the taxpayer's spouse if the taxpayer notifies the county treasurer of the hardship within sixty days of the tax due date; or

(b) The taxpayer fails to make one payment under RCW 84.56.020 by the due date on the taxpayer's parent's or stepparent's personal residence because of hardship caused by the death of the taxpayer's parent or stepparent if the taxpayer notifies the county treasurer of the hardship within sixty days of the tax due date. (3) Before allowing a hardship waiver under subsection (2) of this section, the county treasurer may require a copy of the death certificate along with an affidavit signed by the taxpayer.", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator McCaslin, the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6205.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6205, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6205, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 43. Absent: Senator Finkbeiner - 1. Excused: Senators Brown, Hargrove, Long, Schow and Zarelli - 5. ENGROSSED SUBSTITUTE SENATE BILL NO. 6205, as amended by the House,

having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6533 with the following amendment(s):

On page 5, line 4, after "payments" insert "and benefits for disabilities related to the performance of military duties", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Strannigan, the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6533.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6533, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6533, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Finkbeiner - 1. Excused: Senators Brown and Hargrove - 2. ENGROSSED SUBSTITUTE SENATE BILL NO. 6533, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SB 6763 by Senators Stevens, Hochstatter, Zarelli and Roach

AN ACT Relating to medical treatment of children in custody; amending RCW 13.34.060; and adding new sections to chapter 13.34 RCW.

Referred to Committee on Human Services and Corrections.

SCR 8429 by Senators McDonald and Snyder

Renaming the Institutions Building the Irving R. Newhouse Building.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Concurrent Resolution No. 8429 was advanced to second reading and read the second time.

SENATE CONCURRENT RESOLUTION NO. 8429

WHEREAS, The Honorable Irving R. Newhouse serves with honor and integrity as President Pro Tempore of the Washington State Senate; and

WHEREAS, Republicans and Democrats alike have great respect for Senator Newhouse for his impressive institutional knowledge as the longest serving member in the Legislature; and

WHEREAS, Senator Newhouse has demonstrated tremendous dedication to his district and to the state of Washington with more than 34 years of service since his election to the House of Representatives in 1964; and

WHEREAS, Due to his vast understanding of the political process and parliamentary procedure, Senator Newhouse has risen to several leadership positions since his appointment to the state Senate in 1980, including Senate Republican Floor Leader from 1988 to 1996 and now President Pro Tempore; and

WHEREAS, Senator Newhouse is considered "one of the sharpest minds in the Legislature and the best attorney in the Legislature, even though he isn't one"; and

WHEREAS, Governors of both parties have desired and respected his perspective on potential legislation; and

WHEREAS, His commitment to the 15th District and his dedication to agriculture brings him home to Mabton each interim where he works diligently on his farm growing hops, grapes, apples, cherries, and other crops; and

WHEREAS, The knowledge and experience he has gained as both a legislator and a farmer make him a strong and loyal advocate of the agricultural industry, recently recognized with the state Agriculture Director's Citation Award and the Washington State Farm Bureau Legislator of the Year Award; and

WHEREAS, His dedication to the Legislature and his farm can only be matched by his love and commitment to his wife, Ruth, and their six children and eighteen grandchildren; and

WHEREAS, Senator Irv Newhouse will long be remembered for his impressive and inspiring contributions to the Washington State Legislature by members, staff, lobbyists, the press, and friends and neighbors in the 15th Legislative District; and

WHEREAS, As a first generation American, he has made a significant mark on the state of Washington; and

WHEREAS, The Washington State Legislature wishes to honor Senator Newhouse with a lasting memorial to his dedication and service in the Legislature;

NOW, THEREFORE, BE IT RESOLVED, By the Washington State Senate, the House of Representatives concurring, That the Director of General Administration is directed to rename the building currently referred to as the Institutions Building, the Irving R. Newhouse Building; and

BE IT FURTHER RESOLVED, That all appropriate Senate stationery be updated to reflect this name change as soon as economically possible; and

BE IT FURTHER RESOLVED, That this resolution be forwarded to the Honorable Irving R. Newhouse, Senate President Pro Tempore; the Honorable Gary Locke, Governor of the state of Washington; and Marsha Tadano Long, Director of the Department of General Administration.

#### MOTION

On motion of Senator Johnson, the rules were suspended, Senate Concurrent Resolution No. 8429 was advanced to third reading, the second reading considered the third and the concurrent resolution was adopted.

SENATE CONCURRENT RESOLUTION NO. 8429, was adopted by voice vote.

Senators Johnson, McDonald, Snyder, Deccio, Heavey, McCaslin, Prentice, Anderson, Oke, Sellar, Bauer, Franklin, Wojahn, Morton, Schow and Winsley spoke to Senate Concurrent Resolution No. 8429.

Governor Gary Locke presented Senator Newhouse with a proclamation and thanked the Senator for his many years of extraordinary service to the Legislature and to the people of the state of Washington.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the family of Senator Newhouse, who were seated in the gallery.

## REMARKS BY SENATOR NEWHOUSE

Senator Newhouse: "Mr. President and ladies and gentlemen. I can't say much. With sixteen or eighteen kids up there and my wife, Ruth, I go back quite a few years. In the hall this morning, I met Stan Finkelstein, who was my staff man on legislative council days and we had written a great deal of legislation together and I said to Stan, 'We have to go over the record and find out which were the best bills we put together.' I don't think there is much question as to the one percent property tax lid. It would have been two percent if we hadn't done that. The Open Spaces Act, the Surface Mining Act--I am kind of proud of some of those things--but I think more of the great opportunity that I have had over these past thirty-five years, to participate with government and to be associated with people like you.

"We did run a farm at the same time and that is kind of tough--two hundred miles away. My wife's job of getting six kids through school. When I started in the Legislature, the oldest was almost eighteen, that's Joyce, and the youngest one was seven. That's Dorothy with her twins up there now.

"I want to thank you all for the lessons that you have given me. I appreciate very much the relationship of legislators. Governor Gary, I remember taking you on a tour of my farm one afternoon, after a meeting. What can I say? Thanks, folks! It has been a great pleasure."

There being no objection, the President returned the Senate to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6588 with the following amendment(s):

On page 1, line 18, after "counters" insert ", and snack counters located in theaters or centers for the performing arts", and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

## MOTION

On motion of Senator Winsley, the Senate concurred in the House amendment to Senate Bill No. 6588.

## MOTIONS

On motion of Senator Hale, Senators Newhouse, Swecker and Wood were excused.

On motion of Senator Betti Sheldon, Senator Goings was excused.

On motion of Senator Franklin, Senators Haugen, Kohl and Rasmussen were excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6588, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6588, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 1; Absent, 2; Excused, 8.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, West, Winsley, Wojahn and Zarelli - 38. Voting nay: Senator Thibaudeau - 1. Absent: Senators Prince and Roach - 2. Excused: Senators Goings, Haugen, Kohl, Long, Newhouse, Rasmussen, Swecker and Wood - 8. SENATE BILL NO. 6588, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the sixth order of business.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1088, by House Committee on Government Administration (originally sponsored by Representatives Sheahan and Schoesler)

Designating Mammuthus COLUMBI as the official fossil of the state of Washington.

The bill was read the second time.

### MOTION

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 1088 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

### MOTIONS

On motion of Senator Sellar, Senators Benton, Hale and Roach were excused.

On motion of Senator Franklin, Senators Bauer and Loveland were excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1088.

### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1088 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 0; Absent, 3; Excused, 12.

Voting yea: Senators Anderson, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, McAuliffe, McCaslin, Oke, Patterson, Prentice, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 34. Absent: Senators McDonald, Morton and Prince - 3. Excused: Senators Bauer, Benton, Goings, Hale, Haugen, Kohl, Long, Loveland, Newhouse, Rasmussen, Roach and Wood - 12.

SUBSTITUTE HOUSE BILL NO. 1088, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President returned the Senate to the fourth order of business.

### MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House refuses to recede from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6119 and insists on its position and asks the Senate to concur therein., and the same are herewith transmitted.

TIMOTHY A MARTIN, Chief Clerk

### MOTION

Senator McCaslin moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6119.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator McCaslin that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6119.

The motion by Senator McCaslin carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6119.

### MOTION



On motion of Senator Sellar, Senators Morton and Winsley were excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6119, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6119, as amended by the House, and the bill failed to pass the Senate by the following vote: Yeas, 22; Nays, 13; Absent, 0; Excused, 14.

Voting yea: Senators Anderson, Deccio, Finkbeiner, Hargrove, Heavey, Hochstatter, Horn, Johnson, McCaslin, McDonald, Oke, Patterson, Prentice, Prince, Rossi, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West and Zarelli - 22. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Jacobsen, Kline, McAuliffe, Schow, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 13. Excused: Senators Bauer, Benton, Goings, Hale, Haugen, Kohl, Long, Loveland, Morton, Newhouse, Rasmussen, Roach, Winsley and Wood - 14. SUBSTITUTE SENATE BILL NO. 6119, as amended by the House, having failed to receive the constitutional majority, was declared lost.

#### PARLIAMENTARY INQUIRY

Senator McCaslin: "A point of parliamentary inquiry, Mr. President. When the President says it passes and pounds the gavel, can we accept that or--"

#### REPLY BY THE PRESIDENT

President Owen: "Well, you know, the votes are kind of the overriding factor there. Every once in a while--rare--but every once in a while, I make a mistake."

Senator McCaslin: "I knew you carried a lot of weight, but I didn't know you could do that."

President Owen: "I don't carry that much."

#### MOTION

At 3:58 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 4:39 p.m. by President Owen.

There being no objection, the President advanced the Senate to the sixth order of business.

#### MOTION

On motion of Senator Goings, Senators Fairley and Rasmussen were excused.

#### SECOND READING

HOUSE BILL NO. 2566, by Representatives Alexander, Linville, DeBolt, Morris and Thompson

Extending the retail sales tax exemption for sales of laundry service.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, House Bill No. 2566 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2566.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2566 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Oke, Patterson, Prentice, Prince, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 43. Absent: Senators McDonald and Wojahn - 2. Excused: Senators Fairley, Newhouse, Rasmussen and Roach - 4. HOUSE BILL NO. 2566, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of Engrossed Substitute House Bill No. 2417 and the pending Committee on Transportation striking amendment, deferred March 6, 1998.

EDITOR'S NOTE: Senate Concurrent Resolution No. 8430, adopted March 10, 1998, established cutoff dates for consideration of measures related to state and local transportation.

The President declared the question before the Senate to be the adoption of the Committee on Transportation striking amendment to Engrossed Substitute Senate Bill No. 2417.

Debate ensued.

The Committee on Transportation striking amendment was adopted.

#### MOTIONS

On motion of Senator Zarelli, the following title amendment was adopted:

On page 1, line 2 of the title, after "projects;" strike the remainder of the title and insert "and amending RCW 82.80.020 and 82.80.080."

On motion of Senator Zarelli, the rules were suspended, Engrossed Substitute House Bill No. 2417, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Franklin, Senator Wojahn was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2417, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2417, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 15; Absent, 0; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Fraser, Hale, Hargrove, Heavey, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Oke, Prince, Rossi, Schow, Sellar, Sheldon, B., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 30. Voting nay: Senators Brown, Franklin, Goings, Haugen, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, T., Spanel and Thibaudeau - 15. Excused: Senators Fairley, Newhouse, Roach and Wojahn - 4. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2417, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

Vice President Pro Tempore Morton assumed the Chair.

#### MOTION

On motion of Senator Johnson, the Senate advanced to the ninth order of business.

#### MOTION

On motion of Senator Johnson, the Committee on Rules was relieved of Second Substitute House Bill No. 2849 and Engrossed Substitute House Bill No. 2947.

#### MOTION

On motion of Senator Johnson, the rules were suspended and Second Substitute House Bill No. 2849 and Engrossed Substitute House Bill No. 2947 were advanced to second reading and placed on the second reading calendar.

#### MOTION

Senator Johnson moved that the Senate return to the sixth order of business.

Senator Hargrove objected to returning to the sixth order of business.

Senator Johnson demanded a roll call and the demand was sustained.

The Vice President Pro Tempore declared the question before the Senate to be the roll call on the motion by Senator Johnson to return to the sixth order of business.

#### ROLL CALL

The Secretary called the roll and the motion to return to the sixth order of business carried by the following vote: Yeas, 24; Nays, 22; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley and Zarelli - 24. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel and Thibaudeau - 22. Excused: Senators Newhouse, Wojahn and Wood - 3.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2659, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Fisher, K. Schmidt, Radcliff, O'Brien and Murray) (by request of Governor Locke)

Regulating collection of special fuel taxes and motor vehicle fuel tax.

The bill was read the second time.

#### MOTION

Senator Prince moved that the following Committee on Transportation amendment not be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds and declares that:

(1) The health, safety, and welfare of the people of the state of Washington are dependent on the state's ability to properly collect the taxes enacted by the legislature;

(2) The current system for collecting special fuel taxes and motor vehicle fuel tax has allowed many parties to fraudulently evade paying the special fuel taxes and motor vehicle fuel tax due the state; and

(3) By changing the point of collection of the special fuel taxes and motor vehicle fuel tax from distributors to suppliers, the department of licensing will have fewer parties to collect tax from and enforcement will be enhanced, thus leading to greater revenues for the state.

**Sec. 2.** RCW 35A.82.010 and 1995 c 274 s 4 are each amended to read as follows:

A code city shall collect, receive and share in the distribution of state collected and distributed excise taxes to the same extent and manner as general laws relating thereto apply to any class of city or town including, but not limited to, funds distributed to cities under RCW 82.36.020 relating to motor vehicle fuel tax, RCW 82.38.290 relating to use fuel tax, and RCW 82.36.275 and 82.38.080(~~(9)~~) (3).

**Sec. 3.** RCW 82.04.4285 and 1980 c 37 s 6 are each amended to read as follows:

In computing tax there may be deducted from the measure of tax so much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the state under chapters 82.36 and 82.38 RCW or the United States government, under 26 U.S.C., Subtitle D, chapters 31 and 32, upon the sale thereof.

**Sec. 4.** RCW 82.08.0255 and 1983 1st ex.s. c 35 s 2 and 1983 c 108 s 1 are each reenacted and amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of:

(a) Motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes; and

(b) Motor vehicle and special fuel if:

(i) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(~~((9))~~) (3); or

(ii) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(~~((8))~~) (1)(h); or

(iii) The fuel is taxable under chapter 82.36 or 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state shall be entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax shall be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

**Sec. 5.** RCW 82.12.0256 and 1983 1st ex.s. c 35 s 3 and 1983 c 108 s 2 are each reenacted and amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of:

(1) Motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes; and

(2) Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2); and

(3) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(~~((9))~~) (3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(~~((8))~~) (1)(h); or

(c) The fuel is taxable under chapter 82.36 or 82.38 RCW: PROVIDED, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (3)(c), and the director of licensing shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue.

**Sec. 6.** RCW 82.36.010 and 1995 c 287 s 1 and 1995 c 274 s 20 are each reenacted and amended to read as follows:

(For the purposes of this chapter:

(1) "Motor vehicle" means every vehicle that is in itself a self-propelled unit, equipped with solid rubber, hollow-cushion rubber, or pneumatic rubber tires and capable of being moved or operated upon a public highway, except motor vehicles used as motive power for or in conjunction with farm implements and machines or implements of husbandry;

(2) "Motor vehicle fuel" means gasoline or any other inflammable gas or liquid, by whatsoever name such gasoline, gas, or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats;

(3) "Distributor" means every person who refines, manufactures, produces, or compounds motor vehicle fuel and sells, distributes, or in any manner uses it in this state; also every person engaged in business as a bona fide wholesale merchant dealing in motor vehicle fuel who either acquires it within the state from any person refining it within or importing it into the state, on which the tax has not been paid, or imports it into this state and sells, distributes, or in any manner uses it in this state; also every person who acquires motor vehicle fuel, on which the tax has not been paid, and exports it by commercial motor vehicle to a location outside the state. For the purposes of liability for a county fuel tax, "distributor" has that meaning defined in the county ordinance imposing the tax. For the purposes of this subsection, "commercial motor vehicle" means any motor vehicle used, designed, or maintained for transportation of persons or property and: (a) Having two axles and a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds; or (b) having three or more axles regardless of weight; or (c) is used in combination, when the weight of such combination exceeds twenty-six thousand pounds gross vehicle weight. "Commercial motor vehicle" does not include recreational vehicles;

(4) "Service station" means a place operated for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles;

(5) "Department" means the department of licensing;

(6) "Director" means the director of licensing;

(7) "Dealer" means any person engaged in the retail sale of liquid motor vehicle fuels;

(8) "Person" means every natural person, firm, partnership, association, or private or public corporation;

(9) "Highway" means every way or place open to the use of the public, as a matter of right, for purposes of vehicular travel;

(10) "Broker" means every person, other than a distributor, engaged in business as a broker, jobber, or wholesale merchant dealing in motor vehicle fuel or other petroleum products used or usable in propelling motor vehicles, or in other petroleum products which may be used in blending, compounding, or manufacturing of motor vehicle fuel;

(11) "Producer" means every person, other than a distributor, engaged in the business of producing motor vehicle fuel or other petroleum products used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel;

(12) "Distribution" means all withdrawals of motor vehicle fuel for delivery to others, to retail service stations, or to unlicensed bulk storage plants;

(13) "Bulk storage plant" means, pursuant to the licensing provisions of RCW 82.36.070, any plant, under the control of the distributor, used for the storage of motor vehicle fuel to which no retail outlets are directly connected by pipe lines;

(14) "Marine fuel dealer" means any person engaged in the retail sale of liquid motor vehicle fuel whose place of business and/or sale outlet is located upon a navigable waterway;

(15) "Alcohol" means alcohol that is produced from renewable resources;

(16) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account;

(17) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

(a) A knowing: False statement, misrepresentation of fact, or other act of deception; or

(b) An intentional: Omission, failure to file a return or report, or other act of deception.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Blended fuel" means a mixture of motor vehicle fuel and another liquid, other than a de minimus amount of the liquid, that can be used as a fuel to propel a motor vehicle.

(2) "Bond" means a bond duly executed with a corporate surety qualified under chapter 48.28 RCW, which bond is payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter.

(3) "Bulk transfer" means a transfer of motor vehicle fuel by pipeline or vessel.

(4) "Bulk transfer-terminal system" means the motor vehicle fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Motor vehicle fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer-terminal system. Motor vehicle fuel in the fuel tank of an engine, motor vehicle, or in a railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer-terminal system.

(5) "Dealer" means a person engaged in the retail sale of motor vehicle fuel.

(6) "Department" means the department of licensing.

(7) "Director" means the director of licensing.

(8) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

(a) A knowing: False statement; misrepresentation of fact; or other act of deception; or

(b) An intentional: Omission; failure to file a return or report; or other act of deception.

(9) "Export" means to obtain motor vehicle fuel in this state for sales or distribution outside the state.

(10) "Highway" means every way or place open to the use of the public, as a matter of right, for the purpose of vehicular travel.

(11) "Import" means to bring motor vehicle fuel into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

(12) "Licensee" means a person holding a license issued under this chapter.

(13) "Marine fuel dealer" means a person engaged in the retail sale of motor vehicle fuel whose place of business and/or sale outlet is located upon a navigable waterway.

(14) "Motor vehicle fuel blender" means a person who produces blended motor fuel outside the bulk transfer-terminal system.

(15) "Motor vehicle fuel distributor" means a person who acquires motor vehicle fuel from a supplier, distributor, or licensee for subsequent sale and distribution.

(16) "Motor vehicle fuel exporter" means a person who purchases motor vehicle fuel in this state and directly exports the fuel by a means other than the bulk transfer-terminal system to a destination outside of the state. If the exporter of record is acting as an agent, the person for whom the agent is acting is the exporter. If there is no exporter of record, the owner of the motor fuel at the time of exportation is the exporter.

(17) "Motor vehicle fuel importer" means a person who imports motor vehicle fuel into the state by a means other than the bulk transfer-terminal system. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record, the owner of the motor vehicle fuel at the time of importation is the importer.

(18) "Motor vehicle fuel supplier" means a person who owns and stores motor vehicle fuel in a terminal facility or who refines and stores motor vehicle fuel at a refinery.

(19) "Motor vehicle" means a self-propelled vehicle designed for operation upon land utilizing motor vehicle fuel as the means of propulsion.

(20) "Motor vehicle fuel" means gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats.

(21) "Person" means a natural person, fiduciary, association, or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.

(22) "Position holder" means a person who holds the inventory position in motor vehicle fuel, as reflected by the records of the terminal operator. A person holds the inventory position in motor vehicle fuel if the person has a contractual agreement with the terminal for the use of storage facilities and terminating services at a terminal with respect to motor vehicle fuel. "Position holder" includes a terminal operator that owns motor vehicle fuel in their terminal.

(23) "Rack" means a mechanism for delivering motor vehicle fuel from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer.

(24) "Refiner" means a person who owns, operates, or otherwise controls a refinery.

(25) "Removal" means a physical transfer of motor vehicle fuel other than by evaporation, loss, or destruction.

(26) "Terminal" means a motor vehicle fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service, is supplied by pipeline or vessel, and from which reportable motor vehicle fuel is removed at a rack.

(27) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

(28) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable motor vehicle fuel is transferred from one licensed supplier to another licensed supplier under an exchange or buy-sell agreement whereby the supplier that is the position holder agrees to deliver taxable motor vehicle fuel to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder.

**Sec. 7.** RCW 82.36.020 and 1983 1st ex.s. c 49 s 26 are each amended to read as follows:

~~((Every distributor shall pay, in addition to any other taxes provided by law, an excise tax to the director at a rate computed in the manner provided in RCW 82.36.025 for each gallon of motor vehicle fuel sold, distributed, or used by him in the state as well as on each gallon upon which he has assumed liability for payment of the tax under the provisions of RCW 82.36.100: PROVIDED, That under such regulations as the director may prescribe sales or distribution of motor vehicle fuel may be made by one licensed distributor to another licensed distributor free of the tax. In the computation of the tax, one quarter of one percent of the net gallonage otherwise taxable shall be deducted by the distributor before computing the tax due, on account of the losses sustained through handling. The tax imposed hereunder shall be in addition to any other tax required by law, and shall not be imposed under circumstances in which the tax is prohibited by the Constitution or laws of the United States. The tax herein imposed shall be collected and paid to the state but once in respect to any motor vehicle fuel. An invoice shall be rendered by a distributor to a purchaser for each distribution of motor vehicle fuel.))~~

(1) There is hereby levied and imposed upon motor vehicle fuel users a tax at the rate computed in the manner provided in RCW 82.36.025 on each gallon of motor vehicle fuel.

(2) The tax imposed by subsection (1) of this section is imposed when any of the following occurs:

(a) Motor vehicle fuel is removed in this state from a terminal if the motor vehicle fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(b) Motor vehicle fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the motor vehicle fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(c) Motor vehicle fuel enters into this state for sale, consumption, use, or storage if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Motor vehicle fuel is removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the motor vehicle fuel;

(e) Blended motor vehicle fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended motor vehicle fuel subject to the tax is the difference between the total number of gallons of blended motor vehicle fuel removed or sold and the number of gallons of previously taxed motor vehicle fuel used to produce the blended motor vehicle fuel.

~~(3) The proceeds of the motor vehicle fuel excise tax collected ((on the net gallonage after the deduction provided for herein and)) after the deductions for payments and expenditures as provided in RCW 46.68.090((;)) shall be distributed as provided in RCW 46.68.100.~~

**NEW SECTION. Sec. 8.** (1) A position holder shall remit tax to the department on motor vehicle fuel removed from a terminal as provided in RCW 82.36.020(2)(a). On a two-party exchange, or buy-sell agreement between two suppliers, the receiving exchange partner or buyer, becomes the position holder, who shall remit the tax.

(2) A refiner shall remit tax to the department on motor vehicle fuel removed from a refinery as provided in RCW 82.36.020(2)(b).

(3) An importer shall remit tax to the department on motor vehicle fuel imported into this state as provided in RCW 82.36.020(2)(c).

(4) A blender shall remit tax to the department on the removal or sale of blended motor vehicle fuel as provided in RCW 82.36.020(2)(e).

**NEW SECTION. Sec. 9.** A terminal operator is jointly and severally liable for remitting the tax imposed under RCW 82.36.020(1) if, at the time of removal:

- (1) The position holder with respect to the motor vehicle fuel is a person other than the terminal operator and is not a licensee;
- (2) The terminal operator is not a licensee;
- (3) The position holder has an expired internal revenue service notification certificate issued under 26 C.F.R. Part 48; or
- (4) The terminal operator had reason to believe that information on the notification certificate was false.

**NEW SECTION. Sec. 10.** Upon the taxable removal of motor vehicle fuel, the licensee who acquired or removed the motor vehicle fuel, other than a motor vehicle fuel exporter, shall be entitled to a deduction from the tax liability on the gallonage of taxable motor vehicle fuel removed in order to account for handling losses, as follows: For a motor vehicle fuel supplier acting as a distributor, one-quarter of one percent; and for all other licensees, thirty one-hundredths of one percent. For those licensees required to file tax reports, the handling loss deduction shall be reported on tax reports filed with the department. For motor vehicle fuel distributors, the handling loss deduction shall be shown on the invoice provided to the motor vehicle fuel distributor by the seller.

**NEW SECTION. Sec. 11.** For the purpose of determining the amount of liability for the tax imposed under this chapter, and to periodically update license information, each licensee, other than a motor vehicle fuel distributor, shall file monthly tax reports with the department, on a form prescribed by the department.

A report shall be filed with the department even though no motor vehicle fuel tax is due for the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and made under penalties of perjury, which declaration has the same force and effect as a verification of the report and is in lieu of the verification. The report shall show information as the department may require for the proper administration and enforcement of this chapter. Tax reports shall be filed on or before the twenty-fifth day of the next succeeding calendar month following the period to which the reports relate. If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date.

The department, if it deems it necessary in order to ensure payment of the tax imposed under this chapter, or to facilitate the administration of this chapter, may require the filing of reports and tax remittances at shorter intervals than one month.

**NEW SECTION. Sec. 12.** (1) The tax imposed by this chapter shall be computed by multiplying the tax rate per gallon provided in this chapter by the number of gallons of motor vehicle fuel subject to the motor vehicle fuel tax.

(2) Except as provided in subsection (3) of this section, tax reports shall be accompanied by a remittance payable to the state treasurer covering the tax amount determined to be due for the reporting period.

(3) If the tax is paid by electronic funds transfer, the tax shall be paid on or before the tenth calendar day of the month that is the second month immediately following the reporting period. When the reporting period is May, the tax shall be paid on the last business day of June.

(4) The tax shall be paid by electronic funds transfer whenever the amount due is fifty thousand dollars or more.

(5) A motor vehicle fuel distributor shall remit tax on motor vehicle fuel purchased from a motor vehicle fuel supplier, and due to the state for that reporting period, to the motor vehicle fuel supplier.

(6) At the election of the distributor, the payment of the motor vehicle fuel tax owed on motor vehicle fuel purchased from a supplier shall be remitted to the supplier on terms agreed upon between the distributor and supplier or no later than two business days before the last business day of the following month. This election shall be subject to a condition that the distributor's remittances of all amounts of motor vehicle fuel tax due to the supplier shall be paid by electronic funds transfer. The distributor's election may be terminated by the supplier if the distributor does not make timely payments to the supplier as required by this section. This section shall not apply if the distributor is required by the supplier to pay cash or cash equivalent for motor vehicle fuel purchases.

**Sec. 13.** RCW 82.36.032 and 1987 c 174 s 7 are each amended to read as follows:

If any ((distributor)) licensee files a fraudulent ((monthly gallonage return)) tax report with intent to evade the tax imposed by this chapter, there shall be added to the amount of deficiency determined by the department a penalty equal to twenty-five percent of the deficiency, in addition to all other penalties prescribed by law.

**NEW SECTION. Sec. 14.** A motor vehicle fuel supplier shall, no later than the twentieth calendar day or next state business day after the motor vehicle fuel tax is due from a motor vehicle fuel distributor under this chapter, notify the department of the failure of a motor vehicle fuel distributor to pay the full amount of the tax owed.

Upon notification and submission of satisfactory evidence by a motor vehicle fuel supplier that a motor vehicle fuel distributor has failed to pay the full amount of the tax owed, the department may suspend the license of the motor vehicle fuel distributor.

Upon the suspension, the department shall immediately notify all motor vehicle fuel suppliers that the authority of the motor vehicle fuel distributor to purchase tax-deferred motor vehicle fuel has been suspended and all subsequent purchases of motor vehicle fuel by the motor vehicle fuel distributor must be tax-paid at the time of removal.

If, after notification by the department, a motor vehicle fuel supplier continues to sell tax-deferred motor vehicle fuel to a motor vehicle fuel distributor whose license is suspended, the motor vehicle fuel supplier's license is subject to revocation or suspension under RCW 82.36.190. Furthermore, if notified of a license suspension, a motor vehicle fuel supplier is liable for any unpaid motor vehicle fuel tax owed on motor vehicle fuel sold to a suspended motor vehicle fuel distributor.

**NEW SECTION. Sec. 15.** A motor vehicle fuel supplier is entitled to a credit of the tax paid over to the department on those sales of motor vehicle fuel for which the supplier has received no consideration from or on behalf of the purchaser. The amount of the tax credit shall not exceed the amount of tax imposed by this chapter on such sales. Such credit may be taken on a tax return subsequent to the tax return on which the tax was paid over to the department. If a credit has been granted under this section, any amounts collected for application against accounts on which such a credit is based shall be reported on a subsequent tax return filed after such collection, and the amount of credit received by the supplier based upon the collected amount shall be returned to the department. In the event the credit has not been paid, the amount of the credit requested by the supplier shall be adjusted by the department to reflect the decrease in the amount on which the claim is based.

**Sec. 16.** RCW 82.36.045 and 1996 c 104 s 2 are each amended to read as follows:

(1) If the department determines that the tax reported by a ~~((motor vehicle fuel distributor))~~ licensee is deficient, the department shall assess the deficiency on the basis of information available to it, and shall add a penalty of two percent of the amount of the deficiency.

(2) If a ~~((distributor, whether licensed or not licensed))~~ licensee, or person acting as such, fails, neglects, or refuses to file a motor vehicle fuel tax report the department shall, on the basis of information available to it, determine the tax liability of the ~~((distributor))~~ licensee or person for the period during which no report was filed. The department shall add the penalty provided in subsection (1) of this section to the tax. An assessment made by the department under this subsection or subsection (1) of this section is presumed to be correct. In any case, where the validity of the assessment is questioned, the burden is on the person who challenges the assessment to establish by a fair preponderance of evidence that it is erroneous or excessive, as the case may be.

(3) If a ~~((distributor))~~ licensee or person acting as such files a false or fraudulent report with intent to evade the tax imposed by this chapter, the department shall add to the amount of deficiency a penalty equal to twenty-five percent of the deficiency, in addition to the penalty provided in subsections (1) and (2) of this section and all other penalties prescribed by law.

(4) Motor vehicle fuel tax, penalties, and interest payable under this chapter bears interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion of it should have been paid until the date of payment. If a ~~((distributor))~~ licensee or person acting as such establishes by a fair preponderance of evidence that the failure to pay the amount of tax due was attributable to reasonable cause and was not intentional or willful, the department may waive the penalty. The department may waive the interest when it determines the cost of processing or collection of the interest exceeds the amount of interest due.

(5) Except in the case of a fraudulent report, neglect or refusal to make a report, or failure to pay or to pay the proper amount, the department shall assess the deficiency under subsection (1) or (2) of this section within five years from the last day of the succeeding calendar month after the reporting period for which the amount is proposed to be determined or within five years after the return is filed, whichever period expires later.

(6) Except in the case of violations of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interest of carrying out the purpose of this chapter, it may mitigate such assessments upon whatever terms the department deems proper, giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter.

(7) A ~~((distributor))~~ licensee or person acting as such against whom an assessment is made under subsection (1) or (2) of this section may petition for a reassessment within thirty days after service upon the ~~((distributor))~~ licensee of notice of the assessment. If the petition is not filed within the thirty-day period, the amount of the assessment becomes final at the expiration of that period.

If a petition for reassessment is filed within the thirty-day period, the department shall reconsider the assessment and, if the ~~((distributor))~~ petitioner has so requested in its petition, shall grant the ~~((distributor))~~ petitioner an oral hearing and give the ~~((distributor))~~ petitioner twenty days' notice of the time and place of the hearing. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment becomes final thirty days after service of notice upon the ~~((distributor))~~ petitioner.

An assessment made by the department becomes due and payable when it becomes final. If it is not paid to the department when due and payable, the department shall add a penalty of ten percent of the amount of the tax.

(8) In a suit brought to enforce the rights of the state under this chapter, the assessment showing the amount of taxes, penalties, interest, and cost unpaid to the state is prima facie evidence of the facts as shown.

(9) A notice of assessment required by this section must be served personally or by certified or registered mail. If it is served by mail, service shall be made by deposit of the notice in the United States mail, postage prepaid, addressed to the ~~((distributor))~~ respondent at the most current address furnished to the department.

(10) The tax ~~((required))~~ imposed by this chapter, if required to be collected by the seller, is held in trust by the ~~((seller))~~ licensee until paid to the department, and a ~~((seller))~~ licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.

**Sec. 17.** RCW 82.36.047 and 1991 c 339 s 4 are each amended to read as follows:



When an assessment becomes final in accordance with this chapter, the department may file with the clerk of any county within the state a warrant in the amount of the assessment of taxes, penalties, interest, and a filing fee of five dollars. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant the name of the ~~((distributor))~~ licensee or person mentioned in the warrant, the amount of the tax, penalties, interest, and filing fee, and the date when the warrant was filed. The aggregate amount of the warrant as docketed becomes a lien upon the title to and interest in all real and personal property of the named person against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of the clerk. The warrant so docketed is sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law in the case of a civil judgment, wholly or partially unsatisfied. The clerk of the court is entitled to a filing fee of five dollars.

**Sec. 18.** RCW 82.36.060 and 1996 c 104 s 3 are each amended to read as follows:

~~((Every person, before becoming a distributor or continuing in business as a distributor, shall make))~~ (1) An application ~~((to the department))~~ for a license ~~((authorizing the applicant to engage in business as a distributor. Applications for such licenses))~~ issued under this chapter shall be made to the department on forms to be furnished by the department and shall contain such information as the department deems necessary.

(2) Every application for a ~~((distributor's))~~ license must contain the following information to the extent it applies to the applicant:

~~((1))~~ (a) Proof as the department may require concerning the applicant's identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;

~~((2))~~ (b) The applicant's form and place of organization including proof that the individual, partnership, or corporation is licensed to do business in this state;

~~((3))~~ (c) The qualification and business history of the applicant and any partner, officer, or director;

~~((4))~~ (d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment in a federal or state court;

~~((5))~~ (e) Whether the applicant has been adjudged guilty of a crime that directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered a judgment within the preceding five years in a civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners.

(3) An applicant for a license as a motor vehicle fuel importer must list on the application each state, province, or country from which the applicant intends to import motor vehicle fuel and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(4) An applicant for a license as a motor vehicle fuel exporter must list on the application each state, province, or country to which the exporter intends to export motor vehicle fuel received in this state by means of a transfer outside of the bulk transfer-terminal system and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(5) An applicant for a license as a motor vehicle fuel supplier must have a federal certificate of registry that is issued under the internal revenue code and authorizes the applicant to enter into federal tax-free transactions on motor vehicle fuel in the terminal transfer system.

(6) After receipt of an application for a license, the director may conduct an investigation to determine whether the facts set forth are true. The director ~~((may))~~ shall require a fingerprint record check of the applicant through the Washington state patrol criminal identification system and the federal bureau of investigation before issuance of a license. The results of the background investigation including criminal history information may be released to authorized department personnel as the director deems necessary. The department shall charge a license holder or license applicant a fee of fifty dollars for each background investigation conducted.

An applicant who makes a false statement of a material fact on the application may be prosecuted for false swearing as defined by RCW 9A.72.040.

Before granting any license ~~((authorizing any person to engage in business as a distributor))~~ issued under this chapter, the department shall require applicant to file with the department, in such form as shall be prescribed by the department, a corporate surety bond duly executed by the applicant as principal, payable to the state and conditioned for faithful performance of all the requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter. The total amount of the bond or bonds ~~((, required of any distributor))~~ shall be fixed by the department and may be increased or reduced by the department at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds ~~((required of any distributor))~~, the department shall require a bond or bonds equivalent in total amount to twice the estimated monthly excise tax determined in such manner as the department may deem proper. If at any time the estimated excise tax to become due during the succeeding month amounts to more than fifty percent of the established bond, the department shall require additional bonds or securities to maintain the marginal ratio herein specified or shall demand excise tax payments to be made weekly or semimonthly to meet the requirements hereof.

The total amount of the bond or bonds required of any ~~((distributor))~~ licensee shall never be less than five thousand dollars nor more than ~~((fifty))~~ one hundred thousand dollars.

No recoveries on any bond or the execution of any new bond shall invalidate any bond and no revocation of any license shall effect the validity of any bond but the total recoveries under any one bond shall not exceed the amount of the bond.

In lieu of any such bond or bonds in total amount as herein fixed, a ((distributor)) licensee may deposit with the state treasurer, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the state, or any county of the state, of an actual market value not less than the amount so fixed by the department.

Any surety on a bond furnished by a ((distributor)) licensee as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty days from the date upon which such surety has lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty day period. The department shall promptly, upon receiving any such request, notify the ((distributor)) licensee who furnished the bond; and unless the ((distributor)) licensee, on or before the expiration of the thirty day period, files a new bond, or makes a deposit in accordance with the requirements of this section, the department shall forthwith cancel the ((distributor's)) license. Whenever a new bond is furnished by a ((distributor)) licensee, the department shall cancel ((his or her)) the old bond as soon as the department and the attorney general are satisfied that all liability under the old bond has been fully discharged.

The department may require a ((distributor)) licensee to give a new or additional surety bond or to deposit additional securities of the character specified in this section if, in its opinion, the security of the surety bond theretofore filed by such ((distributor)) licensee, or the market value of the properties deposited as security by the ((distributor)) licensee, shall become impaired or inadequate; and upon the failure of the ((distributor)) licensee to give such new or additional surety bond or to deposit additional securities within thirty days after being requested so to do by the department, the department shall forthwith cancel his or her license.

**Sec. 19.** RCW 82.36.070 and 1996 c 104 s 4 are each amended to read as follows:

The application in proper form having been accepted for filing, the filing fee paid, and the bond or other security having been accepted and approved, the department shall issue to the applicant ((a)) the appropriate license ((to transact business as a distributor in the state)), and such license shall be valid until canceled or revoked.

The license so issued by the department shall not be assignable, and shall be valid only for the ((distributor)) person in whose name issued.

~~((The department shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed distributors.))~~

Each ((distributor)) licensee shall be assigned a license number ((upon qualifying for a license hereunder)), and the department shall issue to each ((such)) licensee a license certificate which shall be displayed conspicuously ((by the distributor)) at his or her principal place of business. The department may refuse to issue or may revoke a motor vehicle fuel ((distributor)) license, to a person:

- (1) Who formerly held a motor vehicle fuel ((distributor's)) license that, before the time of filing for application, has been revoked or canceled for cause;
- (2) Who is a subterfuge for the real party in interest whose license has been revoked or canceled for cause;
- (3) Who, as an individual licensee or officer, director, owner, or managing employee of a nonindividual licensee, has had a motor vehicle fuel ((distributor)) license revoked or canceled for cause;
- (4) Who has an unsatisfied debt to the state assessed under either chapter 82.36, ((82.37,)) 82.38, 82.42, or 46.87 RCW;
- (5) Who formerly held as an individual, officer, director, owner, managing employee of a nonindividual licensee, or subterfuge for a real party in interest, a license issued by the federal government or a state that allowed a person to buy or sell untaxed motor vehicle or special fuel, which license, before the time of filing for application, has been revoked for cause;
- (6) Who pled guilty to or was convicted as an individual, corporate officer, director, owner, or managing employee in this or any other state or in any federal jurisdiction of a gross misdemeanor or felony crime directly related to the business or has been subject to a civil judgment involving fraud, misrepresentation, conversion, or dishonesty, notwithstanding chapter 9.96A RCW;
- (7) Who misrepresented or concealed a material fact in obtaining a license or in reinstatement thereof;
- (8) Who violated a statute or administrative rule regulating fuel taxation or distribution;
- (9) Who failed to cooperate with the department's investigations by:
  - (a) Not furnishing papers or documents;
  - (b) Not furnishing in writing a full and complete explanation regarding a matter under investigation by the department; or
  - (c) Not responding to subpoenas issued by the department, whether or not the recipient of the subpoena is the subject of the proceeding;
- (10) Who failed to comply with an order issued by the director; or
- (11) Upon other sufficient cause being shown.

Before such a refusal or revocation, the department shall grant the applicant a hearing and shall give the applicant at least twenty days' written notice of the time and place of the hearing.

For the purpose of considering an application for a ~~((distributor's))~~ license issued under this chapter, the department may inspect, cause an inspection, investigate, or cause an investigation of the records of this or any other state or of the federal government to ascertain the veracity of the information on the application form and the applicant's criminal and licensing history.

The department may, in the exercise of reasonable discretion, suspend a motor vehicle ~~((distributor))~~ fuel license at any time before and pending such a hearing for unpaid taxes or reasonable cause.

**Sec. 20.** RCW 82.36.080 and 1961 c 15 s 82.36.080 are each amended to read as follows:

(1) It shall be unlawful for any person to ~~((be a distributor without first securing a license from the director))~~ engage in business in this state as any of the following unless the person is the holder of an uncanceled license issued by the department authorizing the person to engage in that business:

- (a) Motor vehicle fuel supplier;
- (b) Motor vehicle fuel distributor;
- (c) Motor vehicle fuel exporter;
- (d) Motor vehicle fuel importer; or
- (e) Motor vehicle fuel blender.

(2) A person engaged in more than one activity for which a license is required must have a separate license classification for each activity, but a motor vehicle fuel supplier is not required to obtain a separate license classification for any other activity for which a license is required.

(3) If any person ~~((becomes))~~ acts as a ~~((distributor))~~ licensee without first securing the license required herein the excise tax shall be immediately due and payable on account of all motor vehicle fuel distributed or used by ~~((him))~~ the person. The director shall proceed forthwith to determine from the best available sources, the amount of the tax, and ~~((he))~~ the director shall immediately assess the tax in the amount found due, together with a penalty of one hundred percent of the tax, and shall make ~~((his))~~ a certificate of such assessment and penalty. In any suit or proceeding to collect the tax or penalty, or both, such certificate shall be prima facie evidence that the person therein named is indebted to the state in the amount of the tax and penalty therein stated. Any tax or penalty so assessed may be collected in the manner prescribed in this chapter with reference to delinquency in payment of the tax or by an action at law, which the attorney general shall commence and prosecute to final determination at the request of the director. The foregoing remedies of the state shall be cumulative and no action taken pursuant to this section shall relieve any person from the penal provisions of this chapter.

**Sec. 21.** RCW 82.36.090 and 1967 c 153 s 2 are each amended to read as follows:

~~((Whenever a distributor))~~ A licensee who ceases to engage in business ~~((as a distributor))~~ within the state by reason of the discontinuance, sale, or transfer of ~~((his))~~ the business~~((, he))~~ shall notify the director in writing at the time the discontinuance, sale, or transfer takes effect. Such notice shall give the date of discontinuance, and, in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee thereof. All taxes, penalties, and interest under this chapter, not yet due and payable, shall become due and payable concurrently with such discontinuance, sale, or transfer, and any such ~~((distributor))~~ licensee shall make a report and pay all such taxes, interest, and penalties, and surrender to the director the license certificate theretofore issued to him or her.

If an overpayment of tax was made by the ~~((distributor))~~ licensee, prior to the discontinuance or transfer of his or her business, such overpayment may be refunded to such ~~((distributor or may be credited to the transferee of such business if such transferee qualifies as a distributor under the provisions of this chapter))~~ licensee.

**Sec. 22.** RCW 82.36.100 and 1983 1st ex.s. c 49 s 28 are each amended to read as follows:

Every person other than a ~~((distributor))~~ licensee who acquires any motor vehicle fuel within this state upon which payment of tax is required under the provisions of this chapter, or imports such motor vehicle fuel into this state and sells, distributes, or in any manner uses it in this state shall, if the tax has not been paid, apply for a license to carry on such activities, ~~((file bond, make reports,))~~ comply with all ~~((regulations))~~ the ~~((director may prescribe in respect thereto))~~ provisions of this chapter, and pay an excise tax at the rate computed in the manner provided in RCW 82.36.025 for each gallon thereof so sold, distributed, or used during the fiscal year for which such rate is applicable ~~((in the manner provided for distributors, and the director shall issue a license to such person in the manner provided for issuance of licenses to distributors))~~. The proceeds of the tax imposed by this section shall be distributed in the manner provided for the distribution of the motor vehicle fuel excise tax in RCW 82.36.020. ~~((However, a distributor licensed under this chapter may deliver motor vehicle fuel to an importer in individual quantities of five hundred gallons or less and assume the liability for payment of the tax to this state. Under such conditions, the importer is exempt from the requirements of this section.))~~ For failure to comply with this chapter such person is subject to the same penalties imposed upon ~~((distributors))~~ licensees. The director shall pursue against such persons the same procedure and remedies for audits, adjustments, collection, and enforcement of this chapter as is provided with respect to ~~((distributors))~~ licensees. Nothing in this section may be construed as classifying such persons as ~~((distributors))~~ licensees.

**Sec. 23.** RCW 82.36.120 and 1994 c 262 s 21 are each amended to read as follows:

If a ~~((distributor))~~ licensee is delinquent in the payment of an obligation imposed under this chapter, the department may give notice of the amount of the delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to such ~~((distributor))~~ licensee, or owing any debts to such ~~((distributor))~~ licensee at the time of receipt by them of

such notice. Upon service, the notice and order to withhold and deliver constitutes a continuing lien on property of the taxpayer. The department shall include in the caption of the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver served under this section is the date of service of the notice. A person so notified shall neither transfer nor make any other disposition of such credits, personal property, or debts until the department consents to a transfer or other disposition. All persons so notified must, within twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall deliver upon demand the credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.

If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court, upon application of the department and after the time to answer the notice has expired, to render judgment by default against the person for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

**Sec. 24.** RCW 82.36.130 and 1961 c 15 s 82.36.130 are each amended to read as follows:

If any ~~((distributor))~~ licensee is in default for more than ten days in the payment of any excise taxes or penalties thereon, the director shall issue a warrant under the official seal of ~~((his))~~ the director's office directed to the sheriff of any county of the state commanding him or her to levy upon and sell the goods and chattels of the ~~((distributor))~~ licensee, without exemption, found within his or her jurisdiction, for the payment of the amount of such delinquency, with the added penalties and interest and the cost of executing the warrant, and to return such warrant to the director and to pay the director the money collected by virtue thereof within the time to be therein specified, which shall not be less than twenty nor more than sixty days from the date of the warrant. The sheriff to whom the warrant is directed shall proceed upon it in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against goods and chattels upon judgment by a court of record and shall be entitled to the same fees for his or her services to be collected in the same manner.

**Sec. 25.** RCW 82.36.140 and 1961 c 15 s 82.36.140 are each amended to read as follows:

In a suit or action by the state on any bond filed with the director recovery thereon may be had without first having sought or exhausted its remedy against the ~~((distributor))~~ licensee; nor shall the fact that the state has pursued, or is in the course of pursuing, any remedy against the ~~((distributor))~~ licensee waive its right to collect the taxes, penalties, and interest by proceeding against such bond or against any deposit of money or securities made by the ~~((distributor))~~ licensee.

**Sec. 26.** RCW 82.36.150 and 1965 ex.s. c 79 s 5 are each amended to read as follows:

Every ~~((distributor))~~ licensee shall keep a true and accurate record on such form as the director may prescribe of all stock of petroleum products on hand, of all raw gasoline, gasoline stock, diesel oil, kerosene, kerosene distillates, casing-head gasoline and other petroleum products needed in, or which may be used in, compounding, blending, or manufacturing motor vehicle fuel; of the amount of crude oil refined, the gravity thereof and the yield therefrom, as well as of such other matters relating to transactions in petroleum products as the director may require. Every ~~((distributor))~~ licensee shall take a physical inventory of the petroleum products at least once during each calendar month and have the record of such inventory and of the other matters mentioned in this section available at all times for the inspection of the director. Upon demand of the director every ~~((distributor))~~ licensee shall furnish a statement under oath as to the contents of any records to be kept hereunder.

~~((Every producer shall keep a true and accurate record in such form as may be prescribed by the director of all manufacture and distribution of casing-head gasoline, kerosene distillates and other petroleum products used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel, and every broker shall likewise keep a true and accurate record of all purchases of such petroleum products in such manner as to disclose the vendor, the quantity purchased, the correct description of the commodity, and the means of transportation from such broker to the vendee. All records required by this section shall be available at all times for the inspection of the director or his representative who may require a statement under oath as to contents thereof.))~~

**Sec. 27.** RCW 82.36.160 and 1996 c 104 s 5 are each amended to read as follows:

Every ~~((distributor))~~ licensee shall maintain in the office of his or her principal place of business in this state, for a period of five years, records of motor vehicle fuel received, sold, distributed, or used by the ~~((distributor))~~ licensee, in such form as the director may prescribe, together with invoices, bills of lading, and other pertinent papers as may be required under the provisions of this chapter.

Every dealer purchasing motor vehicle fuel taxable under this chapter for the purpose of resale, shall maintain within this state, for a period of two years a record of motor vehicle fuels received, the amount of tax paid to the ~~((distributor))~~ licensee as part of the purchase price, together with delivery tickets, invoices, and bills of lading, and such other records as the director shall require.

**Sec. 28.** RCW 82.36.170 and 1961 c 15 s 82.36.170 are each amended to read as follows:

The director may, from time to time, require additional reports from ~~((distributors, brokers, dealers, or producers))~~ any licensee with reference to any of the matters herein concerned. Such reports shall be made and filed on forms prepared by the director.

**NEW SECTION. Sec. 29.** The department may require a person other than a licensee engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering motor vehicle fuel to submit periodic reports to the department regarding the disposition of the fuel. The reports must be on forms prescribed by the department and must contain such information as the department may require.

**Sec. 30.** RCW 82.36.180 and 1967 ex.s. c 89 s 6 are each amended to read as follows:

The director, or ~~((his))~~ duly authorized agents, may make such examinations of the records, stocks, facilities, and equipment of ~~((distributors, producers, brokers))~~ any licensee, and service stations, and such other investigations as ~~((he may deem))~~ deemed necessary in

carrying out the provisions of this chapter. If such examinations or investigations disclose that any reports of (~~distributors of motor vehicle fuel~~) licensees theretofore filed with the director pursuant to the requirements of this chapter have shown incorrectly the gallonage of motor vehicle fuel distributed or the tax accruing thereon, the director may make such changes in subsequent reports and payments of such (~~distributors~~) licensees as (~~he may deem~~) deemed necessary to correct the errors disclosed.

Every such (~~distributor~~) licensee or such other person not maintaining records in this state so that an audit of such records may be made by the director or (~~his~~) a duly authorized representative shall be required to make the necessary records available to the director (~~at his~~) upon request and at (~~his~~) a designated office within this state; or, in lieu thereof, the director or (~~his~~) a duly authorized representative shall proceed to any out-of-state office at which the records are prepared and maintained to make such examination.

**Sec. 31.** RCW 82.36.190 and 1990 c 250 s 80 are each amended to read as follows:

The department shall suspend or revoke the license of any (~~distributor~~) licensee refusing or neglecting to comply with any provision of this chapter. The department shall mail by registered mail addressed to such (~~distributor~~) licensee at (~~his~~) the last known address a notice of intention to cancel, which notice shall give the reason for cancellation. The cancellation shall become effective without further notice if within ten days from the mailing of the notice the (~~distributor~~) licensee has not made good his or her default or delinquency.

The department may cancel any license issued to any (~~distributor~~) licensee, such cancellation to become effective sixty days from the date of receipt of the written request of such (~~distributor~~) licensee for cancellation thereof, and the department may cancel the license of any (~~distributor~~) licensee upon investigation and sixty days notice mailed to the last known address of such (~~distributor~~) licensee if the department ascertains and finds that the person to whom the license was issued is no longer engaged in (~~the~~) business (~~of a distributor~~), and has not been so engaged for the period of six months prior to such cancellation. No license shall be canceled upon the request of any (~~distributor~~) licensee unless the (~~distributor~~) licensee, prior to the date of such cancellation, pays to the state all taxes imposed by the provisions of this chapter, together with all penalties accruing by reason of any failure on the part of the (~~distributor~~) licensee to make accurate reports or pay said taxes and penalties.

In the event the license of any (~~distributor~~) licensee is canceled, and in the further event that the (~~distributor~~) licensee pays to the state all excise taxes due and payable by him or her upon the receipt, sale, or use of motor vehicle fuel, together with any and all penalties accruing by reason of any failure on the part of the (~~distributor~~) licensee to make accurate reports or pay said taxes and penalties, the department shall cancel the bond filed by the (~~distributor~~) licensee.

**Sec. 32.** RCW 82.36.200 and 1965 ex.s. c 79 s 7 are each amended to read as follows:

The director or (~~his~~) authorized agents may at any time during normal business hours examine the records, stocks, facilities and equipment of any person engaged in the transportation of motor vehicle fuel within the state of Washington for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of taxes on same in enforcing the provisions of this chapter.

**Sec. 33.** RCW 82.36.210 and 1965 ex.s. c 79 s 8 are each amended to read as follows:

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk (~~to points in this state from any point without this state~~), shall (~~before entering upon the public highways of this state with such conveyance,~~) have and possess during the entire time they are hauling motor vehicle fuel, an invoice, bill of sale, or other statement showing the (~~true~~) name (~~and~~), address, and license number of the seller or consignor, the destination, name, and address of the purchaser or consignee, license number, if (~~any~~) applicable, and the number of gallons. The person hauling such motor vehicle fuel shall at the request of any (~~sheriff, deputy sheriff, constable, highway patrolman~~) law enforcement officer, or authorized representative of the department, or other person authorized by law to inquire into, or investigate said matters, produce (~~and offer~~) for inspection such invoice, bill of sale, or other statement and shall permit such official to inspect and gauge the contents of the vehicle. (~~If the hauler fails to produce the invoice, bill of sale, or other statement, or if when produced it fails to disclose the aforesaid information, the officer or other person authorized to make inquiry, shall take and impound the motor vehicle fuel together with the conveying equipment until the tax on the motor vehicle fuel, together with penalty equal to one hundred percent of the tax, and other expenses, charges, and costs have been paid. In case of default, and the taking and impounding herein provided for, the tax, damages, and costs shall be collected, even though the full excise tax may have already been paid on the motor vehicle fuel. In case the tax, damages and other charges are not paid within forty eight hours after the taking of said property, the director may proceed to sell it in the mode and manner provided by law for the sale of personal property under execution.~~)

**Sec. 34.** RCW 82.36.230 and 1993 c 54 s 4 are each amended to read as follows:

The provisions of this chapter requiring the payment of taxes do not apply to motor vehicle fuel imported into the state in interstate or foreign commerce and intended to be sold while in interstate or foreign commerce, nor to motor vehicle fuel exported from this state by a (~~qualified distributor~~) licensee nor to any motor vehicle fuel sold by a (~~qualified distributor~~) licensee to the armed forces of the United States or to the national guard for use exclusively in ships or for export from this state. The (~~distributor~~) licensee shall report such imports, exports and sales to the department at such times, on such forms, and in such detail as the department may require, otherwise the exemption granted in this section is null and void, and all fuel shall be considered distributed in this state fully subject to the provisions of this chapter. Each invoice covering exempt sales shall have the statement "Ex Washington Motor Vehicle Fuel Tax" clearly marked thereon.

To claim any exemption from taxes under this section on account of sales by a (~~licensed distributor~~) licensee of motor vehicle fuel for export, the purchaser shall obtain from the selling (~~distributor~~) licensee, and such selling (~~distributor~~) licensee must furnish the purchaser,

an invoice giving such details of the sale for export as the department may require, copies of which shall be furnished the department and the entity of the state or foreign jurisdiction of destination which is charged by the laws of that state or foreign jurisdiction with the control or monitoring, or both, of the sales or movement of motor vehicle fuel in that state or foreign jurisdiction. For the purposes of this section, motor vehicle fuel distributed to a federally recognized Indian tribal reservation located within the state of Washington is not considered exported outside this state.

To claim any ~~((exemption from taxes under this section))~~ refund of taxes previously paid on account of sales of motor vehicle fuel to the armed forces of the United States or to the national guard, the ~~((distributor))~~ licensee shall be required to execute an exemption certificate in such form as shall be furnished by the department, containing a certified statement by an authorized officer of the armed forces having actual knowledge of the purpose for which the exemption is claimed. ~~((Any claim for exemption based on such sales shall be made by the distributor within six months of the date of sale.))~~ The provisions of this section exempting motor vehicle fuel sold to the armed forces of the United States or to the national guard from the tax imposed hereunder do not apply to any motor vehicle fuel sold to contractors purchasing such fuel either for their own account or as the agents of the United States or the national guard for use in the performance of contracts with the armed forces of the United States or the national guard.

The department may at any time require of any ~~((distributor))~~ licensee any information the department deems necessary to determine the validity of the claimed exemption, and failure to supply such data will constitute a waiver of all right to the exemption claimed. The department is hereby empowered with full authority to promulgate rules and regulations and to prescribe forms to be used by ~~((distributors))~~ licensees in reporting to the department so as to prevent evasion of the tax imposed by this chapter.

Upon request from the officials to whom are entrusted the enforcement of the motor vehicle fuel tax law of any other state, the District of Columbia, the United States, its territories and possessions, the provinces, or the Dominion of Canada, the department may forward to such officials any information which the department may have relative to the import or export of any motor vehicle fuel by any ~~((distributor))~~ licensee: PROVIDED, That such governmental unit furnish like information to this state.

**NEW SECTION. Sec. 35.** A licensee, other than a motor vehicle fuel exporter, is entitled to a refund of motor vehicle fuel tax previously paid on motor vehicle fuel which is purchased from the licensee by a person who is exempt from payment of the motor vehicle fuel tax imposed by this chapter. Application for the refund shall be accompanied by an invoice or proof satisfactory to the department documenting each sale wherein the purchaser was exempt the motor vehicle fuel tax. Claims for refunds shall be made under this chapter.

**Sec. 36.** RCW 82.36.280 and 1993 c 141 s 1 are each amended to read as follows:

Any person who uses any motor vehicle fuel for the purpose of operating any internal combustion engine not used on or in conjunction with any motor vehicle licensed to be operated over and along any of the public highways, and as the motive power thereof, upon which motor vehicle fuel excise tax has been paid, shall be entitled to and shall receive a refund of the amount of the motor vehicle fuel excise tax paid on each gallon of motor vehicle fuel so used, whether such motor vehicle excise tax has been paid either directly to the vendor from whom the motor vehicle fuel was purchased or indirectly by adding the amount of such excise tax to the price of such fuel. No refund shall be made for motor vehicle fuel consumed by any motor vehicle as herein defined that is required to be registered and licensed as provided in chapter 46.16 RCW; and is operated over and along any public highway except that a refund shall be allowed for motor vehicle fuel consumed:

(1) In a motor vehicle owned by the United States that is operated off the public highways for official use;

(2) By auxiliary equipment not used for motive power, provided such consumption is accurately measured by a metering device that has been specifically approved by the department or is established by either of the following formulae:

(a) For fuel used in pumping fuel or heating oils by a power take-off unit on a delivery truck, refund shall be allowed claimant for tax paid on fuel purchased at the rate of three-fourths of one gallon for each one thousand gallons of fuel delivered: PROVIDED, That claimant when presenting his or her claim to the department in accordance with the provisions of this chapter, shall provide to said claim, invoices of fuel oil delivered, or such other appropriate information as may be required by the department to substantiate his or her claim; or

(b) For fuel used in operating a power take-off unit on a cement mixer truck or load compactor on a garbage truck, claimant shall be allowed a refund of twenty-five percent of the tax paid on all fuel used in such a truck; and

(c) The department is authorized to establish by rule additional formulae for determining fuel usage when operating other types of equipment by means of power take-off units when direct measurement of the fuel used is not feasible. The department is also authorized to adopt rules regarding the usage of on board computers for the production of records required by this chapter ~~((; and~~

~~((3) Before December 31, 1992, in a commercial vehicle as defined in RCW 46.04.140 or a farm vehicle as defined in RCW 46.04.181, if the motor vehicle fuel consumed contains nine and one-half percent or more by volume of alcohol and the commercial vehicle or farm vehicle is operated off the public highways of this state)).~~

**Sec. 37.** RCW 82.36.300 and 1963 ex.s. c 22 s 21 are each amended to read as follows:

Every person who shall export any motor vehicle fuel for use outside of this state and who has paid the motor vehicle fuel excise tax upon such motor vehicle fuel shall be entitled to and shall receive a refund of the amount of the motor vehicle fuel excise tax paid on each gallon of motor vehicle fuel so exported. For the purposes of this section, motor vehicle fuel distributed to a federally recognized Indian tribal reservation located within the state of Washington is not considered exported outside this state.

**Sec. 38.** RCW 82.36.310 and 1995 c 318 s 3 are each amended to read as follows:

Any person claiming a refund for motor vehicle fuel used or exported as in this chapter provided shall not be entitled to receive such refund until he presents to the director a claim upon forms to be provided by the director with such information as the director shall require, which claim to be valid shall in all cases be accompanied by the ~~((original))~~ invoice or invoices issued to the claimant at the time of the purchases of the motor vehicle fuel, approved as to invoice form by the director(~~(: PROVIDED, That in the event of the loss or destruction of the original invoice or invoices, the person claiming a refund may submit in lieu thereof a duplicate copy of such invoice certified by the vendor, but no payment of refund based upon such duplicate invoice shall be made until after expiration of such statutory period specified in RCW 82.36.330 for filing of refund applications)).~~ The requirement to provide invoices may be waived for small refund amounts, as determined by the department. Claims for refund of motor vehicle fuel tax must be at least twenty dollars.

Any person claiming refund by reason of exportation of motor vehicle fuel shall in addition to the invoices required furnish to the director the export certificate therefor, and the signature on the exportation certificate shall be certified by a notary public. In all cases the claim shall be signed by the person claiming the refund, if it is a corporation, by some proper officer of the corporation, or if it is a limited liability company, by some proper manager or member of the limited liability company.

**Sec. 39.** RCW 82.36.330 and 1971 ex.s. c 180 s 9 are each amended to read as follows:

Upon the approval of the director of the claim for refund, the state treasurer shall draw a warrant upon the state treasury for the amount of the claim in favor of the person making such claim and the warrant shall be paid from the excise tax collected on motor vehicle fuel: PROVIDED, That the state treasurer shall deduct from each marine use refund claim an amount equivalent to one cent per gallon and shall deposit the same in the coastal protection fund created by RCW 90.48.390. Applications for refunds of excise tax shall be filed in the office of the director not later than the close of the last business day of a period thirteen months from the date of purchase of such motor fuel, and if not filed within this period the right to refund shall be forever barred, except that such limitation shall not apply to claims for loss or destruction of motor vehicle fuel as provided by the provisions of RCW 82.36.370. The department shall pay interest of one percent on any refund payable under this chapter that is issued more than thirty state business days after the receipt of a claim properly filed and completed in accordance with this section. After the end of the thirty business-day period, additional interest shall accrue at the rate of one percent on the amount payable for each thirty calendar-day period, until the refund is issued. Any person or the member of any firm or the officer or agent of any corporation who makes any false statement in any claim required for the refund of excise tax, as provided in this chapter, or who collects or causes to be repaid to him or to any other person any such refund without being entitled to the same under the provisions of this chapter shall be guilty of a gross misdemeanor.

**Sec. 40.** RCW 82.36.335 and 1997 c 183 s 8 are each amended to read as follows:

In lieu of the collection and refund of the tax on motor vehicle fuel used by a ~~((distributor))~~ licensee in such a manner as would entitle a purchaser to claim refund under this chapter, credit may be given the ~~((distributor))~~ licensee upon the ~~((distributor's))~~ licensee's tax return in the determination of the amount of the ~~((distributor's))~~ licensee's tax. Payment credits shall not be carried forward and applied to subsequent tax returns.

**Sec. 41.** RCW 82.36.350 and 1961 c 15 s 82.36.350 are each amended to read as follows:

If upon investigation the director determines that any claim has been supported by an invoice or invoices fraudulently made or altered in any manner to support the claim, ~~((he))~~ the director may suspend the pending and all further refunds to any such person making the claim for a period not to exceed one year.

**Sec. 42.** RCW 82.36.370 and 1967 c 153 s 5 are each amended to read as follows:

(1) A refund shall be made in the manner provided in this chapter or a credit given allowing for the excise tax paid or accrued on all motor vehicle fuel which is lost or destroyed, while applicant shall be the owner thereof, through fire, lightning, flood, wind storm, or explosion.

(2) A refund shall be made in the manner provided in this chapter or a credit given allowing for the excise tax paid or accrued on all motor vehicle fuel of five hundred gallons or more which is lost or destroyed, while applicant shall be the owner thereof, through leakage or other casualty except evaporation, shrinkage or unknown causes: PROVIDED, That the director shall be notified in writing as to the full circumstances surrounding such loss or destruction and the amount of the loss or destruction within thirty days from the day of discovery of such loss or destruction.

(3) Recovery for such loss or destruction under either subsection (1) or (2) must be susceptible to positive proof thereby enabling the director to conduct such investigation and require such information as ~~((he))~~ the director may deem necessary.

In the event that the director is not satisfied that the fuel was lost or destroyed as claimed, wherefore required information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, ~~((he))~~ the director may deem as sufficient cause the denial of all right relating to the refund or credit for the excise tax on motor vehicle fuel alleged to be lost or destroyed.

**NEW SECTION. Sec. 43.** A motor vehicle fuel distributor, motor vehicle fuel importer, or motor vehicle fuel blender, under rules adopted by the department, is entitled to a refund of the tax paid on those sales of motor vehicle fuel for which no consideration has been received from or on behalf of the purchaser and that has been declared to be worthless accounts receivable. The amount of tax refunded must not exceed the amount of tax paid by the motor vehicle fuel distributor, motor vehicle fuel importer, or motor vehicle fuel blender under this chapter. If the motor vehicle fuel distributor, motor vehicle fuel importer, or motor vehicle fuel blender subsequently collects any amount from the account

declared worthless, the amount collected shall be apportioned between the charges for the fuel and tax thereon. The motor vehicle fuel tax collected must be returned to the department.

**Sec. 44.** RCW 82.36.375 and 1965 ex.s. c 79 s 16 are each amended to read as follows:

Unless otherwise provided, any credit for erroneous overpayment of tax made by a ((distributor)) licensee to be taken on a subsequent return or any claim of refund for tax erroneously overpaid by a ((distributor)) licensee, pursuant to the provisions of RCW 82.36.090, must be so taken within ((three)) five years after the date on which the overpayment was made to the state. Failure to take such credit or claim such refund within the time prescribed in this section shall constitute waiver of any and all demands against this state on account of overpayment hereunder.

Except in the case of a fraudulent report or neglect or refusal to make a report every notice of additional tax, penalty or interest assessed hereunder shall be served on the ((distributor)) licensee within ((three)) five years from the date upon which such additional taxes became due.

**Sec. 45.** RCW 82.36.390 and 1996 c 104 s 6 are each amended to read as follows:

Any person who((, through false statement, trick, or device, or otherwise,)) obtains motor vehicle fuel for export and fails to export the same or any portion thereof, or causes such motor vehicle fuel or any thereof not to be exported, or who diverts said motor vehicle fuel or any thereof or who causes it to be diverted from interstate or foreign transit begun in this state, or who unlawfully returns such fuel or any thereof to this state and sells or uses it or any thereof in this state or causes it or any thereof to be used or sold in this state and fails to notify the ((distributor)) licensee from whom such motor vehicle fuel was originally purchased ((of his or her act)), and any ((distributor)) licensee or ((other)) person who conspires with any person to withhold from export, or divert from interstate or foreign transit begun in this state, or to return motor vehicle fuel to this state for sale or use with intent to avoid any of the taxes imposed by this chapter, is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. Each shipment illegally diverted or illegally returned shall be a separate offense, and the unit of each shipment shall be the cargo of one vessel, or one railroad carload, or one automobile truck load, or such truck and trailer load, or one drum, or one barrel, or one case or one can.

**Sec. 46.** RCW 82.36.400 and 1971 ex.s. c 156 s 3 are each amended to read as follows:

It shall be unlawful for any person to commit any of the following acts:

- (1) To display, or cause to permit to be displayed, or to have in possession, any motor vehicle fuel ((distributor's)) license knowing the same to be fictitious or to have been suspended, canceled, revoked or altered;
- (2) To lend to, or knowingly permit the use of, by one not entitled thereto, any motor vehicle fuel ((distributor's)) license issued to the person lending it or permitting it to be used;
- (3) To display or to represent as one's own any motor vehicle fuel ((distributor's)) license not issued to the person displaying the same;
- (4) To use a false or fictitious name or give a false or fictitious address in any application or form required under the provisions of this chapter, or otherwise commit a fraud in any application, record, or report;
- (5) To refuse to permit the director, or any agent appointed by him or her in writing, to examine his or her books, records, papers, storage tanks, or other equipment pertaining to the use or sale and delivery of motor vehicle fuels within the state.

Except as otherwise provided, any person violating any of the provisions of this chapter shall be guilty of a gross misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars nor more than one thousand dollars and costs of prosecution, or imprisonment for not more than one year, or both.

**NEW SECTION. Sec. 47.** A motor vehicle fuel distributor who incurs liability in December 1998 for the motor vehicle fuel tax imposed under this chapter shall report the liability and pay the tax in January 1999 in the manner required by this chapter as it existed before January 1, 1999.

A motor vehicle fuel distributor shall inventory all motor vehicle fuel that is on hand or in possession as of 12:01 a.m. on January 1, 1999, and is not in the bulk transfer-terminal system and shall report the results of the inventory to the department no later than the last business day of February 1999. The report of inventory must be made on a form prescribed by the department.

A motor vehicle fuel distributor may pay the tax due on motor vehicle fuel in inventory any time before February 28, 2000, but at least one-twelfth of the amount due must be paid by the last day of each month starting with February 1999. Payments not received in accordance with this section are late and are subject to the interest and penalty provisions of this chapter. Payments made after February 2000 are late and are subject to the interest and penalty provisions of this chapter.

**NEW SECTION. Sec. 48.** (1) It is intended that the ultimate liability for the tax imposed under this chapter be upon the motor vehicle fuel user, regardless of the manner in which collection of the tax is provided for in this chapter. The tax on motor vehicle fuel imposed under this chapter, if not previously imposed and paid, must be paid over to the department by the users of such motor vehicle fuel, unless such use is exempt from the motor vehicle fuel tax.

(2) This section does not apply to agreements entered into under RCW 82.36.450 between the department and federally recognized Indian tribes, nor does it apply to the consent decrees entered in *Confederated Tribes of the Colville Reservation v. Washington Department of Licensing*, No. CS-92-248-JLQ (E.D. Wash.) and *Teo v. Steffenson*, No. CY-93-3050-AAM (E.D. Wash.).

**NEW SECTION. Sec. 49.** The department of licensing may enter into a motor vehicle fuel tax cooperative agreement with another state or Canadian province for the administration, collection, and enforcement of each state's or Canadian province's motor vehicle fuel taxes.



**Sec. 50.** RCW 82.38.020 and 1995 c 287 s 3 are each amended to read as follows:

(As used in this chapter:

(1) "Person" means every natural person, fiduciary, association, or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.

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

(3) "Highway" means every way or place open to the use of the public, as a matter of right, for the purpose of vehicular travel.

(4) "Motor vehicle" means every self-propelled vehicle designed for operation upon land utilizing special fuel as the means of propulsion.

(5) "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor vehicle fuel as defined in chapter 82.36 RCW.

(6) "Bulk storage" means the placing of special fuel by a special fuel dealer into a receptacle other than the fuel supply tank of a motor vehicle.

(7) "Special fuel dealer" means any person engaged in the business of delivering special fuel into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him, or into bulk storage facilities for subsequent use in a motor vehicle. For this purpose the term "fuel supply tank or tanks" does not include cargo tanks even though fuel is withdrawn directly therefrom for propulsion of the vehicle.

(8) "Special fuel user" means any person purchasing special fuel into bulk storage without payment of the special fuel tax for subsequent use in a motor vehicle, or any person engaged in interstate commercial operation of motor vehicles any part of which is within this state.

(9) "Service station" means any location at which fueling of motor vehicles is offered to the general public.

(10) "Unbonded service station" means any service station at which an unbonded special fuel dealer regularly makes sales of special fuel by means of delivery thereof into the fuel supply tanks of motor vehicles.

(11) "Bond" means: (a) A bond duly executed by such special fuel dealer or special fuel user as principal with a corporate surety qualified under the provisions of chapter 48.28 RCW which bond shall be payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations of such dealer, arising out of this chapter; or (b) a deposit with the state treasurer by the special fuel dealer or special fuel user, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Washington, or any county of said state, of an actual market value not less than the amount so fixed by the department; or (c) such other instruments as the department may determine and prescribe by rule to protect the interests of the state and to insure compliance of the requirements of this chapter.

(12) "Lessor" means any person (a) whose principal business is the bona fide leasing or renting of motor vehicles without drivers for compensation to the general public, and (b) who maintains established places of business and whose lease or rental contracts require such motor vehicles to be returned to the established places of business.

(13) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form.

(14) "Standard pressure and temperature" means fourteen and seventy three hundredths pounds of pressure per square inch at sixty degrees Fahrenheit.

(15) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

(a) A knowing: False statement, misrepresentation of fact, or other act of deception; or

(b) An intentional: Omission, failure to file a return or report, or other act of deception.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Blended special fuel" means a mixture of undyed diesel fuel and another liquid, other than a de minimus amount of the liquid, that can be used as a fuel to propel a motor vehicle.

(2) "Blender" means a person who produces blended special fuel outside the bulk transfer-terminal system.

(3) "Bond" means a bond duly executed with a corporate surety qualified under chapter 48.28 RCW, which bond is payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter.

(4) "Bulk transfer-terminal system" means the special fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Special fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer-terminal system. Special fuel in the fuel tank of an engine, motor vehicle, or in a railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer-terminal system.

(5) "Bulk transfer" means a transfer of special fuel by pipeline or vessel.

(6) "Bulk storage" means the placing of special fuel into a receptacle other than the fuel supply tank of a motor vehicle.

(7) "Department" means the department of licensing.

(8) "Dyed special fuel user" means a person authorized by the Internal Revenue Code to operate a motor vehicle on the highway using dyed special fuel, in which the use is not exempt from the special fuel tax.

(9) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

(a) A knowing: False statement; misrepresentation of fact; or other act of deception; or

(b) An intentional: Omission; failure to file a return or report; or other act of deception.

(10) "Export" means to obtain special fuel in this state for sales or distribution outside the state.

(11) "Highway" means every way or place open to the use of the public, as a matter of right, for the purpose of vehicular travel.

(12) "Import" means to bring special fuel into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

(13) "International fuel tax agreement licensee" means a special fuel user operating qualified motor vehicles in interstate commerce and licensed by the department under the international fuel tax agreement.

(14) "Lessor" means a person: (a) Whose principal business is the bona fide leasing or renting of motor vehicles without drivers for compensation to the general public; and (b) who maintains established places of business and whose lease or rental contracts require the motor vehicles to be returned to the established places of business.

(15) "Licensee" means a person holding a license issued under this chapter.

(16) "Motor vehicle" means a self-propelled vehicle designed for operation upon land utilizing special fuel as the means of propulsion.

(17) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form.

(18) "Person" means a natural person, fiduciary, association, or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.

(19) "Position holder" means a person who holds the inventory position in special fuel, as reflected by the records of the terminal operator. A person holds the inventory position in special fuel if the person has a contractual agreement with the terminal for the use of storage facilities and terminating services at a terminal with respect to special fuel. "Position holder" includes a terminal operator that owns special fuel in their terminal.

(20) "Rack" means a mechanism for delivering special fuel from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer.

(21) "Refiner" means a person who owns, operates, or otherwise controls a refinery.

(22) "Removal" means a physical transfer of special fuel other than by evaporation, loss, or destruction.

(23) "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor vehicle fuel as defined in chapter 82.36 RCW, nor does it include dyed special fuel as defined by federal regulations. However, if the federal regulations authorize dyed special fuel to be used in highway vehicles, that usage is considered taxable under this chapter, unless otherwise exempted.

(24) "Special fuel distributor" means a person who acquires special fuel from a supplier, distributor, or licensee for subsequent sale and distribution.

(25) "Special fuel exporter" means a person, who purchases special fuel in this state and directly exports the fuel by a means other than the bulk transfer-terminal system to a destination outside of the state.

(26) "Special fuel importer" means a person who imports special fuel into the state by a means other than the bulk transfer-terminal system. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record, the owner of the special fuel at the time of importation is the importer.

(27) "Special fuel supplier" means a person who owns and stores special fuel in a terminal facility or who refines and stores special fuel at a refinery.

(28) "Special fuel user" means a person engaged in uses of special fuel that are not specifically exempted from the special fuel tax imposed under this chapter.

(29) "Terminal" means a special fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service, is supplied by pipeline or vessel, and from which reportable special fuel is removed at a rack.

(30) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

(31) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable special fuel is transferred from one licensed supplier to another licensed supplier under an exchange or buy-sell agreement whereby the supplier that is the position holder agrees to deliver taxable special fuel to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder.

**Sec. 51.** RCW 82.38.030 and 1996 c 104 s 7 are each amended to read as follows:

(1) There is hereby levied and imposed upon special fuel users a tax at the rate computed in the manner provided in RCW 82.36.025 ~~((per))~~ on each gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature ~~((on the use of special fuel in any motor vehicle operated upon the highways of this state during the fiscal year for which such rate is applicable)).~~

(2) The tax ~~((shall be collected by the special fuel dealer and shall be paid over to the department as hereinafter provided: (a) With respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles or into storage facilities used for the fueling of motor vehicles at unbonded service stations in this state; or (b) in all other transactions where the purchaser is not the holder of a valid special fuel license issued pursuant to this chapter allowing the purchase of untaxed special fuel, except sales of special fuel for export. To claim an exemption on account of sales by a licensed special fuel dealer for export, the purchaser shall obtain from the selling special fuel dealer, and such selling special fuel dealer must furnish the purchaser, an invoice giving such details of the sale for export as the director may require, copies of which shall be furnished the department and the entity of the state or foreign jurisdiction of destination which is charged by the laws of that state or foreign jurisdiction with the control or monitoring or both, of the sales or movement of special fuel in that state or foreign jurisdiction.~~

~~(3) The tax shall be paid over to the department by the special fuel user as hereinafter provided with respect to the taxable use of special fuel upon which the tax has not previously been imposed.~~

~~It is expressly provided that delivery of special fuel may be made without collecting the tax otherwise imposed, when such deliveries are made by a bonded special fuel dealer to special fuel users who are authorized by the department as hereinafter provided, to purchase fuel without payment of tax to the bonded special fuel dealer.~~

~~(4)) imposed by subsection (1) of this section is imposed when:~~

~~(a) Special fuel is removed in this state from a terminal if the special fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel distributor for direct delivery to an international fuel tax agreement licensee under section 84 of this act;~~

~~(b) Special fuel is removed in this state from a refinery if either of the following applies:~~

~~(i) The removal is by bulk transfer and the refiner or the owner of the special fuel immediately before the removal is not a licensee; or~~

~~(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel distributor for direct delivery to an international fuel tax agreement licensee under section 84 of this act;~~

~~(c) Special fuel enters into this state for sale, consumption, use, or storage if either of the following applies:~~

~~(i) The entry is by bulk transfer and the importer is not a licensee; or~~

~~(ii) The entry is not by bulk transfer;~~

~~(d) Special fuel is removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the special fuel;~~

~~(e) Blended special fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended special fuel subject to tax is the difference between the total number of gallons of blended special fuel removed or sold and the number of gallons of previously taxed special fuel used to produced the blended special fuel;~~

~~(f) Dyed special fuel is used on a highway, as authorized by the Internal Revenue Code, unless the use is exempt from the special fuel tax; and~~

~~(g) Special fuel purchased by an international fuel tax agreement licensee under section 84 of this act is used on a highway.~~

~~(3) The tax ~~((required))~~ imposed by this chapter, if required to be collected by the ~~((seller))~~ licensee, is held in trust by the ~~((seller))~~ licensee until paid to the department, and a ~~((seller))~~ licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.~~

**NEW SECTION. Sec. 52.** The tax under RCW 82.38.030, if not previously imposed and paid, must be paid over to the department by special fuel users and persons licensed under the international fuel tax agreement or other fuel tax reciprocity agreements entered into with the state of Washington, on the use of special fuel to operate motor vehicles on the highways of this state, unless the use is exempt from the tax under this chapter.

**NEW SECTION. Sec. 53.** (1) A position holder shall remit tax to the department on special fuel removed from a terminal as provided in RCW 82.38.030(2)(a). On a two-party exchange, or buy-sell agreement between two suppliers, the receiving exchange partner or buyer becomes the position holder, who shall remit the tax.

(2) A refiner shall remit tax to the department on special fuel removed from a refinery as provided in RCW 82.38.030(2)(b).

(3) An importer shall remit tax to the department on special fuel imported into this state as provided in RCW 82.38.030(2)(c).

(4) A blender shall remit tax to the department on the removal or sale of blended special fuel as provided in RCW 82.38.030(2)(e).

(5) A dyed special fuel user shall remit tax to the department on the use of dyed special fuel as provided in RCW 82.38.030(2)(f).

**NEW SECTION. Sec. 54.** A terminal operator is jointly and severally liable for remitting the tax imposed under RCW 82.38.030(1) if, at the time of removal:

(1) The position holder with respect to the special fuel is a person other than the terminal operator and is not a licensee;

(2) The terminal operator is not a licensee;

(3) The position holder has an expired internal revenue service notification certificate issued under chapter 26, C.F.R. Part 48; or

(4) The terminal operator had reason to believe that information on the notification certificate was false.

**NEW SECTION. Sec. 55.** A terminal operator is jointly and severally liable for remitting the tax imposed under RCW 82.38.030(1) if, in connection with the removal of special fuel that is not dyed or marked in accordance with internal revenue service requirements, the terminal operator provides a person with a bill of lading, shipping paper, or similar document indicating that the special fuel is dyed or marked in accordance with internal revenue service requirements.

**NEW SECTION. Sec. 56.** A person may not operate or maintain a motor vehicle on a public highway of this state with dyed special fuel in the fuel supply tank unless the use is authorized by the Internal Revenue Code and the person is the holder of an uncanceled dyed special fuel user license issued to him or her by the department. The special fuel tax set forth in RCW 82.38.030 is imposed on users of dyed special fuel authorized by the Internal Revenue Code to operate on-highway motor vehicles using dyed special fuel, unless the use is exempt from the special fuel tax.

**NEW SECTION. Sec. 57.** (1) Special fuel that is dyed satisfies the dyeing requirements of this chapter if it meets the dyeing requirements of the internal revenue service, including, but not limited to, requirements respecting type, dosage, and timing.

(2) Marking must meet the marking requirements of the internal revenue service.

(3) As required by the internal revenue service, notice is required with respect to dyed special fuel. A notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" must be:

(a) Provided by the terminal operator to a person who receives dyed special fuel at a terminal rack of that terminal operator;

(b) Provided by a seller of dyed special fuel to its buyer if the special fuel is located outside the bulk transfer-terminal system and is not sold from a retail pump posted in accordance with the requirements of this subsection; or

(c) Posted by a seller on a retail pump where it sells dyed special fuel for use by its buyer.

**Sec. 58.** RCW 82.38.070 and 1990 c 250 s 83 are each amended to read as follows:

A special fuel ~~((dealer shall be))~~ supplier is entitled ~~((, under rules and regulations prescribed by the department,))~~ to a credit of the tax paid over to the department on those sales of special fuel for which the ~~((dealer))~~ supplier has received no consideration from or on behalf of the purchaser ~~((, which have been declared by the dealer to be worthless accounts receivable, and which have been claimed as bad debts for federal income tax purposes)).~~ The amount of the tax ~~((refunded))~~ credit shall not exceed the amount of tax imposed by this chapter on such sales. If a ~~((refund))~~ credit has been granted under this section, any amounts collected for application against the accounts on which such a ~~((refund))~~ credit is based shall be reported ~~((with the first))~~ on a subsequent return filed after such collection, and the amount of ~~((refund))~~ credit received by the ~~((dealer))~~ supplier based upon the collected amount shall be returned to the department. In the event the ~~((refund))~~ credit has not been paid, the amount of the ~~((refund))~~ credit requested by the ~~((dealer))~~ supplier shall be adjusted by the department to reflect the decrease in the amount on which the claim is based. ~~((The department may require the dealer to submit periodical reports listing accounts which are delinquent for ninety days or more.))~~

**NEW SECTION. Sec. 59.** A special fuel distributor, special fuel importer, or special fuel blender, under rules adopted by the department, is entitled to a refund of the tax paid on those sales of special fuel for which no consideration has been received from or on behalf of the purchaser and that have been declared to be worthless accounts receivable. The amount of the tax refunded must not exceed the amount of tax paid by the special fuel distributor, special fuel importer, or special fuel blender paid under this chapter. If the special fuel distributor, special fuel importer, or special fuel blender subsequently collects any amount from the account declared worthless, the amount collected shall be apportioned between the charges for the fuel and tax thereon. The special fuel tax collected must be returned to the department.

**Sec. 60.** RCW 82.38.080 and 1996 c 244 s 6 are each amended to read as follows:

**(1)** There is exempted from the tax imposed by this chapter, the use of fuel for:

~~((1))~~ **(a)** Street and highway construction and maintenance purposes in motor vehicles owned and operated by the state of Washington, or any county or municipality;

~~((2))~~ **(b)** Publicly owned fire fighting equipment;

~~((3))~~ **(c)** Special mobile equipment as defined in RCW 46.04.552;

~~((4))~~ **(d)** Power pumping units or other power take-off equipment of any motor vehicle which is accurately measured by metering devices that have been specifically approved by the department or which is established by ~~((either))~~ any of the following formulae:

~~((a))~~ **(i)** Pumping propane, or fuel or heating oils or milk picked up from a farm or dairy farm storage tank by a power take-off unit on a delivery truck, at ~~((the))~~ a rate ~~((of three fourths of one gallon for each one thousand gallons of fuel delivered or milk picked up))~~ determined by the department; PROVIDED, That claimant when presenting his or her claim to the department in accordance with ~~((the provisions of))~~ this chapter, shall provide to ~~((said))~~ the claim, invoices of propane, or fuel or heating oil delivered, or such other appropriate information as may be required by the department to substantiate his or her claim; ~~((or~~

~~((b))~~ **(ii)** Operating a power take-off unit on a cement mixer truck or a load compactor on a garbage truck at the rate of twenty-five percent of the total gallons of fuel used in such a truck; ~~((and))~~ or

~~((c))~~ **(iii)** The department is authorized to establish by rule additional formulae for determining fuel usage when operating other types of equipment by means of power take-off units when direct measurement of the fuel used is not feasible. The department is also authorized to adopt rules regarding the usage of on board computers for the production of records required by this chapter;

~~((5))~~ (e) Motor vehicles owned and operated by the United States government;  
~~((6))~~ (f) Heating purposes;  
~~((7))~~ (g) Moving a motor vehicle on a public highway between two pieces of private property when said moving is incidental to the primary use of the motor vehicle;

~~((8))~~ (h) Transportation services for persons with special transportation needs by a private, nonprofit transportation provider regulated under chapter 81.66 RCW; ~~and~~

~~((9))~~ (i) Vehicle refrigeration units, mixing units, or other equipment powered by separate motors from separate fuel tanks; and

(j) The operation of a motor vehicle as a part of or incidental to logging operations upon a highway under federal jurisdiction within the boundaries of a federal area if the federal government requires a fee for the privilege of operating the motor vehicle upon the highway, the proceeds of which are reserved for constructing or maintaining roads in the federal area, or requires maintenance or construction work to be performed on the highway for the privilege of operating the motor vehicle on the highway.

(2) There is exempted from the tax imposed by this chapter the removal or entry of special fuel under the following circumstances and conditions:

(a) If it is the removal from a terminal or refinery of, or the entry or sale of, a special fuel if all of the following apply:

(i) The person otherwise liable for the tax is a licensee other than a dyed special fuel user or international fuel tax agreement licensee;

(ii) For a removal from a terminal, the terminal is a licensed terminal; and

(iii) The special fuel satisfies the dyeing and marking requirements of this chapter;

(b) If it is an entry or removal from a terminal or refinery of taxable special fuel transferred to a refinery or terminal and the persons involved, including the terminal operator, are licensed; and

(c)(i) If it is a special fuel that, under contract of sale, is shipped to a point outside this state by a supplier by means of any of the following:

(A) Facilities operated by the supplier;

(B) Delivery by the supplier to a carrier, customs broker, or forwarding agent, whether hired by the purchaser or not, for shipment to the out-of-state point;

(C) Delivery by the supplier to a vessel clearing from port of this state for a port outside this state and actually exported from this state in the vessel.

(ii) For purposes of this subsection (2)(c):

(A) "Carrier" means a person or firm engaged in the business of transporting for compensation property owned by other persons, and includes both common and contract carriers; and

(B) "Forwarding agent" means a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

(3) Notwithstanding any provision of law to the contrary, every urban passenger transportation system and carriers as defined by chapters 81.68 and 81.70 RCW shall be exempt from the provisions of this chapter requiring the payment of special fuel taxes. For the purposes of this section "urban passenger transportation system" means every transportation system, publicly or privately owned, having as its principal source of revenue the income from transporting persons for compensation by means of motor vehicles and/or trackless trolleys, each having a seating capacity for over fifteen persons over prescribed routes in such a manner that the routes of such motor vehicles and/or trackless trolleys, either alone or in conjunction with routes of other such motor vehicles and/or trackless trolleys subject to routing by the same transportation system, shall not extend for a distance exceeding twenty-five road miles beyond the corporate limits of the county in which the original starting points of such motor vehicles are located: PROVIDED, That no refunds or credits shall be granted on special fuel used by any urban transportation vehicle or vehicle operated pursuant to chapters 81.68 and 81.70 RCW on any trip where any portion of said trip is more than twenty-five road miles beyond the corporate limits of the county in which said trip originated.

**Sec. 61.** RCW 82.38.090 and 1995 c 20 s 13 are each amended to read as follows:

(1) It shall be unlawful for any person to ~~((act as a special fuel dealer or a special fuel user))~~ engage in business in this state as any of the following unless ~~((such))~~ the person is the holder of an uncanceled ~~((special fuel dealer's or a special fuel user's))~~ license issued to him or her by the department(~~(-~~

~~A special fuel dealer's license authorizes a person to deliver previously untaxed special fuel into the fuel supply tanks of motor vehicles, collect the special fuel tax on behalf of the state at the time of delivery, and remit the taxes collected to the state as provided herein. A licensed special fuel dealer may also deliver untaxed special fuel into bulk storage facilities of a licensed special fuel user or dealer without collecting the special fuel tax. Special fuel dealers, when making deliveries of special fuel into bulk storage to any person not holding a valid special fuel license, must collect the special fuel tax at time of delivery, unless the person to whom the delivery is made is specifically exempted from the tax as provided herein.~~

~~A special fuel user's license authorizes a person to purchase special fuel into bulk storage for use in motor vehicles either on or off the public highways of this state without payment of the special fuel tax at time of purchase. Holders of special fuel licenses are all subject to the bonding, reporting, tax payment, and record-keeping provisions of this chapter. All purchases of special fuel by a licensed special fuel user~~

directly into the fuel supply tank of a motor vehicle are subject to the special fuel tax at time of purchase. Special authorization may be given to farmers, logging companies, and construction companies to purchase special fuel directly into the supply tanks of nonhighway equipment or into portable slip tanks for nonhighway use without payment of the special fuel tax.) authorizing the person to engage in that business:

(a) Special fuel supplier;

(b) Special fuel distributor;

(c) Special fuel exporter;

(d) Special fuel importer;

(e) Special fuel blender;

(f) Dyed special fuel user; or

(g) International fuel tax agreement licensee.

(2) A person engaged in more than one activity for which a license is required must have a separate license classification for each activity, but a special fuel supplier is not required to obtain a separate license classification for any other activity for which a license is required.

(3) Special fuel users operating motor vehicles in interstate commerce having two axles and a gross vehicle weight or registered gross vehicle weight not exceeding twenty-six thousand pounds are not required to be licensed. Special fuel users operating motor vehicles in interstate commerce having two axles and a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds, or having three or more axles regardless of weight, or a combination of vehicles, when the combination exceeds twenty-six thousand pounds gross vehicle weight, must comply with the licensing and reporting requirements of this chapter. A copy of the license must be carried in each motor vehicle entering this state from another state or province.

**Sec. 62.** RCW 82.38.100 and 1983 c 78 s 1 are each amended to read as follows:

(1) Any special fuel user operating a motor vehicle into this state for commercial purposes may make application for a trip permit (~~in lieu of a special fuel user's license required in RCW 82.38.090 and 82.38.120 which~~) that shall be good for a period of three consecutive days beginning and ending on the dates specified on the face of the permit issued, and only for the vehicle for which it is issued.

(2) Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety, signed, and dated by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, vehicle license number, or vehicle identification number invalidates the permit. A violation of, or a failure to comply with, this subsection is a gross misdemeanor.

(3) For each permit issued, there shall be collected a filing fee of one dollar, an administrative fee of ten dollars, and an excise tax of nine dollars. Such fees and tax shall be in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in a motor vehicle on the public highways of this state and no report of mileage shall be required with respect to such vehicle. Trip permits will not be issued if the applicant has outstanding fuel taxes, penalties or interest owing to the state or has had a special fuel license revoked for cause and the cause has not been removed.

(4) Blank permits may be obtained from field offices of the department of transportation, Washington state patrol, department of licensing, or other agents appointed by the department. The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(5) All fees and excise taxes collected by the department for trip permits shall be credited and deposited in the same manner as the special fuel tax collected under this chapter and shall not be subject to exchange, refund, or credit.

**Sec. 63.** RCW 82.38.110 and 1996 c 104 s 8 are each amended to read as follows:

(1) Application for a (~~special fuel dealer's license or a special fuel user's~~) license issued under this chapter shall be made to the department. The application shall be filed upon a form prepared and furnished by the department and shall contain such information as the department deems necessary.

(2) Every application for a special fuel (~~dealer's~~) license, other than an application for a dyed special fuel user or international fuel tax agreement license, must contain the following information to the extent it applies to the applicant:

~~((1))~~ (a) Proof as the department (~~may~~) shall require concerning the applicant's identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;

~~((2))~~ (b) The applicant's form and place of organization including proof that the individual, partnership, or corporation is licensed to do business in this state;

~~((3))~~ (c) The qualification and business history of the applicant and any partner, officer, or director;

~~((4))~~ (d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment in a federal or state court;

~~((5))~~ (e) Whether the applicant has been adjudged guilty of a crime that directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered a judgment within the preceding five years in a civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners.

(3) An applicant for a license as a special fuel importer must list on the application each state, province, or country from which the applicant intends to import fuel and, if required by the state, province, or country listed, must be licensed or registered for special fuel tax purposes in that state, province, or country.

(4) An applicant for a license as a special fuel exporter must list on the application each state, province, or country to which the exporter intends to export special fuel received in this state by means of a transfer outside the bulk transfer-terminal system and, if required by the state, province, or country listed, must be licensed or registered for special fuel tax purposes in that state, province, or country.

(5) An applicant for a license as a special fuel supplier must have a federal certificate of registry that is issued under the Internal Revenue Code and authorizes the applicant to enter into federal tax-free transactions on special fuel in the terminal transfer system.

(6) After receipt of an application for a license, the director ~~((may))~~ shall conduct an investigation to determine whether the facts set forth are true. The director ~~((may))~~ shall require a fingerprint record check of the applicant through the Washington state patrol criminal identification system and the federal bureau of investigation before issuance of a license. The results of the background investigation including criminal history information may be released to authorized department personnel as the director deems necessary. The department shall charge a license holder or license applicant a fee of fifty dollars for each background investigation conducted.

(7) An applicant who makes a false statement of a material fact on the application may be prosecuted for false swearing as defined by RCW 9A.72.040.

~~((No))~~ (8) A special fuel ~~((dealer's))~~ license may not be issued to any person or continued in force unless such person has furnished bond, as defined in RCW 82.38.020, in such form as the department may require, to secure his or her compliance with this chapter, and the payment of any and all taxes, interest, and penalties due and to become due hereunder. The requirement of furnishing a bond ~~((shall))~~ may be waived for special fuel ~~((dealers))~~ distributors who only deliver special fuel into the fuel tanks of marine vessels, for dyed special fuel users and for persons issued licenses under the international fuel tax agreement.

(9) The department may require a ~~((special fuel user))~~ licensee to post a bond if the ~~((special fuel user))~~ licensee, after having been licensed, has failed to file timely reports or has failed to remit taxes due, or when an investigation or audit indicates problems severe enough that the department, in its discretion, determines that a bond is required to protect the interests of the state. The department may also adopt rules prescribing conditions that, in the department's discretion, require a bond to protect the interests of the state.

(10) The total amount of the bond or bonds required of any ~~((special fuel dealer or special fuel user))~~ licensee shall be equivalent to three times the estimated monthly fuel tax, determined in such manner as the department may deem proper: PROVIDED, That those ~~((special fuel dealers))~~ licensees having held a special fuel license for five or more years without having said license suspended or revoked by the department shall be permitted to reduce the amount of their bond to twice the estimated monthly tax liability: PROVIDED FURTHER, That the total amount of the bond or bonds shall never be less than five hundred dollars nor more than ~~((fifty))~~ one hundred thousand dollars.

(11) An application for a dyed special fuel user license must be made to the department. The application must be filed upon a form prescribed by the department and contain such information as the department deems necessary.

(12) An application for an international fuel tax agreement license must be made to the department. The application must be filed upon a form prescribed by the department and contain such information as the department may require.

**Sec. 64.** RCW 82.38.120 and 1996 c 104 s 9 are each amended to read as follows:

Upon receipt and approval of an application and bond, if required, the department shall issue ~~((to the applicant))~~ a license to ~~((act as a special fuel dealer or a special fuel user))~~ the applicant. However, the department may refuse to issue a ~~((special fuel dealer's))~~ license ~~((or a special fuel user's license))~~ to any person:

(1) Who formerly held ~~((either type of))~~ a license issued under chapter 82.36 or 82.42 RCW or this chapter which, prior to the time of filing for application, has been revoked for cause;

(2) Who is a subterfuge for the real party in interest whose license prior to the time of filing for application, has been revoked for cause;

(3) Who, as an individual licensee, or officer, director, owner, or managing employee of a nonindividual licensee, has had a special fuel license revoked for cause;

(4) Who has an unsatisfied debt to the state assessed under either chapter 82.36, 82.38, ~~((or))~~ 46.87, or 82.42 RCW;

(5) Who formerly held as an individual, officer, director, owner, managing employee of a nonindividual licensee, or subterfuge for a real party in interest, a license issued by the federal government or a state that allowed a person to buy or sell untaxed motor vehicle or special fuel, which license, before the time of filing for application, has been revoked for cause;

(6) Who pled guilty to or was convicted as an individual, officer, director, owner, or managing employee of a nonindividual licensee in this or any other state or in any federal jurisdiction of a gross misdemeanor or felony crime directly related to the business or has been subject to a civil judgment involving fraud, misrepresentation, conversion, or dishonesty, notwithstanding chapter 9.96A RCW;

(7) Who misrepresented or concealed a material fact in obtaining a license or in reinstatement thereof;

(8) Who violated a statute or administrative rule regulating fuel taxation or distribution;

(9) Who failed to cooperate with the department's investigations by:

(a) Not furnishing papers or documents;

(b) Not furnishing in writing a full and complete explanation regarding a matter under investigation by the department; or  
(c) Not responding to subpoenas issued by the department, whether or not the recipient of the subpoena is the subject of the proceeding;

(10) Who failed to comply with an order issued by the director; or

(11) Upon other sufficient cause being shown.

Before such refusal, the department shall grant the applicant a hearing and shall grant the applicant at least twenty days written notice of the time and place thereof.

The department shall determine from the information shown in the application or other investigation the kind and class of license to be issued. For the purpose of considering any application for a special fuel ((dealer's)) license, the department may inspect, cause an inspection, investigate, or cause an investigation of the records of this or any other state or of the federal government to ascertain the veracity of the information on the application form and the applicant's criminal and licensing history.

All licenses shall be posted in a conspicuous place or kept available for inspection at the principal place of business of the owner thereof. License holders shall reproduce the license by photostat or other method and keep a copy on display for ready inspection at each additional place of business or other place of storage from which special fuel is sold, delivered or used and in each motor vehicle used by the license holder to transport special fuel purchased by him or her for resale, delivery or use. ((Every licensed special fuel user operating a motor vehicle registered in a jurisdiction other than this state shall reproduce the license and carry a photocopy thereof with each motor vehicle being operated upon the highways of this state.

~~A special fuel dealer may use special fuel in motor vehicles owned or operated by the dealer without securing a license as a special fuel user but the dealer is subject to all other conditions, requirements, and liabilities imposed herein upon a special fuel user.~~

Each special fuel ((dealer's license and special fuel user's)) license shall be valid until the expiration date if shown on the license, or until suspended or revoked for cause or otherwise canceled.

No special fuel ((dealer's license or special fuel user's)) license shall be transferable.

**Sec. 65.** RCW 82.38.130 and 1994 c 262 s 24 are each amended to read as follows:

The department may revoke the license of any ((special fuel dealer, or special fuel user)) licensee for any of the grounds constituting cause for denial of a license set forth in RCW 82.38.120 or for other reasonable cause. Before revoking such license the department shall notify the licensee to show cause within twenty days of the date of the notice why the license should not be revoked: PROVIDED, That at any time prior to and pending such hearing the department may, in the exercise of reasonable discretion, suspend such license.

The department shall cancel any ((license to act as a)) special fuel ((dealer, or a special fuel user)) licensee immediately upon surrender thereof by the holder.

Any surety on a bond furnished by a ((special fuel dealer or special fuel user)) licensee as provided ((herein)) in this chapter shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of forty-five days from the date which such surety shall have lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the forty-five day period. The department shall promptly, upon receiving any such request, notify the ((special fuel dealer or special fuel user)) licensee who furnished the bond, and unless the ((special fuel dealer or special fuel user)) licensee, on or before the expiration of the forty-five day period, files a new bond, in accordance with ((the requirements of)) this section, ((or make a deposit in lieu thereof as provided in RCW 82.38.020(11)),) the department forthwith shall cancel the special fuel dealer's or special fuel user's license.

The department may require a ((special fuel dealer or special fuel user to give a)) new or additional surety bond ((or to deposit additional securities)) of the character specified in RCW 82.38.020((41)) (3) if, in its opinion, the security of the surety bond therefor filed by such ((special fuel dealer or special fuel user, or the market value of the properties deposited as security by such special fuel dealer or special fuel user)) licensee, shall become impaired or inadequate. Upon failure of the ((special fuel dealer or special fuel user)) licensee to give such new or additional surety bond ((or to deposit additional securities)) within forty-five days after being requested to do so by the department, or after he or she shall fail or refuse to file reports and remit or pay taxes at the intervals fixed by the department, the department forthwith shall cancel his or her license.

**Sec. 66.** RCW 82.38.140 and 1996 c 104 s 10 and 1996 c 90 s 2 are each reenacted and amended to read as follows:

(1) Every ((special fuel dealer, special fuel user,)) licensee and every person importing, manufacturing, refining, dealing in, transporting, blending, or storing special fuel in this state shall keep for a period of not less than five years open to inspection at all times during the business hours of the day to the department or its authorized representatives, a complete record of all special fuel purchased or received and all of such products sold, delivered, or used by them. Such records shall show:

(a) The date of each receipt;

(b) The name and address of the person from whom purchased or received;

(c) The number of gallons received at each place of business or place of storage in the state of Washington;

(d) The date of each sale or delivery;

(e) The number of gallons sold, delivered, or used for taxable purposes;



- (f) The number of gallons sold, delivered, or used for any purpose not subject to the tax imposed (~~herein~~) in this chapter;
- (g) The name, address, and special fuel license number of the purchaser if the special fuel tax is not collected on the sale or delivery;
- (h) The inventories of special fuel on hand at each place of business at the end of each month.

(2)(a) All (~~special fuel users using special fuel~~) international fuel tax agreement licensees and dyed special fuel users authorized to use dyed special fuel on highway in vehicles licensed for highway operation shall maintain detailed mileage records on an individual vehicle basis.

(b) Such operating records shall show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle.

(c) In the absence of operating records that show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle, fuel consumption must be computed under RCW 82.38.060.

(3) (~~Persons using special fuel for heating purposes only are not required to maintain records of fuel usage.~~

(4) ~~Invoices shall be prepared for sales and deliveries of special fuel in the manner and containing such information as may be prescribed by the department.~~

~~Every special fuel dealer or special fuel user making such sales or deliveries of special fuel and every person so receiving and purchasing special fuel must each retain one copy of each such invoice as part of the dealer's permanent records for the time and purposes above provided.~~

(5) ~~Every special fuel user shall keep, in addition to the dealer's records of deliveries into motor vehicles, a complete record as prescribed by the department of the total gallons of special fuel used for other purposes during each month and the purposes for which said special fuel was used.~~

(6) ~~Subsections (1)(f), (2)(b), and (5) of this section do not apply to special fuel users when the special fuel is used off highway in farming, construction, or logging operations. Upon filing a special fuel user tax report, every such special fuel user shall certify and bear the burden of proof as to the number of gallons of special fuel used off highway.)~~ The department may require a person other than a licensee engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering special fuel to submit periodic reports to the department regarding the disposition of the fuel. The reports must be on forms prescribed by the department and must contain such information as the department may require.

(4) Every person operating any conveyance for the purpose of hauling, transporting, or delivering special fuel in bulk shall have and possess during the entire time the person is hauling special fuel, an invoice, bill of sale, or other statement showing the name, address, and license number of the seller or consigner, the destination, name, and address of the purchaser or consignee, license number, if applicable, and the number of gallons. The person hauling such special fuel shall at the request of any law enforcement officer or authorized representative of the department, or other person authorized by law to inquire into, or investigate those types of matters, produce for inspection such invoice, bill of sale, or other statement and shall permit such official to inspect and gauge the contents of the vehicle.

**Sec. 67.** RCW 82.38.150 and 1996 c 104 s 11 are each amended to read as follows:

For the purpose of determining the amount of liability for the tax herein imposed, and to periodically update license information, each (~~special fuel dealer and each~~) licensee, other than a special fuel distributor, an international fuel tax agreement licensee, or a dyed special fuel user, shall file monthly tax reports with the department, on forms prescribed by the department. (~~Special fuel dealers shall file the reports at the intervals as shown in the following schedule:~~

Estimated Yearly Tax Liability	Reporting Frequency
\$ 0 — \$100	Yearly
\$101 — 250	Semi-yearly
\$251 — 499	Quarterly
\$500 and over	Monthly

Dyed special fuel users whose estimated yearly tax liability is two hundred fifty dollars or less, shall file a report yearly, and dyed special fuel users whose estimated yearly tax liability is more than two hundred fifty dollars, shall file reports quarterly. Special fuel users licensed under the international fuel tax agreement shall file reports quarterly. Special fuel distributors subject to the pollution liability insurance agency fee and reporting requirements shall remit pollution liability insurance agency returns and any associated payment due to the department annually.

The department shall establish the reporting frequency for each applicant at the time the special fuel license is issued. If it becomes apparent that any (~~special fuel~~) licensee is not reporting in accordance with the above schedule, the department shall change the licensee's reporting frequency by giving thirty days' notice to the licensee by mail to the licensee's address of record. A report shall be filed with the department even though no special fuel was used, or tax is due, for the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the report and is in lieu of such verification. The report shall show such information as the

department may reasonably require for the proper administration and enforcement of this chapter. For counties within which an additional excise tax on special fuel has been levied by that jurisdiction under RCW 82.80.010, the report must show the quantities of special fuel sold, distributed, or withdrawn from bulk storage by the reporting dealer or user within the county's boundaries and the tax liability from its levy. ~~((The special fuel dealer or special fuel user))~~ A licensee shall file ~~((the))~~ a tax report on or before the twenty-fifth day of the next succeeding calendar month following the period to which it relates.

Subject to the written approval of the department, tax reports may cover a period ending on a day other than the last day of the calendar month. Taxpayers granted approval to file reports in this manner will file such reports on or before the twenty-fifth day following the end of the reporting period. No change to this reporting period will be made without the written authorization of the department.

If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon an envelope containing such report properly addressed to the department, or on the date it was mailed if proof satisfactory to the department is available to establish the date it was mailed.

The department, if it deems it necessary in order to insure payment of the tax imposed by this chapter, or to facilitate the administration of this chapter, has the authority to require the filing of reports and tax remittances at shorter intervals than one month if, in its opinion, an existing bond has become insufficient.

~~((The department may permit any special fuel user whose sole use of special fuel is in motor vehicles or equipment exempt from tax as provided in RCW 82.38.075 and 82.38.080 (1), (2), (3), (8), and (9), in lieu of the reports required in this section, to submit reports annually or as requested by the department, in such form as the department may require.~~

~~A special fuel user whose sole use of special fuel is for purposes other than the propulsion of motor vehicles upon the public highways of this state shall not be required to submit the reports required in this section.)~~

**Sec. 68.** RCW 82.38.160 and 1987 c 174 s 5 are each amended to read as follows:

(1) The tax imposed by this chapter shall be computed ~~((as follows: (a) With respect to special fuel upon which the tax has been collected by the seller thereof as a special fuel dealer,))~~ by multiplying the tax rate per gallon provided in this chapter by the number of gallons of special fuel ~~((delivered))~~ subject to the special fuel tax ~~((; (b) with respect to special fuel on which the tax has not been paid to a special fuel dealer in this state and which has been consumed by the purchaser thereof as a special fuel user, by multiplying the tax rate per gallon provided in this chapter by the number of gallons of special fuel consumed by him in the propulsion of a motor vehicle on the highways of this state)).~~

(2) A special fuel distributor shall remit tax on special fuel purchased from a special fuel supplier, and due to the state for that reporting period, to the special fuel supplier.

(3) At the election of the distributor, the payment of the special fuel tax owed on special fuel purchased from a supplier shall be remitted to the supplier on terms agreed upon between the distributor and the supplier or no later than two business days before the last business day of the following month. This election shall be subject to a condition that the distributor's remittances of all amounts of special fuel tax due to the supplier shall be paid by electronic funds transfer. The distributor's election may be terminated by the supplier if the distributor does not make timely payments to the supplier as required by this section. This section shall not apply if the distributor is required by the supplier to pay cash or cash equivalent for special fuel purchases.

(4) Except as provided in subsection ~~((3))~~ (5) of this section, the tax return shall be accompanied by a remittance payable to the state treasurer covering the tax ~~((moneys collected by the special fuel dealer or the))~~ amount determined to be due ~~((hereunder by licensed users of special fuels during))~~ for the ~~((preceeding))~~ reporting period.

~~((3))~~ (5) If the tax is paid by electronic funds transfer ~~((and the reporting period ends on the last day of a calendar month)),~~ the tax shall be paid on or before the ~~((state business day immediately preceding the last state business day of the month following the end of))~~ tenth calendar day of the month that is the second month immediately following the reporting period. When the reporting period is May, the tax shall be paid on the last state business day of June. If the tax is paid by electronic funds transfer and the reporting period ends on a day other than the last day of a calendar month as provided in RCW 82.38.150, the tax shall be paid on or before ~~((the state business day immediately preceding))~~ the last state business day of the thirty-day period following the end of the reporting period.

~~((4))~~ (6) The tax shall be paid by electronic funds transfer whenever the amount due is fifty thousand dollars or more.

**NEW SECTION. Sec. 69.** A special fuel supplier shall, no later than the twentieth day or next business day after the special fuel tax is due from the special fuel distributor under RCW 82.38.160(2), notify the department of the failure of a special fuel distributor to pay the full amount of the tax owed.

Upon notification and submission of satisfactory evidence by a special fuel supplier that a special fuel distributor has failed to comply with RCW 82.38.160(2), the department may suspend the license of the special fuel distributor.

Upon the suspension, the department shall immediately notify all special fuel suppliers that the authority of the special fuel distributor to purchase tax-deferred special fuel has been suspended and all subsequent purchases of special fuel by the special fuel distributor must be tax-paid at the time of removal.

If, after notification by the department, a special fuel supplier continues to sell tax-deferred special fuel to a special fuel distributor whose license is suspended, the special fuel supplier's license is subject to revocation or suspension under RCW 82.38.130. Furthermore, if

notified of a license suspension, a special fuel supplier is liable for any unpaid special fuel tax owed on special fuel sold to a suspended special fuel distributor.

**Sec. 70.** RCW 82.38.170 and 1996 c 104 s 12 are each amended to read as follows:

(1) If any ~~((special fuel dealer or special fuel user))~~ licensee fails to pay any taxes collected or due the state of Washington ~~((by said dealer or user))~~ within the time prescribed by RCW 82.38.150 and 82.38.160, ~~((said dealer or user))~~ the licensee shall pay in addition to such tax a penalty of ten percent of the amount thereof.

(2) If it be determined by the department that the tax reported by any ~~((special fuel dealer or special fuel user))~~ licensee is deficient it may proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency a penalty of ten percent of the amount of the deficiency.

(3) If any ~~((special fuel dealer or special fuel user))~~ licensee, whether or not he or she is licensed as such, fails, neglects, or refuses to file a special fuel tax report required under this chapter, the department may, on the basis of information available to it, determine the tax liability of the ~~((special fuel dealer or the special fuel user))~~ licensee for the period during which no report was filed, and to the tax as thus determined, the department shall add the penalty and interest provided in subsection (2) of this section. An assessment made by the department pursuant to this subsection or to subsection (2) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

(4) If any ~~((special fuel dealer or special fuel user shall))~~ licensee establishes by a fair preponderance of evidence that his or her failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or willful, the department may waive the penalty prescribed in subsections (1), (2), and (3) of this section.

(5) If any ~~((special fuel dealer or special fuel user shall))~~ licensee files a false or fraudulent report with intent to evade the tax imposed by this chapter, there shall be added to the amount of deficiency determined by the department a penalty equal to twenty-five percent of the deficiency, in addition to the penalty provided in subsection (2) of this section and all other penalties prescribed by law.

(6) Any special fuel tax, penalties, and interest payable under this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment: PROVIDED, That the department may waive the interest when it determines that the cost of processing the collection of the interest exceeds the amount of interest due.

(7) Except in the case of violations of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate such assessments upon whatever terms the department deems proper, giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter.

(8) Except in the case of a fraudulent report or of neglect or refusal to make a report, every deficiency shall be assessed under subsection (2) of this section within five years from the twenty-fifth day of the next succeeding calendar month following the reporting period for which the amount is proposed to be determined or within five years after the return is filed, whichever period expires the later.

(9) Any ~~((special fuel dealer or special fuel user))~~ licensee against whom an assessment is made under the provisions of subsections (2) or (3) of this section may petition for a reassessment thereof within thirty days after service upon the ~~((special fuel dealer or special fuel user))~~ licensee of notice thereof. If such petition is not filed within such thirty day period, the amount of the assessment becomes final at the expiration thereof.

If a petition for reassessment is filed within the thirty day period, the department shall reconsider the assessment and, if the ~~((special fuel dealer or special fuel user))~~ licensee has so requested in his or her petition, shall grant such ~~((special fuel dealer or special fuel user))~~ licensee an oral hearing and give the ~~((special fuel dealer or special fuel user))~~ licensee ten days' notice of the time and place thereof. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment shall become final thirty days after service upon the ~~((special fuel dealer or special fuel user))~~ licensee of notice thereof.

Every assessment made by the department shall become due and payable at the time it becomes final and if not paid to the department when due and payable, there shall be added thereto a penalty of ten percent of the amount of the tax.

(10) Any notice of assessment required by this section shall be served personally or by certified or registered mail; if by mail, service shall be made by depositing such notice in the United States mail, postage prepaid addressed to the ~~((special fuel dealer or special fuel user))~~ licensee at his or her address as the same appears in the records of the department.

(11) Any licensee who has had ~~((either their))~~ the licensee's special fuel ~~((user))~~ license ~~((or special fuel dealer license, or both,))~~ revoked shall pay a one hundred dollar penalty prior to the issuance of a new license.

(12) Any person who, upon audit or investigation by the department, is found to have not paid special fuel taxes as required by this chapter shall be subject to cancellation of all vehicle registrations for vehicles utilizing special fuel as a means of propulsion. Any unexpired Washington tonnage on the vehicles in question may be transferred to a purchaser of the vehicles upon application to the department who shall hold such tonnage in its custody until a sale of the vehicle is made or the tonnage has expired.

(13) Unless expressly authorized by the Internal Revenue Code and this chapter, a person using dyed special fuel in the propulsion of a motor vehicle upon the highways of this state is subject to a civil penalty of ten dollars for each gallon of dyed special fuel placed into the supply tank of the motor vehicle, or one thousand dollars, whichever is greater. The civil penalty collected as a result of this subsection must be deposited in the motor vehicle fund. The penalties must be collected and administered under this chapter.

(14) For the purposes of enforcement of this section, the Washington state patrol or other commercial vehicle safety alliance-certified officers may inspect, collect, and secure samples of special fuel used in the propulsion of a vehicle operated upon the highways of this state to detect the presence of dye or other chemical compounds.

(15) The Washington state patrol shall, by January 1, 1999, develop and implement procedures for collection, analysis, and storage of fuel samples collected under this chapter.

(16) RCW 43.05.110 does not apply to the civil penalties imposed under subsection (13) of this section.

**Sec. 71.** RCW 82.38.180 and 1972 ex.s. c 138 s 4 are each amended to read as follows:

Any person who has paid a special fuel tax either directly or to the vendor from whom it was purchased may file a claim with the department for a refund of the tax so paid and shall be reimbursed and repaid the amount of:

(1) Any taxes previously paid on special fuel used for purposes other than for the propulsion of motor vehicles upon the public highways in this state.

(2) Any taxes previously paid on special fuel exported for use outside of this state. Special fuel carried from this state in the fuel tank of a motor vehicle is deemed to be exported from this state. Special fuel distributed to a federally recognized Indian tribal reservation located within the state of Washington is not considered exported outside this state.

(3) Any tax, penalty, or interest erroneously or illegally collected or paid.

(4) Any taxes previously paid on all special fuel which is lost or destroyed, while applicant shall be the owner thereof, through fire, lightning, flood, wind storm, or explosion.

(5) Any taxes previously paid on all special fuel of five hundred gallons or more which is lost or destroyed while applicant shall be the owner thereof, through leakage or other casualty except evaporation, shrinkage, or unknown causes.

(6) Any taxes previously paid on special fuel that is inadvertently mixed with dyed special fuel.

Recovery for such loss or destruction under either subsection (4) ~~((6))~~, (5), or (6) of this section must be susceptible to positive proof thereby enabling the department to conduct such investigation and require such information as they may deem necessary. In the event that the department is not satisfied that the fuel was lost ~~((6))~~, destroyed, or contaminated as claimed because information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, they may deem such as sufficient cause to deny all right relating to the refund or credit for the excise tax paid on special fuel alleged to be lost or destroyed.

No refund or claim for credit shall be approved by the department unless the gallons of special fuel claimed as nontaxable satisfy the conditions specifically set forth in this section and the nontaxable event or use occurred during the period covered by the refund claim. Refunds or claims for credit by sellers or users of special fuel shall not be allowed for anticipated nontaxable use or events.

**NEW SECTION. Sec. 72.** (1) Upon application, the department may give special authorization to farmers, logging companies, and construction companies to purchase nondyed special fuel directly into the supply tanks of nonhighway equipment or into portable slip tanks for nonhighway use without payment of the special fuel tax. Purchases of this nondyed special fuel must be made at a card lock facility owned and operated by a special fuel distributor who is required to pay the special fuel tax on nondyed special fuel delivered to the card lock facility and has elected to sell the special fuel in this manner. The election is solely at the discretion of the special fuel distributor and must be approved by the department.

(2) A special fuel distributor who has paid the special fuel tax on nondyed special fuel purchased by a holder of a special authorization may file a claim for refund of the special fuel tax paid. A claim for refund of the special fuel tax paid under this section is allowed only if all the following apply:

(a) Special fuel tax was paid by the distributor on the nondyed special fuel to which the claim relates and the claim is supported by an invoice or invoices showing such payment;

(b) The special fuel distributor sold the special fuel to a holder of a valid special authorization issued by the department;

(c) The claim contains the name and special authorization number of each purchaser and the number of gallons sold to the purchaser;

(d) The claim contains a statement that the special fuel distributor has not included the amount of the tax in the sale price of the nondyed special fuel and has not collected the special fuel tax from the purchaser; and

(e) The claim contains a statement that the special fuel covered by the claim did not contain visible evidence of dye.

(3) Each claim for refund under this section must be made on a form prescribed by the department and must be for a period of not less than one week.

(4) The department may terminate the election of a special fuel distributor if the special fuel distributor fails to comply with this section.

(5) The department shall require a holder of a special authorization to submit a request at least once every two years for renewal of the special authorization upon forms supplied by the department. The department shall prescribe the information to be submitted by the special authorization holder and shall determine whether the special authorization shall continue.

(6) For any special fuel purchased under this special authorization, a special authorization holder shall retain records required under RCW 82.38.190 for refund submittals for three years following the purchase date of the fuel.

(7) Notwithstanding the special provisions provided under this section, the special authorization holder is subject to all provisions of this chapter that apply to refund claims.

**NEW SECTION. Sec. 73.** (1) Upon application, the department may give special authorization to interstate trucking companies licensed by the state under the international fuel tax agreement to purchase nondyed special fuel directly into the supply tanks of trucks engaged in interstate commerce or into portable slip tanks for use in trucks engaged in interstate commerce without payment of the special fuel tax. Purchases of this nondyed special fuel must be made at a card lock facility owned and operated by a special fuel distributor who is required to pay the special fuel tax on nondyed special fuel delivered to the card lock facility and has elected to sell the special fuel in this manner. The election is solely at the discretion of the special fuel distributor and must be approved by the department.

(2) A special fuel distributor who has paid the special fuel tax on nondyed special fuel purchased by a holder of a special authorization may file a claim for refund of the special fuel tax paid. A claim for refund of the special fuel tax paid under this section is allowed only if all the following apply:

(a) Special fuel tax was paid by the distributor on the nondyed special fuel to which the claim relates and the claim is supported by an invoice or invoices showing such payment;

(b) The special fuel distributor sold the special fuel to a holder of a valid special authorization issued by the department;

(c) The claim contains the name and special authorization number of each purchaser and the number of gallons sold to the purchaser;

(d) The claim contains a statement that the special fuel distributor has not included the amount of the tax in the sale price of the nondyed special fuel and has not collected the special fuel tax from the purchaser; and

(e) The claim contains a statement that the special fuel covered by the claim did not contain visible evidence of dye.

(3) Each claim for refund under this section must be made on a form prescribed by the department and must be for a period of not less than one week.

(4) The department may terminate the election of a special fuel distributor if the special fuel distributor fails to comply with this section.

(5) The department shall require a holder of a special authorization to submit a request at least once every two years for renewal of the special authorization upon forms supplied by the department. The department shall prescribe the information to be submitted by the special authorization holder and shall determine whether the special authorization shall continue.

(6) For any special fuel purchased under this special authorization, a special authorization holder shall retain records required under RCW 82.38.190 for refund submittals for three years following the purchase date of the fuel.

(7) Notwithstanding the special provisions provided under this section, the special authorization holder is subject to all provisions of this chapter that apply to refund claims.

(8) Purchases of special fuel made by interstate trucking companies pursuant to this section are subject to the recordkeeping and reporting provisions of the international fuel tax agreement.

**NEW SECTION. Sec. 74.** A licensee, other than a special fuel exporter, is entitled to a refund of the special fuel tax previously paid on special fuel which has been purchased from the licensee by a person who is exempt from payment of the special fuel tax imposed by this chapter. Application for the refund shall be accompanied by an invoice or proof satisfactory to the department documenting each sale wherein the purchaser was exempt from the special fuel tax. Claims for refunds shall be made under this chapter.

**Sec. 75.** RCW 82.38.190 and 1997 c 183 s 10 are each amended to read as follows:

(1) Claims under RCW 82.38.180 shall be filed with the department on forms prescribed by the department and shall show the date of filing and the period covered in the claim, the number of gallons of special fuel used for purposes subject to tax refund, and such other facts and information as may be required. Every such claim shall be supported by an invoice or invoices issued to or by the claimant, as may be prescribed by the department, and such other information as the department may require. The requirement to provide invoices may be waived for small refund amounts, as determined by the department. Claims for refund of special fuel tax must be for at least twenty dollars.

(2) Any amount determined to be refundable by the department under RCW 82.38.180 shall first be credited on any amounts then due and payable from ~~((the special fuel dealer or special fuel user or to any))~~ a person to whom the refund is due, and the department shall then certify the balance thereof to the state treasurer, who shall thereupon draw his or her warrant for ~~((such))~~ the certified amount to ~~((such special fuel dealer or special fuel user or any))~~ the person.

(3) No refund or credit shall be approved by the department unless a written claim for refund or credit stating the specific grounds upon which the claim is founded is filed with the department:

(a) Within thirteen months from the date of purchase or from the last day of the month following the close of the reporting period for which the refundable amount or credit is due with respect to refunds or credits allowable under RCW 82.38.180(~~(subsections)~~) (1), (2), (4), and (5), and if not filed within this period the right to refund shall be forever barred.

(b) Within (~~three~~) five years from the last day of the month following the close of the reporting period for which the overpayment is due with respect to the refunds or credits allowable under RCW 82.38.180(3). The department shall refund any amount paid that has been verified by the department to be more than ten dollars over the amount actually due for the reporting period. Payment credits shall not be carried forward and applied to subsequent tax returns for a person licensed under this chapter.

(4) Within thirty days after disallowing any claim in whole or in part, the department shall serve written notice of its action on the claimant.

(5) Interest shall be paid upon any refundable amount or credit due under RCW 82.38.180(3) at the rate of one percent per month from the last day of the calendar month following the reporting period for which the refundable amount or credit is due.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the department that a claim may be filed or the date upon which the claim is approved by the department, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

If the department determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

(6) The department shall pay interest of one percent on any refund payable under RCW 82.38.180 (1), (2), or (6) that is issued more than thirty state business days after the receipt of a claim properly filed and completed in accordance with this section. After the end of the thirty business-day period, additional interest shall accrue at the rate of one percent on the amount payable for each thirty calendar-day period, until the refund is issued.

(7) No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be collected.

**Sec. 76.** RCW 82.38.210 and 1979 c 40 s 15 are each amended to read as follows:

If any (~~special fuel dealer, supplier, or user~~) licensee liable for the remittance of tax imposed by this chapter fails to pay the same, the amount thereof, including any interest, penalty, or addition to such tax, together with any costs that may accrue in addition thereto, shall be a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by such person, whether such property is employed by such person for personal or business use or is in the hands of a trustee, or receiver, or assignee for the benefit of creditors, from the date the taxes were due and payable, until the amount of the lien is paid or the property sold in payment thereof. The lien shall have priority over any lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that such lien shall not be valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached prior to the time the department has filed and recorded notice of such lien as hereinafter provided.

In order to avail itself of the lien hereby created, the department shall file with any county auditor a statement of claim and lien specifying the amount of delinquent taxes, penalties and interest claimed by the department. From the time of filing for record, the amount required to be paid shall constitute a lien upon all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by such person in the county. Any lien as provided in this section may also be filed in the office of the secretary of state. Filing in the office of the secretary of state shall be of no effect, however, until the lien or copy thereof shall have been filed with the county auditor in the county where the property is located. When a lien is filed in compliance herewith and with the secretary of state, such filing shall have the same effect as if the lien had been duly filed for record in the office of the auditor in each county of this state.

**Sec. 77.** RCW 82.38.220 and 1994 c 262 s 26 are each amended to read as follows:

In the event any (~~special fuel user or special fuel dealer~~) licensee is delinquent in the payment of any obligation imposed under this chapter, the department may give notice of the amount of such delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to (~~such user or dealer~~) the licensee or owing any debts to (~~such user or dealer~~) the licensee, at the time of the receipt by them of such notice. Any person so notified shall neither transfer nor make other disposition of such credits, personal property, or debts until the department consents to a transfer or other disposition. All persons so notified must, within twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall immediately deliver such credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.

Upon service, the notice and order to withhold and deliver constitutes a continuing lien on property of the taxpayer. The department shall include in the caption of the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver served under this section is the date of service of the notice.

If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court, upon application of the department and after the time to answer the notice has expired, to render judgment by default against the party named in the notice to withhold and deliver for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

**Sec. 78.** RCW 82.38.230 and 1979 c 40 s 17 are each amended to read as follows:

Whenever any (~~(special fuel user, supplier or dealer)~~) licensee is delinquent in the payment of any obligation imposed hereunder, and such delinquency continues after notice and demand for payment by the department, the department shall proceed to collect the amount due from the (~~(user, supplier or dealer)~~) licensee in the following manner: The department shall seize any property subject to the lien of said excise tax, penalty, and interest and thereafter sell it at public auction to pay said obligation and any and all costs that may have been incurred on account of the seizure and sale. Notice of such intended sale and the time and place thereof shall be given to such delinquent (~~(user, supplier or dealer)~~) licensee and to all persons appearing of record to have an interest in such property. The notice shall be given in writing at least ten days before the date set for the sale by enclosing it in an envelope addressed to (~~(such user, supplier or dealer)~~) the licensee at (~~(his)~~) the licensee's address as the same appears in the records of the department and, in the case of any person appearing of record to have an interest in such property, addressed to such person at his or her last known residence or place of business, and depositing such envelope in the United States mail, postage prepaid. In addition, the notice shall be published for at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in such county, the notice shall be posted in three public places in the county for a period of ten days. The notice shall contain a description of the property to be sold, together with a statement of the amount due (~~(hereunder)~~) under this chapter, the name of the (~~(user, supplier or dealer)~~) licensee and the further statement that unless such amount is paid on or before the time fixed in the notice the property will be sold in accordance with law.

The department shall then proceed to sell the property in accordance with the law and the notice, and shall deliver to the purchaser a bill of sale or deed which shall vest title in the purchaser. If upon any such sale the moneys received exceed the amount due to the state (~~(hereunder)~~) under this chapter from the delinquent (~~(user, supplier or dealer)~~) licensee, the excess shall be returned to (~~(such user, supplier or dealer)~~) the licensee and (~~(his)~~) the licensee's receipt obtained (~~(therefor)~~) for the excess. If any person having an interest in or lien upon the property has filed with the department prior to such sale, notice of such interest or lien, the department shall withhold payment of any such excess to (~~(such user, supplier or dealer)~~) the licensee pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of (~~(such user, supplier or dealer shall not be)~~) the licensee is not available, the department shall deposit such excess with the state treasurer as trustee for (~~(such user, supplier or dealer, his)~~) the licensee or the licensee's heirs, successors, or assigns: PROVIDED, That prior to making any seizure of property as (~~(herein)~~) provided for in this section, the department may first serve upon the (~~(user's, supplier's, or dealer's)~~) licensee's bondsman a notice of the delinquency, with a demand for the payment of the amount due.

**Sec. 79.** RCW 82.38.235 and 1979 c 40 s 22 are each amended to read as follows:

Whenever any assessment shall have become final in accordance with the provisions of this chapter, the department may file with the clerk of any county within the state a warrant in the amount of the assessment of taxes, penalties plus interest and a filing fee of five dollars. The clerk of the county wherein the warrant is filed shall immediately designate a superior court cause number for such warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the (~~(special fuel user, supplier or dealer)~~) licensee mentioned in the warrant, the amount of the tax, penalties, interest and filing fee and the date when such warrant was filed. The aggregate amount of such warrant as docketed shall become a lien upon the title to, and interest in all real and personal property of named person against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. Such warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law in the case of civil judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee of five dollars, which shall be added to the amount of the warrant.

**Sec. 80.** RCW 82.38.240 and 1971 ex.s. c 175 s 25 are each amended to read as follows:

Whenever any (~~(special fuel user or special fuel dealer)~~) licensee is delinquent in the payment of any obligation hereunder the department may transmit notice of such delinquency to the attorney general who shall at once proceed to collect by appropriate legal action the amount due the state from (~~(such user or dealer)~~) the licensee. In any suit brought to enforce the rights of the state hereunder, a certificate by the department showing the delinquency shall be prima facie evidence of the amount of the obligation, of the delinquency thereof and of compliance by the department with all provisions of this chapter relating to such obligation.

**Sec. 81.** RCW 82.38.260 and 1995 c 274 s 25 are each amended to read as follows:

The department shall enforce the provisions of this chapter, and may prescribe, adopt, and enforce reasonable rules and regulations relating to the administration and enforcement thereof. The Washington state patrol and its officers shall aid the department in the enforcement of this chapter, and, for this purpose, are declared to be peace officers, and given police power and authority throughout the state to arrest on sight any person known to have committed a violation of the provisions of this chapter.

The department or its authorized representative is hereby empowered to examine the books, papers, records and equipment of any (~~(special fuel dealer, special fuel user,)~~) licensee or any person dealing in, transporting, or storing special fuel as defined in this chapter and to investigate the character of the disposition which any person makes of such special fuel in order to ascertain and determine whether all taxes due hereunder are being properly reported and paid. The fact that such books, papers, records and equipment are not maintained in this state at the

time of demand shall not cause the department to lose any right of such examination under this chapter when and where such records become available.

The department or its authorized representative is further empowered to investigate the disposition of special fuel by any person where the department has reason to believe that untaxed special fuel has been diverted to a use subject to the taxes imposed by this chapter without said taxes being paid in accordance with the requirements of this chapter.

For the purpose of enforcing the provisions of this chapter it shall be presumed that all special fuel delivered to service stations as well as all special fuel otherwise received (~~(by a special fuel dealer or a special fuel user)~~) into storage and dispensing equipment designed to fuel motor vehicles is delivered (~~(by the special fuel dealer or special fuel user)~~) into the fuel supply tanks of motor vehicles and consumed in the propulsion of motor vehicles on the highways of this state, unless the contrary is established by satisfactory evidence.

The department shall, upon request from the officials to whom are entrusted the enforcement of the special fuel tax law of any other state, the District of Columbia, the United States, its territories and possessions, the provinces or the Dominion of Canada, forward to such officials any information which he or she may have relative to the receipt, storage, delivery, sale, use, or other disposition of special fuel by any (~~special fuel dealer or special fuel user, provided such~~) licensee if the other state or states furnish like information to this state.

Returns required by this chapter, exclusive of schedules, itemized statements and other supporting evidence annexed thereto, shall at all reasonable times be open to the public.

**NEW SECTION. Sec. 82.** It is intended that the ultimate liability for the tax imposed under this chapter be upon the user, regardless of the manner in which collection of the tax is provided for in this chapter. However, this section does not apply to agreements between the department and federally recognized Indian tribes entered into under RCW 82.38.310, nor does it apply to the consent decrees entered in *Confederated Tribes of the Colville Reservation v. Washington Department of Licensing*, No. CS-92-248-JLQ (E.D. Wash.) and *Teo v. Steffenson*, No. CY-93-3050-AAM (E.D. Wash.).

**NEW SECTION. Sec. 83.** A special fuel distributor who incurs liability in December 1998 for the special fuel tax imposed under this chapter shall report the liability and pay the tax in January 1999 in the manner required by this chapter as it existed before January 1, 1999.

A special fuel distributor or special fuel user shall inventory all special fuel, including dyed special fuel, that is on hand or in the person's possession as of 12:01 a.m. on January 1, 1999, and is not in the bulk transfer-terminal system and shall report the results of the inventory to the department no later than the last business day of February 1999. The report of inventory must be made on a form prescribed by the department.

A special fuel distributor may pay the tax due on special fuel in inventory any time before February 28, 2000, but at least one-twelfth of the amount due must be paid by the last day of each month starting with February 1999. Payments not received in accordance with this section are late and are subject to the interest and penalty provisions of this chapter. Payments made after February 2000 are late and are subject to the interest and penalty provisions of this chapter.

A special fuel user shall pay the tax due on fuel in inventory in accordance with the filing frequency assigned to the user before the effective date of this section. Payments not received in accordance with the filing frequency are late and are subject to the interest and penalty provisions of this chapter.

**NEW SECTION. Sec. 84.** (1) An international fuel tax agreement licensee who meets the qualifications in subsection (2) of this section may be given special authorization by the department to purchase special fuel delivered into bulk storage without payment of the special fuel tax at the time the fuel is purchased. The special authorization applies only to full truck-trailer loads filled at a terminal rack and delivered directly to the bulk storage facilities of the special authorization holder. The licensee shall pay special fuel tax on the fuel at the time the licensee files their international fuel tax agreement tax return and accompanying schedule with the department. The accompanying schedule shall be provided in a form and manner determined by the department and shall contain information on purchases and usage of all nondyed special fuel purchased during the reporting period. In addition, by the fifteenth day of the month following the month in which fuel under the special authorization was purchased, the licensee must report to the department, the name of the seller and the number of gallons purchased for each purchase of such fuel, and any other information as the department may require.

(2) To receive or maintain special authorization under subsection (1) of this section, the following conditions regarding the international fuel tax agreement licensee must apply:

(a) During the period encompassing the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year, the number of gallons consumed outside the state of Washington as reported on the licensee's international fuel tax agreement tax returns must have been equal to at least twenty percent of the nondyed special fuel gallons, including fuel used on-road and off-road, purchased by the licensee in the state of Washington, as reported on the accompanying schedules required under subsection (1) of this section;

(b) The licensee must have been licensed under the provisions of the international fuel tax agreement during each of the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year; and

(c) The licensee has not violated the reporting requirements of this section.

(3) A special fuel distributor who sells special fuel under the special authorization provisions of this section is not liable for the special fuel tax on the fuel. By the fifteenth day of the month following the month in which the fuel was sold, the special fuel distributor shall report to the department, the name and special authorization number of the purchaser and the number of gallons sold for each purchase of such special



fuel, and any other information as the department may require. The special fuel supplier will report such sales, in a manner prescribed by the department, at the time the special fuel supplier submits the monthly tax report.

(4) A supplier selling special fuel under the provisions of this section shall not be responsible for taxes due for special fuel purchased under the provisions of this section.

(5) An international fuel tax agreement licensee who qualifies for a special authorization under this section for calendar year 1999 is not subject to the special fuel user requirements of section 83 of this act.

**Sec. 85.** RCW 43.05.110 and 1995 c 403 s 612 are each amended to read as follows:

The department of agriculture, fish and wildlife, health, licensing, or natural resources may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months. In addition, the department of fish and wildlife may issue a civil penalty provided for by law without first issuing a notice of correction for a violation of any rule dealing with seasons, catch or bag limits, gear types, or geographical areas for fish or wildlife removal, reporting, or disposal.

This section does not apply to the civil penalties imposed under RCW 82.38.170(13).

**Sec. 86.** RCW 82.47.010 and 1991 c 173 s 2 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Motor vehicle fuel" has the meaning given in RCW 82.36.010(~~((2))~~).

(2) "Special fuel" has the meaning given in RCW 82.38.020(~~((5))~~).

(3) "Motor vehicle" has the meaning given in RCW 82.36.010(~~((4))~~).

**Sec. 87.** RCW 82.80.010 and 1991 c 339 s 12 are each amended to read as follows:

(1) Subject to the conditions of this section, any county may levy, by approval of its legislative body and a majority of the registered voters of the county voting on the proposition at a general or special election, additional excise taxes equal to ten percent of the state-wide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010(~~((2))~~) and on each gallon of special fuel as defined in RCW 82.38.020(~~((5))~~) sold within the boundaries of the county. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the county fuel excise tax. An election held under this section must be held not more than twelve months before the date on which the proposed tax is to be levied. The ballot setting forth the proposition shall state the tax rate that is proposed. The county's authority to levy additional excise taxes under this section includes the incorporated and unincorporated areas of the county. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed tax shall not be levied less than one month from the date the election results are certified by the county election officer. The commencement date for the levy of any tax under this section shall be the first day of January, April, July, or October.

(2) Every person subject to the tax shall pay, in addition to any other taxes provided by law, an additional excise tax to the director of licensing at the rate levied by a county exercising its authority under this section.

(3) The state treasurer shall distribute monthly to the levying county and cities contained therein the proceeds of the additional excise taxes collected under this section, after the deductions for payments and expenditures as provided in RCW 46.68.090 (1) and (2) and under the conditions and limitations provided in RCW 82.80.080.

(4) The proceeds of the additional excise taxes levied under this section shall be used strictly for transportation purposes in accordance with RCW 82.80.070.

(5) The department of licensing shall administer and collect the county fuel taxes. The department shall deduct a percentage amount, as provided by contract, for administrative, collection, refund, and audit expenses incurred. The remaining proceeds shall be remitted to the custody of the state treasurer for monthly distribution under RCW 82.80.080.

**NEW SECTION. Sec. 88.** The department of licensing shall adopt rules necessary to implement this act and shall seek the assistance of the fuel tax advisory committee in developing and adopting the rules.

**NEW SECTION. Sec. 89.** The department of licensing may enter into a fuel tax cooperative agreement with another state or Canadian province for the administration, collection, and enforcement of each state's or Canadian province's fuel taxes.

**NEW SECTION. Sec. 90.** The following acts or parts of acts are each repealed:

(1) RCW 82.36.030 and 1996 c 104 s 1, 1994 c 262 s 18, 1993 c 54 s 2, 1991 c 339 s 14, 1990 c 42 s 202, 1987 c 174 s 2, & 1961 c 15 s 82.36.030;

(2) RCW 82.36.038 and 1987 c 174 s 3;

(3) RCW 82.36.220 and 1963 ex.s. c 22 s 20, 1961 ex.s. c 21 s 31, & 1961 c 15 s 82.36.220;

(4) RCW 82.38.040 and 1990 c 250 s 81, 1973 1st ex.s. c 156 s 2, & 1971 ex.s. c 175 s 5;

(5) RCW 82.38.082 and 1987 c 294 s 1; and

(6) RCW 82.38.086 and 1981 c 342 s 6.

NEW SECTION. Sec. 91. (1) Sections 8 through 12, 14, 15, 29, 35, 43, and 47 through 49 of this act are each added to chapter 82.36 RCW.

(2) Sections 52 through 57, 59, 69, 72, 73, 74, 82 through 84, and 89 of this act are each added to chapter 82.38 RCW.

NEW SECTION. Sec. 92. This act takes effect January 1, 1999."

The President declared the question before the Senate to be the motion by Senator Prince that the Committee on Transportation striking amendment to Substitute House Bill No. 2659 not be adopted.

The motion by Senator Prince carried and the committee striking amendment to Substitute House Bill No. 2659 was not adopted.

#### MOTION

On motion of Senator Prince, the rules were suspended, Substitute House Bill No. 2659 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Betti Sheldon, Senators Loveland, Spanel and Snyder were excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2659.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2659 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senator Horn - 1. Excused: Senators Loveland, Snyder and Spanel - 3. SUBSTITUTE HOUSE BILL NO. 2659, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of Engrossed Substitute House Bill No. 2830 and the pending amendment by Senators Benton, Horn and Wood on page 5, after line 26, to the Committee on Government Operations striking amendment, deferred March 6, 1998.

#### MOTION

On motion of Senator Benton, and there being no objection, the amendment on page 5, after line 26, to the committee striking amendment was withdrawn.

The President declared the question before the Senate to be the adoption of the Committee on Government Operations striking amendment to Engrossed Substitute House Bill No. 2830.

The motion by Senator McCaslin carried and the committee striking amendment was adopted.

#### MOTIONS

On motion of Senator McCaslin, the following title amendment was adopted:

On page 1, line 2 of the title, after "commission;" strike the remainder of the title and insert "amending RCW 35.13.182, 36.70A.020, 36.70A.060, and 36.70A.070; amending 1995 c 347 s 433 (uncodified); amending 1995 c 347 s 411 (uncodified); amending 1995 c 347 s 412 (uncodified); adding new sections to chapter 35.13 RCW; and adding a new section to chapter 36.70A RCW."

On motion of Senator McCaslin, the rules were suspended, Engrossed Substitute House Bill No. 2830, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2830, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2830, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 1; Absent, 3; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 42. Voting nay: Senator Haugen - 1. Absent: Senators Horn, Newhouse and Sellar - 3. Excused: Senators Loveland, Snyder and Spanel - 3. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2830, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House refuses to grant the request of the Senate for a conference on SUBSTITUTE SENATE BILL NO. 6253 and insists on its position and asks the Senate to concur therein, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Schow moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6253.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Schow that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6253.

The motion by Senator Schow carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6253.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6253, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6253, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 4; Absent, 2; Excused, 3.

Voting yea: Senators Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, McAuliffe, McCaslin, McDonald, Morton, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 40. Voting nay: Senators Anderson, Long, Oke and Stevens - 4. Absent: Senators Newhouse and Sellar - 2. Excused: Senators Loveland, Snyder and Spanel - 3. SUBSTITUTE SENATE BILL NO. 6253, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM HOUSE

March 4, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6497 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 36.70A.370 and 1991 sp.s. c 32 s 18 are each amended to read as follows:

(1) It is the public policy of the state of Washington that state agencies and local governments, in planning and carrying out governmental actions, anticipate, be sensitive to, and account for the obligations imposed by the fifth and the fourteenth amendments of the United States Constitution and Article I, section 16 of the state Constitution. It is the purpose of this section to reduce the risk of undue or inadvertent burdens on private property rights resulting from certain lawful governmental actions.

(2) The state attorney general shall establish by October 1, 1991, an orderly, consistent process, including a checklist if appropriate, that better enables state agencies and local governments to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property. It is not the purpose of this section to expand or reduce the scope of private property protections provided in the state and federal Constitutions. The attorney general shall review and update the process at least on an annual basis to maintain consistency with changes in case law.

~~((2))~~ (3) For any governmental action concerning the regulation of private real property by local or state government requiring a public hearing, the local or state government shall address in its public hearing the guidelines of the state attorney general under subsection (2) of this section. The local or state government shall prepare written findings and conclusions available to the public, using the state attorney general's guidelines, on whether the governmental action may result in an unconstitutional taking of private real property.

(4) Local governments that are required or choose to plan under RCW 36.70A.040 and state agencies shall utilize the process established by subsections ~~((4))~~ (2) and (3) of this section to assure that proposed regulatory or administrative actions do not result in an unconstitutional taking of private property.

~~((3) The attorney general, in consultation with the Washington state bar association, shall develop a continuing education course to implement this section.~~

(4)) (5) The process used by government agencies shall be protected by attorney client privilege. Nothing in this section grants a private party the right to seek judicial relief requiring compliance with the provisions of this section."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator McCaslin moved that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6497.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator McCaslin that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6497.

The motion by Senator McCaslin carried and the Senate concurred in the House amendment to Engrossed Substitute Senate Bill No. 6497.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6497, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6497, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 14; Absent, 2; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Oke, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 29. Voting nay: Senators Brown, Fairley, Franklin, Fraser, Haugen, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Sheldon, B., Thibaudeau and Wojahn - 14. Absent: Senators Newhouse and Prince - 2. Excused: Senators Heavey, Loveland, Snyder and Spanel - 4. ENGROSSED SUBSTITUTE SENATE BILL NO. 6497, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the sixth order of business.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2935, by House Committee on Appropriations (originally sponsored by Representatives Dyer, Cody, Huff and Backlund)

Adopting a new system for establishing nursing home payment rates.

The bill was read the second time.

#### MOTION

Senator West moved that the following Committee on Ways and Means amendment not be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.46.010 and 1980 c 177 s 1 are each amended to read as follows:

This chapter may be known and cited as the "nursing ((Homes Auditing and Cost Reimbursement Act of 1980)) facility medicaid payment system."

The purposes of this chapter are to specify the manner by which legislative appropriations for medicaid nursing facility services are to be allocated as payment rates among nursing facilities, and to set forth auditing, billing, and other administrative standards associated with payments to nursing home facilities.

**Sec. 2.** RCW 74.46.020 and 1995 1st sp.s. c 18 s 90 are each amended to read as follows:

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

(1) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

~~(2) ("Ancillary care" means those services required by the individual, comprehensive plan of care provided by qualified therapists.~~

~~(3))~~ "Appraisal" means the process of estimating the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by a professionally designated real estate appraiser with no pecuniary interest in the property to be appraised. It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

~~((4))~~ (3) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

~~((5))~~ (4) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

~~((6))~~ (5) "Audit" or "department audit" means an examination of the records of a nursing facility participating in the medicaid payment system, including but not limited to: The contractor's financial and statistical records, cost reports and all supporting documentation and schedules, receivables, and resident trust funds, to be performed as deemed necessary by the department and according to department rule.

(6) "Bad debts" means amounts considered to be uncollectible from accounts and notes receivable.

~~(7) ("Beds" means the number of set-up beds in the facility, not to exceed the number of licensed beds.~~

~~(8))~~ "Beneficial owner" means:

(a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;

(c) Any person who, subject to ~~((subparagraph))~~ (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

except that, any person who acquires an ownership interest or power specified in ~~((subparagraphs))~~ (c)(i), (ii), or (iii) of this ~~((subparagraph (e)))~~ subsection with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power;

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to

declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(i) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in ~~((subparagraph))~~ (b) of this subsection; and

(ii) The pledgee agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

~~((9))~~ (8) "Capitalization" means the recording of an expenditure as an asset.

~~((10))~~ (9) "Case mix" means a measure of the intensity of care and services needed by the residents of a nursing facility or a group of residents in the facility.

(10) "Case mix index" means a number representing the average case mix of a nursing facility.

(11) "Case mix weight" means a numeric score that identifies the relative resources used by a particular group of a nursing facility's residents.

(12) "Contractor" means ~~((an))~~ a person or entity ~~((which contracts))~~ licensed under chapter 18.51 RCW to operate a medicare and medicaid certified nursing facility, responsible for operational decisions, and contracting with the department to provide services to ~~((medical care))~~ medicaid recipients residing in ~~((a))~~ the facility ~~((and which entity is responsible for operational decisions))~~.

~~((14))~~ (13) "Default case" means no initial assessment has been completed for a resident and transmitted to the department by the cut-off date, or an assessment is otherwise past due for the resident, under state and federal requirements.

(14) "Department" means the department of social and health services (DSHS) and its employees.

~~((12))~~ (15) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

~~((13))~~ (16) "Direct care" means nursing care and related care provided to nursing facility residents. Therapy care shall not be considered part of direct care.

(17) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct ~~((nursing and ancillary))~~ care of ~~((medical care recipients))~~ a nursing facility's residents.

~~((14))~~ (18) "Entity" means an individual, partnership, corporation, limited liability company, or any other association of individuals capable of entering enforceable contracts.

~~((15))~~ (19) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

~~((16))~~ (20) "Facility" or "nursing facility" means a nursing home licensed in accordance with chapter 18.51 RCW, excepting nursing homes certified as institutions for mental diseases, or that portion of a multiservice facility licensed as a nursing home, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

~~((17))~~ (21) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

~~((18))~~ (22) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

~~((19))~~ (23) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB).

~~((20))~~ "Generally accepted auditing standards" means auditing standards approved by the American institute of certified public accountants (AICPA).

~~((21))~~ (24) "Goodwill" means the excess of the price paid for a nursing facility business over the fair market value of all ~~((either))~~ net identifiable ~~((s))~~ tangible ~~((s))~~ and intangible assets acquired, as measured in accordance with generally accepted accounting principles.

~~((22))~~ (25) "Grouper" means a computer software product that groups individual nursing facility residents into case mix classification groups based on specific resident assessment data and computer logic.

(26) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

~~((23))~~ (27) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

~~((24))~~ (28) "Joint facility costs" means any costs which represent resources which benefit more than one facility, or one facility and any other entity.

~~((25))~~ (29) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination (due to any cause other than death or divorce) or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party

by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee, shall not be considered modification of a lease term.

~~((26))~~ (30) "Medical care program" or "medicaid program" means medical assistance, including nursing care, provided under RCW 74.09.500 or authorized state medical care services.

~~((27))~~ (31) "Medical care recipient," "medicaid recipient," or "recipient" means an individual determined eligible by the department for the services provided ~~((#))~~ under chapter 74.09 RCW.

~~((28))~~ (32) "Minimum data set" means the overall data component of the resident assessment instrument, indicating the strengths, needs, and preferences of an individual nursing facility resident.

(33) "Net book value" means the historical cost of an asset less accumulated depreciation.

~~((29))~~ (34) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles, plus an allowance for working capital which shall be five percent of the product of the per patient day rate multiplied by the prior calendar year reported total patient days of each contractor.

~~((30))~~ (35) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

~~((31))~~ (36) "Owner" means a sole proprietor, general or limited partners, members of a limited liability company, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

~~((32))~~ (37) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

~~((33))~~ (38) "Patient day" or "resident day" means a calendar day of care provided to a nursing facility resident, regardless of payment source, which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. A ~~((client day))~~ medicaid day or "recipient day" means a calendar day of care provided to a ~~((medical care))~~ medicaid recipient determined eligible by the department for services provided under chapter 74.09 RCW, subject to the same conditions regarding admission and discharge applicable to a patient day or resident day of care.

~~((34))~~ (39) "Professionally designated real estate appraiser" means an individual who is regularly engaged in the business of providing real estate valuation services for a fee, and who is deemed qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the writing of real estate valuation reports as well as the passing of written examinations on valuation practice and theory, and who by virtue of membership in such organization is required to subscribe and adhere to certain standards of professional practice as such organization prescribes.

~~((35))~~ (40) "Qualified therapist" means:

(a) ~~((An activities specialist who has specialized education, training, or experience as specified by the department;~~

~~((b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience;~~

~~((c))~~ (e) A mental health professional as defined by chapter 71.05 RCW;

~~((d))~~ (b) A mental retardation professional who is ~~((either a qualified therapist or))~~ a therapist approved by the department who has had specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

~~((e) A social worker who is a graduate of a school of social work;~~

~~((f))~~ (c) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

~~((g))~~ (d) A physical therapist as defined by chapter 18.74 RCW;

~~((h))~~ (e) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training; and

~~((i))~~ (f) A respiratory care practitioner certified under chapter 18.89 RCW.

~~((36))~~ "Questioned costs" means those costs which have been determined in accordance with generally accepted accounting principles but which may constitute disallowed costs or departures from the provisions of this chapter or rules and regulations adopted by the department.

~~((37))~~ (41) "Rate" or "rate allocation" means the medicaid per-patient-day payment amount for medicaid patients calculated in accordance with the allocation methodology set forth in part E of this chapter.

(42) "Real property," whether leased or owned by the contractor, means the building, allowable land, land improvements, and building improvements associated with a nursing facility.

(43) "Rebased rate" or "cost-rebased rate" means a facility-specific component rate assigned to a nursing facility for a particular rate period established on desk-reviewed, adjusted costs reported for that facility covering at least six months of a prior calendar year designated as a year to be used for cost rebasing payment rate allocations under the provisions of this chapter.

~~((38))~~ (44) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

~~((39))~~ (45) "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

(a) "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

(b) "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.

~~((40))~~ (46) "Related care" means only those services that are directly related to providing direct care to nursing facility residents. These services include, but are not limited to, nursing direction and supervision, medical direction, medical records, pharmacy services, activities, and social services.

(47) "Resident assessment instrument," including federally approved modifications for use in this state, means a federally mandated, comprehensive nursing facility resident care planning and assessment tool, consisting of the minimum data set and resident assessment protocols.

(48) "Resident assessment protocols" means those components of the resident assessment instrument that use the minimum data set to trigger or flag a resident's potential problems and risk areas.

(49) "Resource utilization groups" means a case mix classification system that identifies relative resources needed to care for an individual nursing facility resident.

(50) "Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

~~((41))~~ (51) "Secretary" means the secretary of the department of social and health services.

~~((42))~~ (52) "Support services" means food, food preparation, dietary, housekeeping, and laundry services provided to nursing facility residents.

(53) "Therapy care" means those services required by a nursing facility resident's comprehensive assessment and plan of care, that are provided by qualified therapists, or support personnel under their supervision, including related costs as designated by the department.

(54) "Title XIX" or "medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended and the medicaid program administered by the department.

~~((43) "Physical plant capital improvement" means a capitalized improvement that is limited to an improvement to the building or the related physical plant.)~~

**Sec. 3.** RCW 74.46.040 and 1985 c 361 s 4 are each amended to read as follows:

(1) Not later than March 31<sup>st</sup> of each year, each contractor shall submit to the department an annual cost report for the period from January 1<sup>st</sup> through December 31<sup>st</sup> of the preceding year.

(2) Not later than one hundred twenty days following the termination or assignment of a contract, the terminating or assigning contractor shall submit to the department a cost report for the period from January 1<sup>st</sup> through the date the contract was terminated or assigned.

(3) Two extensions of not more than thirty days each may be granted by the department upon receipt of a written request setting forth the circumstances which prohibit the contractor from compliance with a report due date; except, that the ~~((secretary))~~ department shall establish the grounds for extension in rule ~~((and regulation))~~. Such request must be received by the department at least ten days prior to the due date.

**Sec. 4.** RCW 74.46.050 and 1985 c 361 s 5 are each amended to read as follows:

(1) If the cost report is not properly completed or if it is not received by the due date, all or part of any payments due under the contract may be withheld by the department until such time as the required cost report is properly completed and received.

(2) The department may impose civil fines, or take adverse rate action against contractors and former contractors who do not submit properly completed cost reports by the applicable due date. The department is authorized to adopt rules addressing fines and adverse rate actions including procedures, conditions, and the magnitude and frequency of fines.

**Sec. 5.** RCW 74.46.060 and 1985 c 361 s 6 are each amended to read as follows:

(1) Cost reports shall be prepared in a standard manner and form, as determined by the department ~~((, which shall provide for an itemized list of allowable costs and a preliminary settlement report))~~. Costs reported shall be determined in accordance with generally accepted accounting principles, the provisions of this chapter, and such additional rules ~~((and regulations as are))~~ established by the ~~((secretary))~~ department. In the event of conflict, rules adopted and instructions issued by the department take precedence over generally accepted accounting principles.

(2) The records shall be maintained on the accrual method of accounting and agree with or be reconcilable to the cost report. All revenue and expense accruals shall be reversed against the appropriate accounts unless they are received or paid, respectively, within one hundred twenty days after the accrual is made. However, if the contractor can document a good faith billing dispute with the supplier or vendor, the period may be extended, but only for those portions of billings subject to good faith dispute. Accruals for vacation, holiday, sick pay, payroll, and real estate taxes may be carried for longer periods, provided the contractor follows generally accepted accounting principles and pays this type of accrual when due.



**Sec. 6.** RCW 74.46.080 and 1985 c 361 s 7 are each amended to read as follows:

(1) All records supporting the required cost reports, as well as trust funds established by RCW 74.46.700, shall be retained by the contractor for a period of four years following the filing of such reports at a location in the state of Washington specified by the contractor. ~~((All records supporting the cost reports and financial statements filed with the department before May 20, 1985, shall be retained by the contractor for four years following their filing.))~~

(2) The department may direct supporting records to be retained for a longer period if there remain unresolved questions on the cost reports. All such records shall be made available upon demand to authorized representatives of the department, the office of the state auditor, and the United States department of health and human services.

~~((2))~~ (3) When a contract is terminated or assigned, all payments due the terminating or assigning contractor will be withheld until accessibility and preservation of the records within the state of Washington are assured.

**Sec. 7.** RCW 74.46.090 and 1985 c 361 s 8 are each amended to read as follows:

The department will retain the required cost reports for a period of one year after final settlement or reconciliation, or the period required under chapter 40.14 RCW, whichever is longer. Resident assessment information and records shall be retained as provided elsewhere in statute or by department rule.

**Sec. 8.** RCW 74.46.100 and 1985 c 361 s 9 are each amended to read as follows:

~~((The principles inherent within RCW 74.46.105 and 74.46.130 are))~~ (1) The purposes of department audits under this chapter are to ascertain, through department audit of the financial and statistical records of the contractor's nursing facility operation, that:

~~((1) To ascertain, through department audit, that the))~~ (a) Allowable costs for each year for each medicaid nursing facility are accurately reported~~((, thereby providing a valid basis for future rate determination));~~

~~((2) To ascertain, through department audits of the cost reports, that))~~ (b) Cost reports ~~((properly))~~ accurately reflect the true financial condition, revenues, expenditures, equity, beneficial ownership, related party status, and records of the contractor~~((, particularly as they pertain to related organizations and beneficial ownership, thereby providing a valid basis for the determination of return as specified by this chapter));~~

~~((3) To ascertain, through department audit that compliance with the accounting and auditing provisions of this chapter and the rules and regulations of the department as they pertain to these accounting and auditing provisions is proper and consistent))~~ (c) The contractor's revenues, expenditures, and costs of the building, land, land improvements, building improvements, and movable and fixed equipment are recorded in compliance with department requirements, instructions, and generally accepted accounting principles; and

~~((4) To ascertain, through department audits, that))~~ (d) The responsibility of the contractor has been met in the maintenance and disbursement of patient trust funds.

(2) The department shall examine the submitted cost report, or a portion thereof, of each contractor for each nursing facility for each report period to determine if the information is correct, complete, reported in conformance with department instructions and generally accepted accounting principles, the requirements of this chapter, and rules as the department may adopt. The department shall determine the scope of the examination.

(3) If the examination finds that the cost report is incorrect or incomplete, the department may make adjustments to the reported information for purposes of establishing component rate allocations or in determining amounts to be recovered in direct care, therapy care, and support services under section 10 (3) and (4) of this act or in any component rate resulting from undocumented or misreported costs. A schedule of the adjustments shall be provided to the contractor, including dollar amount and explanations for the adjustments. Adjustments shall be subject to review if desired by the contractor under the appeals or exception procedure established by the department.

(4) Examinations of resident trust funds and receivables shall be reported separately and in accordance with the provisions of this chapter and rules adopted by the department.

(5) The contractor shall:

(a) Provide access to the nursing facility, all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds. To ensure accuracy, the department may require the contractor to submit for departmental review any underlying financial statements or other records, including income tax returns, relating to the cost report directly or indirectly;

(b) Prepare a reconciliation of the cost report with (i) applicable federal income and federal and state payroll tax returns; and (ii) the records for the period covered by the cost report;

(c) Make available to the department's auditor an individual or individuals to respond to questions and requests for information from the auditor. The designated individual or individuals shall have sufficient knowledge of the issues, operations, or functions to provide accurate and reliable information.

(6) If an examination discloses material discrepancies, undocumented costs, or mishandling of resident trust funds, the department may open or reopen one or both of the two preceding cost report or resident trust fund periods, whether examined or unexamined, for indication of similar discrepancies, undocumented costs, or mishandling of resident trust funds.

(7) Any assets, liabilities, revenues, or expenses reported as allowable that are not supported by adequate documentation in the contractor's records shall be disallowed. Documentation must show both that costs reported were incurred during the period covered by the report and were related to resident care, and that assets reported were used in the provision of resident care.

(8) When access is required at the facility or at another location in the state, the department shall notify a contractor of its intent to examine all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds.

(9) The department is authorized to assess civil fines and take adverse rate action if a contractor, or any of its employees, does not allow access to the contractor's nursing facility records.

(10) Part B of this chapter, and rules adopted by the department pursuant thereto prior to January 1, 1998, shall continue to govern the medicaid nursing facility audit process for periods prior to January 1, 1997, as if these statutes and rules remained in full force and effect.

**NEW SECTION. Sec. 9.** (1) The department shall reconcile medicaid resident days to billed days and medicaid payments for each medicaid nursing facility for the preceding calendar year, or for that portion of the calendar year the provider's contract was in effect.

(2) The contractor shall make any payment owed the department, determined by the process of reconciliation, by the process of settlement at the lower of cost or rate in direct care, therapy care, and support services component rate allocations, as authorized in this chapter, within sixty days after notification and demand for payment is sent to the contractor.

(3) The department shall make any payment due the contractor within sixty days after it determines the underpayment exists and notification is sent to the contractor.

(4) Interest at the rate of one percent per month accrues against the department or the contractor on an unpaid balance existing sixty days after notification is sent to the contractor. Accrued interest shall be adjusted back to the date it began to accrue if the payment obligation is subsequently revised after administrative or judicial review.

(5) The department is authorized to withhold funds from the contractor's payment for services, and to take all other actions authorized by law, to recover amounts due and payable from the contractor, including any accrued interest. Neither a timely filed request to pursue any administrative appeals or exception procedure that the department may establish in rule, nor commencement of judicial review as may be available to the contractor in law, to contest a payment obligation determination shall delay recovery from the contractor or payment to the contractor.

**NEW SECTION. Sec. 10.** (1) Contractors shall be required to submit with each annual nursing facility cost report a proposed settlement report showing underspending or overspending in each component rate during the cost report year on a per-resident day basis. The department shall accept or reject the proposed settlement report, explain any adjustments, and issue a revised settlement report if needed.

(2) Contractors shall not be required to refund payments made in the operations, property, and return on investment component rates in excess of the adjusted costs of providing services corresponding to these components.

(3) The facility will return to the department any overpayment amounts in each of the direct care, therapy care, and support services rate components that the department identifies following the audit and settlement procedures as described in this chapter, provided that the contractor may retain any overpayment that does not exceed 1.0% of the facility's direct care, therapy care, and support services component rate. However, no overpayments may be retained in a cost center to which savings have been shifted to cover a deficit, as provided in subsection (4) of this section. Facilities that are not in substantial compliance, as defined by federal survey regulations during the period for which settlement is being calculated, will not be allowed to retain any amount of overpayment in the facility's direct care, therapy care, and support services component rate.

(4) Determination of unused rate funds, including the amounts of direct care, therapy care, and support services to be recovered, shall be done separately for each component rate, and neither costs nor rate payments shall be shifted from one component rate or corresponding service area to another in determining the degree of underspending or recovery, if any. However, in computing a preliminary or final settlement, savings in the support services cost center may be shifted to cover a deficit in the direct care or therapy cost centers up to the amount of any savings. Not more than twenty percent of the rate in a cost center may be shifted.

(5) Total and component payment rates assigned to a nursing facility, as calculated and revised, if needed, under the provisions of this chapter and those rules as the department may adopt, shall represent the maximum payment for nursing facility services rendered to medicaid recipients for the period the rates are in effect. No increase in payment to a contractor shall result from spending above the total payment rate or in any rate component.

(6) RCW 74.46.150 through 74.46.180, and rules adopted by the department prior to the effective date of this section, shall continue to govern the medicaid settlement process for periods prior to October 1, 1998, as if these statutes and rules remained in full force and effect.

(7) For calendar year 1998, the department shall calculate split settlements covering January 1, 1998, through September 30, 1998, and October 1, 1998, through December 31, 1998. For the period beginning October 1, 1998, rules specified in this chapter shall apply. The department shall, by rule, determine the division of calendar year 1998 adjusted costs for settlement purposes.

**Sec. 11.** RCW 74.46.190 and 1995 1st sp.s. c 18 s 96 are each amended to read as follows:

(1) The substance of a transaction will prevail over its form.

(2) All documented costs which are ordinary, necessary, related to care of medical care recipients, and not expressly unallowable under this chapter or department rule, are to be allowable. Costs of providing ~~((ancillary))~~ therapy care are allowable, subject to any applicable ~~((cost center))~~ limit contained in this chapter, provided documentation establishes the costs were incurred for medical care recipients and other sources of payment to which recipients may be legally entitled, such as private insurance or medicare, were first fully utilized.

(3) ~~((Costs applicable to services, facilities, and supplies furnished to the provider by related organizations are allowable but at the cost to the related organization, provided they do not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.~~

~~(4) Beginning January 1, 1985,))~~ The payment for property usage is to be independent of ownership structure and financing arrangements.

~~((5) Beginning July 1, 1995,))~~ (4) Allowable costs shall not include costs reported by a ~~((nursing care provider))~~ contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the nursing facility in the period to be covered by the rate.

(5) Any costs deemed allowable under this chapter are subject to the provisions of section 18 of this act. The allowability of a cost shall not be construed as creating a legal right or entitlement to reimbursement of the cost.

**Sec. 12.** RCW 74.46.220 and 1980 c 177 s 22 are each amended to read as follows:

(1) Costs applicable to services, facilities, and supplies furnished by a related organization to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere.

(2) Documentation of costs to the related organization shall be made available to the ~~((auditor at the time and place the records relating to the entity are audited))~~ department. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

**Sec. 13.** RCW 74.46.230 and 1993 sp.s. c 13 s 3 are each amended to read as follows:

(1) The necessary and ordinary one-time expenses directly incident to the preparation of a newly constructed or purchased building by a contractor for operation as a licensed facility shall be allowable costs. These expenses shall be limited to start-up and organizational costs incurred prior to the admission of the first patient.

(2) Start-up costs shall include, but not be limited to, administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, and training; except, that they shall exclude expenditures for capital assets. These costs will be allowable in the ~~((administrative))~~ operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

(3) Organizational costs are those necessary, ordinary, and directly incident to the creation of a corporation or other form of business of the contractor including, but not limited to, legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation; except, that they do not include costs relating to the issuance and sale of shares of capital stock or other securities. Such organizational costs will be allowable in the ~~((administrative))~~ operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

**Sec. 14.** RCW 74.46.270 and 1983 1st ex.s. c 67 s 13 are each amended to read as follows:

(1) The contractor shall disclose to the department:

(a) The nature and purpose of all costs which represent allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) Such disclosure shall demonstrate that:

(a) The services involved are necessary and nonduplicative; and

(b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(3) Such disclosure shall be made not later than September ~~((30, 1980,))~~ 30th for the following calendar year ~~((and not later than September 30th for each year thereafter))~~; except that a new contractor shall submit the first year's disclosure ~~((together with the submissions required by RCW 74.46.670. Where a contractor will make neither a change in the joint costs to be incurred nor in the allocation methodology, the contractor may certify that no change will be made in lieu of the disclosure required in subsection (1) of this section))~~ at least sixty days prior to the date the new contract becomes effective.

(4) The department shall ~~((approve such methodology not later than))~~ by December 31st, ~~((1980, and not later than December 31st for each year thereafter))~~ for all disclosures that are complete and timely submitted, either approve or reject the disclosure. The department may request additional information or clarification.

(5) Acceptance of a disclosure or approval of a joint cost methodology by the department may not be construed as a determination that the allocated costs are allowable in whole or in part. However, joint facility costs not disclosed, allocated, and reported in conformity with this section and department rules are unallowable.

(6) An approved methodology may be revised or amended subject to approval as provided in rules and regulations adopted by the department.

**Sec. 15.** RCW 74.46.280 and 1993 sp.s. c 13 s 4 are each amended to read as follows:

(1) Management fees will be allowed only if:

(a) A written management agreement both creates a principal/agent relationship between the contractor and the manager, and sets forth the items, services, and activities to be provided by the manager; and

(b) Documentation demonstrates that the services contracted for were actually delivered.

(2) To be allowable, fees must be for necessary, nonduplicative services.

(3) A management fee paid to or for the benefit of a related organization will be allowable to the extent it does not exceed the lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement or the cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the measurement of such costs shall comply with RCW 74.46.270.

(4) A copy of the agreement must be received by the department at least sixty days before it is to become effective. A copy of any amendment to a management agreement must also be received by the department at least thirty days in advance of the date it is to become effective. Failure to meet these deadlines will result in the unallowability of cost incurred more than sixty days prior to submitting a management agreement and more than thirty days prior to submitting an amendment.

(5) The scope of services to be performed under a management agreement cannot be so extensive that the manager or managing entity is substituted for the contractor in fact, substantially relieving the contractor/licensee of responsibility for operating the facility.

**Sec. 16.** RCW 74.46.300 and 1980 c 177 s 30 are each amended to read as follows:

Rental or lease costs under arm's-length operating leases of office equipment shall be allowable to the extent the cost is necessary and ordinary. The department may adopt rules to limit the allowability of office equipment leasing expenses.

**Sec. 17.** RCW 74.46.410 and 1995 1st sp.s. c 18 s 97 are each amended to read as follows:

(1) Costs will be unallowable if they are not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of such items or services will be unallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to recipients which are covered by the department's medical care program but not included in ~~((care services))~~ the medicaid per-resident day payment rate established by the department under this chapter;

(c) Costs associated with a capital expenditure subject to section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria, or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be unallowable up to the date they are determined to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval, or exemption from the requirements for certificate of need for the replacement of existing nursing home beds, pursuant to chapter 70.38 RCW if such approval or exemption was not obtained;

(e) Interest costs other than those provided by RCW 74.46.290 on and after January 1, 1985;

(f) Salaries or other compensation of owners, officers, directors, stockholders, partners, principals, participants, and others associated with the contractor or its home office, including all board of directors' fees for any purpose, except reasonable compensation paid for service related to patient care;

(g) Costs in excess of limits or in violation of principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the ~~((cost-related reimbursement))~~ payment system set forth in this chapter;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX recipients are allowable if the debt is related to covered services, it arises from the recipient's required contribution toward the cost of care, the provider can establish that reasonable collection efforts were made, the debt was actually uncollectible when claimed as worthless, and sound business judgment established that there was no likelihood of recovery at any time in the future;

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;

(r) Fund-raising expenses, except those directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;

(u) Federal, state, and other income taxes;

- (v) Costs of special care services except where authorized by the department;
- (w) Expenses of an employee benefit not in fact made available to all employees on an equal or fair basis, for example, key-man insurance and other insurance or retirement plans ((not made available to all employees));
- (x) Expenses of profit-sharing plans;
- (y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;
- (z) Personal expenses and allowances of owners or relatives;
- (aa) All expenses of maintaining professional licenses or membership in professional organizations;
- (bb) Costs related to agreements not to compete;
- (cc) Amortization of goodwill, lease acquisition, or any other intangible asset, whether related to resident care or not, and whether recognized under generally accepted accounting principles or not;
- (dd) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;
- (ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands;
- (ff) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department;
- (gg) Lease acquisition costs ((and), goodwill, the cost of bed rights, or any other ((intangibles not related to patient care)) intangible assets;
- (hh) All rental or lease costs other than those provided in RCW 74.46.300 on and after January 1, 1985;
- (ii) Postsurvey charges incurred by the facility as a result of subsequent inspections under RCW 18.51.050 which occur beyond the first postsurvey visit during the certification survey calendar year;
- (jj) Compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensation paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period;
- (kk) For all partial or whole rate periods after July 17, 1984, costs of land and depreciable assets that cannot be reimbursed under the Deficit Reduction Act of 1984 and implementing state statutory and regulatory provisions;
- (ll) Costs reported by the contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the contractor in the period to be covered by the rate;
- (mm) Costs of outside activities, for example, costs allocated to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space;
- (nn) Travel expenses outside the states of Idaho, Oregon, and Washington and the province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing facility is allowed whether inside or outside these areas if the travel is necessary, ordinary, and related to resident care;
- (oo) Moving expenses of employees in the absence of demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the province of British Columbia;
- (pp) Depreciation in excess of four thousand dollars per year for each passenger car or other vehicle primarily used by the administrator, facility staff, or central office staff;
- (qq) Costs for temporary health care personnel from a nursing pool not registered with the secretary of the department of health;
- (rr) Payroll taxes associated with compensation in excess of allowable compensation of owners, relatives, and administrative personnel;
- (ss) Costs and fees associated with filing a petition for bankruptcy;
- (tt) All advertising or promotional costs, except reasonable costs of help wanted advertising;
- (uu) Outside consultation expenses required to meet department-required minimum data set completion proficiency;
- (vv) Interest charges assessed by any department or agency of this state for failure to make a timely refund of overpayments and interest expenses incurred for loans obtained to make the refunds;
- (ww) All home office or central office costs, whether on or off the nursing facility premises, and whether allocated or not to specific services, in excess of the median of those adjusted costs for all facilities reporting such costs for the most recent report period; and
- (xx) Tax expenses that a nursing facility has never incurred.

**NEW SECTION. Sec. 18.** A new section, to be codified as RCW 74.46.421, is added to chapter 74.46 RCW to read as follows:

- (1) The purpose of part E of this chapter is to determine nursing facility medicaid payment rates that, in the aggregate for all participating nursing facilities, are in accordance with the biennial appropriations act.
- (2)(a) The department shall use the nursing facility medicaid payment rate methodologies described in this chapter to determine initial component rate allocations for each medicaid nursing facility.

(b) The initial component rate allocations shall be subject to adjustment as provided in this section in order to assure that the state-wide average payment rate to nursing facilities is less than or equal to the state-wide average payment rate specified in the biennial appropriations act.

(3) Nothing in this chapter shall be construed as creating a legal right or entitlement to any payment that (a) has not been adjusted under this section or (b) would cause the state-wide average payment rate to exceed the state-wide average payment rate specified in the biennial appropriations act.

(4)(a) The state-wide average payment rate for any state fiscal year under the nursing facility medicaid payment system, weighted by patient days, shall not exceed the annual state-wide weighted average nursing facility payment rate identified for that fiscal year in the biennial appropriations act.

(b) If the department determines that the weighted average nursing facility payment rate calculated in accordance with this chapter is likely to exceed the weighted average nursing facility payment rate identified in the biennial appropriations act, then the department shall adjust all nursing facility payment rates proportional to the amount by which the weighted average rate allocations would otherwise exceed the budgeted rate amount. Any such adjustments shall only be made prospectively, not retrospectively, and shall be applied proportionately to each component rate allocation for each facility.

**NEW SECTION. Sec. 19.** (1) Effective October 1, 1998, nursing facility medicaid payment rate allocations shall be facility-specific and shall have six components: Direct care, therapy care, support services, operations, property, and return on investment. The department shall establish and adjust each of these components, as provided in this section and elsewhere in this chapter, for each medicaid nursing facility in this state.

(2) All component rate allocations shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. That portion of a facility's costs associated with or calculated on an occupancy lower than eighty-five percent shall be unallowable.

(3) Information and data sources used in determining medicaid payment rate allocations, including formulas, procedures, cost report periods, resident assessment instrument formats, resident assessment methodologies, and resident classification and case mix weighting methodologies, may be substituted or altered from time to time as determined by the department.

(4)(a) Direct care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, direct care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2004, direct care component rate allocations.

(b) Direct care component rate allocations based on 1996 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in section 25(5)(k) of this act.

(c) Direct care component rate allocations based on 1999 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in section 25(5)(k) of this act.

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, therapy care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2004, therapy care component rate allocations.

(b) Therapy care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, support services component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2004, support services component rate allocations.

(b) Support services component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, operations component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2004, operations component rate allocations.

(b) Operations component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(8) For July 1, 1998, through September 30, 1998, a facility's property and return on investment component rates shall be the facility's June 30, 1998, property and return on investment component rates, without increase. For October 1, 1998, through June 30, 1999, a facility's property and return on investment component rates shall be rebased utilizing 1997 adjusted cost report data covering at least six months of data.

(9) Total payment rates under the nursing facility medicaid payment system shall not exceed facility rates charged to the general public for comparable services.

(10) Medicaid contractors shall pay to all facility staff a minimum wage of the greater of five dollars and fifteen cents per hour or the federal minimum wage.

(11) The department shall establish in rule procedures, principles, and conditions for determining component rate allocations for facilities in circumstances not directly addressed by this chapter, including but not limited to: The need to prorate inflation for partial-period cost report data, newly constructed facilities, existing facilities entering the medicaid program for the first time or after a period of absence from the program, existing facilities with expanded new bed capacity, existing medicaid facilities following a change of ownership of the nursing facility business, facilities banking beds or converting beds back into service, facilities having less than six months of either resident assessment, cost report data, or both, under the current contractor prior to rate setting, and other circumstances.

(12) The department shall establish in rule procedures, principles, and conditions, including necessary threshold costs, for adjusting rates to reflect capital improvements or new requirements imposed by the department or the federal government. Any such rate adjustments are subject to the provisions of section 18 of this act.

**NEW SECTION. Sec. 20.** The department shall disclose to any member of the public all rate-setting information consistent with requirements of state and federal laws.

**Sec. 21.** RCW 74.46.475 and 1985 c 361 s 13 are each amended to read as follows:

(1) The department shall analyze the submitted cost report or a portion thereof of each contractor for each report period to determine if the information is correct, complete, ~~(and)~~ reported in conformance with department instructions and generally accepted accounting principles, the requirements of this chapter, and such rules ~~((and regulations))~~ as the ~~((secretary))~~ department may adopt. If the analysis finds that the cost report is incorrect or incomplete, the department may make adjustments to the reported information for purposes of establishing ~~((reimbursement))~~ payment rate(s) allocations. A schedule of such adjustments shall be provided to contractors and shall include an explanation for the adjustment and the dollar amount of the adjustment. Adjustments shall be subject to review and appeal as provided in this chapter.

(2) The department shall accumulate data from properly completed cost reports, in addition to assessment data on each facility's resident population characteristics, for use in:

- (a) Exception profiling; and
- (b) Establishing rates.

(3) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as necessary.

**NEW SECTION. Sec. 22.** (1) The department shall employ the resource utilization group III case mix classification methodology. The department shall use the forty-four group index maximizing model for the resource utilization group III grouper version 5.10, but the department may revise or update the classification methodology to reflect advances or refinements in resident assessment or classification, subject to federal requirements.

(2) A default case mix group shall be established for cases in which the resident dies or is discharged for any purpose prior to completion of the resident's initial assessment. The default case mix group and case mix weight for these cases shall be designated by the department.

(3) A default case mix group may also be established for cases in which there is an untimely assessment for the resident. The default case mix group and case mix weight for these cases shall be designated by the department.

**NEW SECTION. Sec. 23.** (1) Each case mix classification group shall be assigned a case mix weight. The case mix weight for each resident of a nursing facility for each calendar quarter shall be based on data from resident assessment instruments completed for the resident and weighted by the number of days the resident was in each case mix classification group. Days shall be counted as provided in this section.

(2) The case mix weights shall be based on the average minutes per registered nurse, licensed practical nurse, and certified nurse aide, for each case mix group, and using the health care financing administration of the United States department of health and human services 1995 nursing facility staff time measurement study stemming from its multistate nursing home case mix and quality demonstration project. Those minutes shall be weighted by state-wide ratios of registered nurse to certified nurse aide, and licensed practical nurse to certified nurse aide, wages, including salaries and benefits, which shall be based on 1995 cost report data for this state.

(3) The case mix weights shall be determined as follows:

(a) Set the certified nurse aide wage weight at 1.000 and calculate wage weights for registered nurse and licensed practical nurse average wages by dividing the certified nurse aide average wage into the registered nurse average wage and licensed practical nurse average wage;

(b) Calculate the total weighted minutes for each case mix group in the resource utilization group III classification system by multiplying the wage weight for each worker classification by the average number of minutes that classification of worker spends caring for a resident in that resource utilization group III classification group, and summing the products;

(c) Assign a case mix weight of 1.000 to the resource utilization group III classification group with the lowest total weighted minutes and calculate case mix weights by dividing the lowest group's total weighted minutes into each group's total weighted minutes and rounding weight calculations to the third decimal place.

(4) The case mix weights in this state may be revised if the health care financing administration updates its nursing facility staff time measurement studies. The case mix weights shall be revised, but only when direct care component rates are cost-rebased as provided in subsection (5) of this section, to be effective on the July 1st effective date of each cost-rebased direct care component rate. However, the department may revise case mix weights more frequently if, and only if, significant variances in wage ratios occur among direct care staff in the different caregiver classifications identified in this section.

(5) Case mix weights shall be revised when direct care component rates are cost-rebased every three years as provided in section 19(4)(a) of this act.

**NEW SECTION. Sec. 24.** (1) From individual case mix weights for the applicable quarter, the department shall determine two average case mix indexes for each medicaid nursing facility, one for all residents in the facility, known as the facility average case mix index, and one for medicaid residents, known as the medicaid average case mix index.

(2)(a) In calculating a facility's two average case mix indexes for each quarter, the department shall include all residents or medicaid residents, as applicable, who were physically in the facility during the quarter in question (January 1st through March 31st, April 1st through June 30th, July 1st through September 30th, or October 1st through December 31st).

(b) The facility average case mix index shall exclude all default cases as defined in this chapter. However, the medicaid average case mix index shall include all default cases.

(3) Both the facility average and the medicaid average case mix indexes shall be determined by multiplying the case mix weight of each resident, or each medicaid resident, as applicable, by the number of days, as defined in this section and as applicable, the resident was at each particular case mix classification or group, and then averaging.

(4)(a) In determining the number of days a resident is classified into a particular case mix group, the department shall determine a start date for calculating case mix grouping periods as follows:

(i) If a resident's initial assessment for a first stay or a return stay in the nursing facility is timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the later of either the first day of the quarter or the resident's facility admission or readmission date;

(ii) If a resident's significant change, quarterly, or annual assessment is timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the date the assessment is completed;

(iii) If a resident's significant change, quarterly, or annual assessment is not timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the due date for the assessment.

(b) If state or federal rules require more frequent assessment, the same principles for determining the start date of a resident's classification in a particular case mix group set forth in subsection (4)(a) of this section shall apply.

(c) In calculating the number of days a resident is classified into a particular case mix group, the department shall determine an end date for calculating case mix grouping periods as follows:

(i) If a resident is discharged before the end of the applicable quarter, the end date shall be the day before discharge;

(ii) If a resident is not discharged before the end of the applicable quarter, the end date shall be the last day of the quarter;

(iii) If a new assessment is due for a resident or a new assessment is completed and transmitted to the department, the end date of the previous assessment shall be the earlier of either the day before the assessment is due or the day before the assessment is completed by the nursing facility.

(5) The cutoff date for the department to use resident assessment data, for the purposes of calculating both the facility average and the medicaid average case mix indexes, and for establishing and updating a facility's direct care component rate, shall be one month and one day after the end of the quarter for which the resident assessment data applies.

(6) A threshold of ninety percent, as described and calculated in this subsection, shall be used to determine the case mix index each quarter. The threshold shall also be used to determine which facilities' costs per case mix unit are included in determining the ceiling, floor, and price. If the facility does not meet the ninety percent threshold, the department may use an alternate case mix index to determine the facility average and medicaid average case mix indexes for the quarter. The threshold is a count of unique minimum data set assessments, and it shall include resident assessment instrument tracking forms for residents discharged prior to completing an initial assessment. The threshold is calculated by dividing the count of unique minimum data set assessments by the average census for each facility. A daily census shall be reported by each nursing facility as it transmits assessment data to the department. The department shall compute a quarterly average census based on the daily census. If no census has been reported by a facility during a specified quarter, then the department shall use the facility's licensed beds as the denominator in computing the threshold.

(7)(a) Although the facility average and the medicaid average case mix indexes shall both be calculated quarterly, the facility average case mix index will be used only every three years in combination with cost report data as specified by sections 19 and 25 of this act, to establish a facility's allowable cost per case mix unit. A facility's medicaid average case mix index shall be used to update a nursing facility's direct care component rate quarterly.



(b) The facility average case mix index used to establish each nursing facility's direct care component rate shall be based on an average of calendar quarters of the facility's average case mix indexes.

(i) For October 1, 1998, direct care component rates, the department shall use an average of facility average case mix indexes from the four calendar quarters of 1997.

(ii) For July 1, 2001, direct care component rates, the department shall use an average of facility average case mix indexes from the four calendar quarters of 1999.

(c) The medicaid average case mix index used to update or recalibrate a nursing facility's direct care component rate quarterly shall be from the calendar quarter commencing six months prior to the effective date of the quarterly rate. For example, October 1, 1998, through December 31, 1998, direct care component rates shall utilize case mix averages from the April 1, 1998, through June 30, 1998, calendar quarter, and so forth.

**NEW SECTION. Sec. 25.** (1) The direct care component rate allocation corresponds to the provision of nursing care for one resident of a nursing facility for one day, including direct care supplies. Therapy services and supplies, which correspond to the therapy care component rate, shall be excluded. The direct care component rate includes elements of case mix determined consistent with the principles of this section and other applicable provisions of this chapter.

(2) Beginning October 1, 1998, the department shall determine and update quarterly for each nursing facility serving medicaid residents a facility-specific per-resident day direct care component rate allocation, to be effective on the first day of each calendar quarter. In determining direct care component rates the department shall utilize, as specified in this section, minimum data set resident assessment data for each resident of the facility, as transmitted to, and if necessary corrected by, the department in the resident assessment instrument format approved by federal authorities for use in this state.

(3) The department may question the accuracy of assessment data for any resident and utilize corrected or substitute information, however derived, in determining direct care component rates. The department is authorized to impose civil fines and to take adverse rate actions against a contractor, as specified by the department in rule, in order to obtain compliance with resident assessment and data transmission requirements and to ensure accuracy.

(4) Cost report data used in setting direct care component rate allocations shall be 1996 and 1999, for rate periods as specified in section 19(4)(a) of this act.

(5) Beginning October 1, 1998, the department shall rebase each nursing facility's direct care component rate allocation as described in section 19 of this act, adjust its direct care component rate allocation for economic trends and conditions as described in section 19 of this act, and update its medicaid average case mix index, consistent with the following:

(a) Reduce total direct care costs reported by each nursing facility for the applicable cost report period specified in section 19(4)(a) of this act to reflect any department adjustments, and to eliminate reported resident therapy costs and adjustments, in order to derive the facility's total allowable direct care cost;

(b) Divide each facility's total allowable direct care cost by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy of eighty-five percent; that is, the greater of actual or imputed occupancy at eighty-five percent of licensed beds, to derive the facility's allowable direct care cost per resident day;

(c) Adjust the facility's per resident day direct care cost by the applicable factor specified in section 19(4) (b) and (c) of this act to derive its adjusted allowable direct care cost per resident day;

(d) Divide each facility's adjusted allowable direct care cost per resident day by the facility average case mix index for the applicable quarters specified by section 24(7)(b) of this act to derive the facility's allowable direct care cost per case mix unit;

(e) Divide nursing facilities into two peer groups: Those located in metropolitan statistical areas as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government, and those not located in a metropolitan statistical area;

(f) Array separately the allowable direct care cost per case mix unit for all metropolitan statistical area and for all nonmetropolitan statistical area facilities, and determine the median allowable direct care cost per case mix unit for each peer group;

(g) Except as provided in (k) of this subsection, from October 1, 1998, through June 30, 2000, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than eighty-five percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to eighty-five percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred fifteen percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred fifteen percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(iii) Any facility whose allowable cost per case mix unit is between eighty-five and one hundred fifteen percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(h) Except as provided in (k) of this subsection, from July 1, 2000, through June 30, 2002, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than ninety percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to ninety percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred ten percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred ten percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(iii) Any facility whose allowable cost per case mix unit is between ninety and one hundred ten percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(i) From July 1, 2002, through June 30, 2004, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than ninety-five percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to ninety-five percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred five percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred five percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(iii) Any facility whose allowable cost per case mix unit is between ninety-five and one hundred five percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(j) Beginning July 1, 2004, determine each facility's quarterly direct care component rate by multiplying the facility's allowable direct care cost per case mix unit by that facility's medicaid average case mix index from the applicable quarter as specified in section 24(7)(c) of this act.

(k)(i) Between October 1, 1998, and June 30, 2000, the department shall compare each facility's direct care component rate allocation calculated under (g) of this subsection with the facility's nursing services component rate in effect on June 30, 1998, less therapy costs, plus any exceptional care offsets as reported on the cost report, adjusted for economic trends and conditions as provided in section 19 of this act. A facility shall receive the higher of the two rates;

(ii) Between July 1, 2000, and June 30, 2002, the department shall compare each facility's direct care component rate allocation calculated under (h) of this subsection with the facility's direct care component rate in effect on June 30, 2000. A facility shall receive the higher of the two rates.

(6) The direct care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 26.** (1) The therapy care component rate allocation corresponds to the provision of medicaid one-on-one therapy provided by a qualified therapist as defined in this chapter, including therapy supplies and therapy consultation, for one day for one medicaid resident of a nursing facility. The therapy care component rate allocation for October 1, 1998, through June 30, 2001, shall be based on adjusted therapy costs and days from calendar year 1996. The therapy component rate allocation for July 1, 2001, through June 30, 2004, shall be based on adjusted therapy costs and days from calendar year 1999. The therapy care component rate shall be adjusted for economic trends and conditions as specified in section 19(5)(b) of this act, and shall be determined in accordance with this section.

(2) In rebasing, as provided in section 19(5)(a) of this act, the department shall take from the cost reports of facilities the following reported information:

(a) Direct one-on-one therapy charges for all residents by payer including charges for supplies;

(b) The total units or modules of therapy care for all residents by type of therapy provided, for example, speech or physical. A unit or module of therapy care is considered to be fifteen minutes of one-on-one therapy provided by a qualified therapist or support personnel; and

(c) Therapy consulting expenses for all residents.

(3) The department shall determine for all residents the total cost per unit of therapy for each type of therapy by dividing the total adjusted one-on-one therapy expense for each type by the total units provided for that therapy type.

(4) The department shall divide medicaid nursing facilities in this state into two peer groups:

(a) Those facilities located within a metropolitan statistical area; and

(b) Those not located in a metropolitan statistical area.

Metropolitan statistical areas and nonmetropolitan statistical areas shall be as determined by the United States office of management and budget or other applicable federal office. The department shall array the facilities in each peer group from highest to lowest based on their total cost per unit of therapy for each therapy type. The department shall determine the median total cost per unit of therapy for each therapy type and add ten percent of median total cost per unit of therapy. The cost per unit of therapy for each therapy type at a nursing facility shall be the lesser of its cost per unit of therapy for each therapy type or the median total cost per unit plus ten percent for each therapy type for its peer group.

(5) The department shall calculate each nursing facility's therapy care component rate allocation as follows:

(a) To determine the allowable total therapy cost for each therapy type, the allowable cost per unit of therapy for each type of therapy shall be multiplied by the total therapy units for each type of therapy;

(b) The medicaid allowable one-on-one therapy expense shall be calculated taking the allowable total therapy cost for each therapy type times the medicaid percent of total therapy charges for each therapy type;

(c) The medicaid allowable one-on-one therapy expense for each therapy type shall be divided by total adjusted medicaid days to arrive at the medicaid one-on-one therapy cost per patient day for each therapy type;

(d) The medicaid one-on-one therapy cost per patient day for each therapy type shall be multiplied by total adjusted patient days for all residents to calculate the total allowable one-on-one therapy expense. The lesser of the total allowable therapy consultant expense for the therapy type or a reasonable percentage of allowable therapy consultant expense for each therapy type, as established in rule by the department, shall be added to the total allowable one-on-one therapy expense to determine the allowable therapy cost for each therapy type;

(e) The allowable therapy cost for each therapy type shall be added together, the sum of which shall be the total allowable therapy expense for the nursing facility;

(f) The total allowable therapy expense will be divided by the greater of adjusted total patient days from the cost report on which the therapy expenses were reported, or patient days at eighty-five percent occupancy of licensed beds. The outcome shall be the nursing facility's therapy care component rate allocation.

(6) The therapy care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 27.** (1) The support services component rate allocation corresponds to the provision of food, food preparation, dietary, housekeeping, and laundry services for one resident for one day.

(2) Beginning October 1, 1998, the department shall determine each medicaid nursing facility's support services component rate allocation using cost report data specified by section 19(6) of this act.

(3) To determine each facility's support services component rate allocation, the department shall:

(a) Array facilities' adjusted support services costs per adjusted resident day for each facility from facilities' cost reports from the applicable report year, for facilities located within a metropolitan statistical area, and for those not located in any metropolitan statistical area and determine the median adjusted cost for each peer group;

(b) Set each facility's support services component rate at the lower of the facility's per resident day adjusted support services costs from the applicable cost report period or the adjusted median per resident day support services cost for that facility's peer group, either metropolitan statistical area or nonmetropolitan statistical area, plus ten percent; and

(c) Adjust each facility's support services component rate for economic trends and conditions as provided in section 19(6) of this act.

(4) The support services component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 28.** (1) The operations component rate allocation corresponds to the general operation of a nursing facility for one resident for one day, including but not limited to management, administration, utilities, office supplies, accounting and bookkeeping, minor building maintenance, minor equipment repairs and replacements, and other supplies and services, exclusive of direct care, therapy care, support services, property, and return on investment.

(2) Beginning October 1, 1998, the department shall determine each medicaid nursing facility's operations component rate allocation using cost report data specified by section 19(7)(a) of this act.

(3) To determine each facility's operations component rate the department shall:

(a) Array facilities' adjusted general operations costs per adjusted resident day for each facility from facilities' cost reports from the applicable report year, for facilities located within a metropolitan statistical area and for those not located in a metropolitan statistical area and determine the median adjusted cost for each peer group;

(b) Set each facility's operations component rate at the lower of the facility's per resident day adjusted operations costs from the applicable cost report period or the adjusted median per resident day general operations cost for that facility's peer group, metropolitan statistical area or nonmetropolitan statistical area; and

(c) Adjust each facility's operations component rate for economic trends and conditions as provided in section 19(7)(b) of this act.

(4) The operations component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 29.** (1) The property component rate allocation for each facility shall be determined by dividing the sum of the reported allowable prior period actual depreciation, subject to RCW 74.46.310 through 74.46.380, adjusted for any capitalized additions or replacements approved by the department, and the retained savings from such cost center, by the greater of a facility's total resident days for the facility in the prior period or resident days as calculated on eighty-five percent facility occupancy. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the property component rate shall be adjusted to anticipated resident day level.

(2) A nursing facility's property component rate allocation shall be rebased annually, effective July 1st or October 1st as applicable, in accordance with this section and this chapter.

(3) When a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum to be established by the secretary.

(4) For the purpose of calculating a nursing facility's property component rate, if a contractor elects to bank licensed beds or to convert banked beds to active service, under chapter 70.38 RCW, the department shall use the facility's anticipated resident occupancy level subsequent to the decrease or increase in licensed bed capacity. However, in no case shall the department use less than eighty-five percent occupancy of the facility's licensed bed capacity after banking or conversion.

(5) The property component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 30.** (1) The department shall establish for each medicaid nursing facility a return on investment component rate allocation composed of two parts: A financing allowance and a variable return allowance. The financing allowance part of a facility's return on investment component rate shall be rebased annually, effective July 1st, in accordance with the provisions of this section and this chapter.

(a) The financing allowance shall be determined by multiplying the net invested funds of each facility by .10, and dividing by the greater of a nursing facility's total resident days from the most recent cost report period or resident days calculated on eighty-five percent facility occupancy. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the financing and variable return allowances shall be adjusted to the anticipated resident day level.

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in RCW 74.46.330, 74.46.350, 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets, shall be utilized, except that the capitalized cost of land upon which the facility is located and such other contiguous land which is reasonable and necessary for use in the regular course of providing resident care shall also be included. Subject to provisions and limitations contained in this chapter, for land purchased by owners or lessors before July 18, 1984, capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased after July 17, 1984, capitalized cost shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable to provide necessary information to determine net invested funds, the secretary shall have the authority to determine an amount for net invested funds based on an appraisal conducted according to RCW 74.46.360(1).

(c) In determining the variable return allowance:

(i) For the October 1, 1998, rate setting, the department, without utilizing peer groups, shall first rank all facilities in numerical order from highest to lowest according to their per resident day adjusted or audited, or both, allowable costs for nursing services, food, administration, and operational costs combined for the 1996 calendar year cost report period.

(ii) The department shall then compute the variable return allowance by multiplying the appropriate percentage amounts, which shall not be less than one percent and not greater than four percent, by the sum of the facility's nursing services, food, administrative, and operational rate components. The percentage amounts will be based on groupings of facilities according to the rankings prescribed in (c)(i) of this subsection. Those groups of facilities with lower per diem costs shall receive higher percentage amounts than those with higher per diem costs.

(d) The sum of the financing allowance and the variable return allowance shall be the return on investment rate for each facility, and shall be added to the prospective rates of each contractor as determined in sections 19 through 29 of this act.

(e) In the case of a facility that was leased by the contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement, and for which the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property component rate allocation determined according to section 29 of this act, is more than the return on investment rate determined according to (d) of this subsection, the following shall apply:

(i) The financing allowance shall be recomputed substituting the fair market value of the assets as of January 1, 1982, as determined by the department of general administration through an appraisal procedure, less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such a determination is shown to be arbitrary and capricious.

(ii) The sum of the financing allowance computed under (e)(i) of this subsection and the variable allowance shall be compared to the annualized lease payment, plus any interest and depreciation associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property component rate determined according to section 29 of this act. The lesser of the two amounts shall be called the alternate return on investment rate.

(iii) The return on investment rate determined according to (d) of this subsection or the alternate return on investment rate, whichever is greater, shall be the return on investment rate for the facility and shall be added to the prospective rates of the contractor as determined in sections 19 through 29 of this act.

(f) In the case of a facility that was leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended under a provision of the lease, the treatment provided in (e) of this subsection shall be applied, except that in the case of renewals or extensions made subsequent to April 1, 1985, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(2) For the purpose of calculating a nursing facility's return on investment component rate, if a contractor elects to bank beds or to convert banked beds to active service, under chapter 70.38 RCW, the department shall use the facility's anticipated resident occupancy level subsequent to the decrease or increase in licensed bed capacity. However, in no case shall the department use less than eighty-five percent occupancy of the facility's licensed bed capacity after banking or conversion.

(3) Each biennium the secretary shall review the adequacy of return on investment rates in relation to anticipated requirements for maintaining, reducing, or expanding nursing care capacity. The secretary shall report the results of a such review to the legislature and make recommendations for adjustments in the return on investment rates utilized in this section, if appropriate.

(4) The return or investment component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 31.** (1) The department may adjust component rates for errors or omissions made in establishing component rates and determine amounts either overpaid to the contractor or underpaid by the department.

(2) A contractor may request the department to adjust its component rates because of:

(a) An error or omission the contractor made in completing a cost report; or

(b) An alleged error or omission made by the department in determining one or more of the contractor's component rates.

(3) A request for a rate adjustment made on incorrect cost reporting must be accompanied by the amended cost report pages prepared in accordance with the department's written instructions and by a written explanation of the error or omission and the necessity for the amended cost report pages and the rate adjustment.

(4) The department shall review a contractor's request for a rate adjustment because of an alleged error or omission, even if the time period has expired in which the contractor must appeal the rate when initially issued, pursuant to rules adopted by the department under RCW 74.46.780. If the request is received after this time period, the department has the authority to correct the rate if it agrees an error or omission was committed. However, if the request is denied, the contractor shall not be entitled to any appeals or exception review procedure that the department may adopt under RCW 74.46.780.

(5) The department shall notify the contractor of the amount of the overpayment to be recovered or additional payment to be made to the contractor reflecting a rate adjustment to correct an error or omission. The recovery from the contractor of the overpayment or the additional

payment to the contractor shall be governed by the reconciliation, settlement, security, and recovery processes set forth in this chapter and by rules adopted by the department in accordance with this chapter.

(6) Component rate adjustments approved in accordance with this section are subject to the provisions of section 18 of this act.

**Sec. 32.** RCW 74.46.610 and 1983 1st ex.s. c 67 s 33 are each amended to read as follows:

(1) A contractor shall bill the department each month by completing and returning a facility billing statement as provided by the department (~~which shall include, but not be limited to:~~

~~(a) Billing by cost center;~~

~~(b) Total patient days; and~~

~~(c) Patient days for medical care recipients)).~~

The statement shall be completed and filed in accordance with rules (~~and regulations~~) established by the (~~secretary~~) department.

(2) A facility shall not bill the department for service provided to a recipient until an award letter of eligibility of such recipient under rules established under chapter 74.09 RCW has been received by the facility. However a facility may bill and shall be reimbursed for all medical care recipients referred to the facility by the department prior to the receipt of the award letter of eligibility or the denial of such eligibility.

(3) Billing shall cover the patient days of care.

**Sec. 33.** RCW 74.46.620 and 1980 c 177 s 62 are each amended to read as follows:

(1) The department will (~~reimburse~~) pay a contractor for service rendered under the facility contract and billed in accordance with RCW 74.46.610.

(2) The amount paid will be computed using the appropriate rates assigned to the contractor.

(3) For each recipient, the department will pay an amount equal to the appropriate rates, multiplied by the number of (~~patient~~) medicaid resident days each rate was in effect, less the amount the recipient is required to pay for his or her care as set forth by RCW 74.46.630.

**Sec. 34.** RCW 74.46.630 and 1980 c 177 s 63 are each amended to read as follows:

(1) The department will notify a contractor of the amount each medical care recipient is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility to collect that portion of the cost of care from the patient, and to account for any authorized reduction from his or her contribution in accordance with rules (~~and regulations~~) established by the (~~secretary~~) department.

(2) If a contractor receives documentation showing a change in the income or resources of a recipient which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the department within seventy-two hours and in a manner specified by rules (~~and regulations~~) established by the (~~secretary~~) department. If necessary, appropriate corrections will be made in the next facility statement, and a copy of documentation supporting the change will be attached. If increased funds for a recipient are received by a contractor, an amount determined by the department shall be allowed for clothing and personal and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the (~~reimbursement~~) payment rates established by the department as full compensation for all services provided under the contract, certification as specified by Title XIX, and licensure under chapter 18.51 RCW. The contractor shall not seek or accept additional compensation from or on behalf of a recipient for any or all such services.

**Sec. 35.** RCW 74.46.640 and 1995 1st sp.s. c 18 s 112 are each amended to read as follows:

(1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extension. Payments will be released as soon as a properly completed report is received;

(b) State auditors, department auditors, or authorized personnel in the course of their duties are refused access to a nursing facility or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided;

(c) A refund in connection with a (~~preliminary or final~~) settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund and any accumulated interest owed to the department as authorized by this chapter;

(d) Payment for the final sixty days of service (~~under~~) prior to termination or assignment of a contract will be held in the absence of adequate alternate security acceptable to the department pending (~~final~~) settlement of all periods when the contract is terminated or assigned; and

(e) Payment for services at any time during the contract period in the absence of adequate alternate security acceptable to the department, if a contractor's net medicaid overpayment liability for one or more nursing facilities or other debt to the department, as determined by (~~preliminary settlement, final~~) settlement, civil fines imposed by the department, third-party liabilities or other source, reaches or exceeds fifty thousand dollars, whether subject to good faith dispute or not, and for each subsequent increase in liability reaching or exceeding twenty-five thousand dollars. Payments will be released as soon as practicable after acceptable security is provided or refund to the department is made.

(2) No payment will be withheld until written notification of the suspension is provided to the contractor, stating the reason for the withholding, except that neither a timely filed request to pursue (~~the~~) any administrative appeals or exception procedure that the department

may establish(~~ed~~) by (~~the department in~~) rule nor commencement of judicial review, as may be available to the contractor in law, shall delay suspension of payment.

**Sec. 36.** RCW 74.46.650 and 1980 c 177 s 65 are each amended to read as follows:

All payments to a contractor will end no later than sixty days after any of the following occurs:

- (1) A contract (~~(expires,)~~) is terminated, assigned, or is not renewed;
- (2) A facility license is revoked; or
- (3) A facility is decertified as a Title XIX facility; except that, in situations where the (~~secretary~~) department determines that residents must remain in such facility for a longer period because of the resident's health or safety, payments for such residents shall continue.

**Sec. 37.** RCW 74.46.660 and 1992 c 215 s 1 are each amended to read as follows:

In order to participate in the (~~(prospective cost-related reimbursement)~~) nursing facility medicaid payment system established by this chapter, the person or legal (~~(organization)~~) entity responsible for operation of a facility shall:

- (1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR where required;
- (2) Hold the appropriate current license;
- (3) Hold current Title XIX certification;
- (4) Hold a current contract to provide services under this chapter;
- (5) Comply with all provisions of the contract and all (~~(application)~~) applicable regulations, including but not limited to the provisions of this chapter; and
- (6) Obtain and maintain medicare certification, under Title XVIII of the social security act, 42 U.S.C. Sec. 1395, as amended, for a portion of the facility's licensed beds. (~~(Until June 1, 1993, the department may grant exemptions from the medicare certification requirements of this subsection to nursing facilities that are making good faith efforts to obtain medicare certification.)~~)

**Sec. 38.** RCW 74.46.680 and 1985 c 361 s 2 are each amended to read as follows:

(1) On the effective date of a change of ownership the department's contract with the old owner shall be (~~(terminated)~~) automatically assigned to the new owner, unless: (a) The new owner does not desire to participate in medicaid as a nursing facility provider; (b) the department elects not to continue the contract with the new owner for good cause; or (c) the new owner elects not to accept assignment and requests certification and a new contract. The old owner shall give the department sixty days' written notice of such (~~(termination)~~) intent to change ownership and assign. When certificate of need and/or section 1122 approval is required pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR, for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need and/or section 1122 approval shall be obtained before the old owner submits a notice of (~~(termination)~~) intent to change ownership and assign.

(2) If the new owner desires to participate in the (~~(cost-related reimbursement)~~) nursing facility medicaid payment system, it shall meet the conditions specified in RCW 74.46.660 (~~(and shall submit a projected budget in accordance with RCW 74.46.670 no later than sixty days before the date of the change of ownership)~~). The facility contract with the new owner shall be effective as of the date of the change of ownership.

**Sec. 39.** RCW 74.46.690 and 1995 1st sp.s. c 18 s 113 are each amended to read as follows:

(1) When (~~(a facility contract is terminated)~~) there is a change of ownership for any reason, (~~(the old contractor shall submit)~~) final reports shall be submitted as required by RCW 74.46.040.

(2) Upon a notification of (~~(a contract termination)~~) intent to change ownership, the department shall determine by (~~(preliminary or final settlement calculations)~~) settlement or reconciliation the amount of any overpayments made to the assigning or terminating contractor, including overpayments disputed by the assigning or terminating contractor. If (~~(preliminary or final)~~) settlements are unavailable for any period up to the date of (~~(contract termination)~~) assignment or termination, the department shall make a reasonable estimate of any overpayment or underpayments for such periods. The reasonable estimate shall be based upon prior period settlements, available audit findings, the projected impact of prospective rates, and other information available to the department. The department shall also determine and add in the total of all other debts and potential debts owed to the department regardless of source, including, but not limited to, interest owed to the department as authorized by this chapter, civil fines imposed by the department, or third-party liabilities.

(3) (~~(The old)~~) For all cost reports filed after December 31, 1997, the assigning or terminating contractor shall provide security, in a form deemed adequate by the department, equal to the total amount of determined and estimated overpayments and all (~~(other)~~) debts and potential debts from any source, whether or not the overpayments are the subject of good faith dispute including but not limited to, interest owed to the department, civil fines imposed by the department, and third-party liabilities. Security shall consist of one or more of the following:

- (a) Withheld payments due the assigning or terminating contractor under the contract being assigned or terminated; (~~(or)~~)
- (b) (~~(A surety bond issued by a bonding company acceptable to the department; or~~)
- (c) An assignment of funds to the department; (~~(or~~)
- (d) Collateral acceptable to the department; or
- (e) A purchaser's) (c) The new contractor's assumption of liability for the prior contractor's (~~(overpayment)~~) debt or potential debt;

(d) An authorization to withhold payments from one or more medicaid nursing facilities that continue to be operated by the assigning or terminating contractor;

~~((f))~~ (e) A promissory note secured by a deed of trust; or

~~((g) Any combination of (a), (b), (c), (d), (e), or (f) of this subsection))~~ (f) Other collateral or security acceptable to the department.

(4) ~~((A surety bond or))~~ An assignment of funds shall:

(a) Be at least equal ~~((to))~~ to the amount ~~((of))~~ of determined or estimated ~~((overpayments, whether or not the subject of good faith dispute;))~~ debt or potential debt minus withheld payments or other security provided; and

(b) ~~((Be issued or accepted by a bonding company or financial institution licensed to transact business in Washington state;~~

~~(c) Be for a term, as determined by the department, sufficient to ensure effectiveness after final settlement and the exhaustion of any administrative appeals or exception procedure and judicial remedies, as may be available to and sought by the contractor, regarding payment, settlement, civil fine, interest assessment, or other debt issues: PROVIDED, That the bond or assignment shall initially be for a term of at least five years, and shall be forfeited if not renewed thereafter in an amount equal to any remaining combined overpayment and debt liability as determined by the department;~~

~~(d) Provide that the full amount of the bond or assignment, or both, shall be paid to the department if a properly completed final cost report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the auditor; and~~

~~(e))~~ Provide that an amount equal to any recovery the department determines is due from the contractor from ~~((settlement or from))~~ any ~~((other))~~ source of debt to the department, but not exceeding the amount of the ~~((bond and assignment))~~ assigned funds, shall be paid to the department if the contractor does not pay the ~~((refund and))~~ debt within sixty days following receipt of written demand for payment from the department to the contractor.

(5) The department shall release any payment withheld as security if alternate security is provided under subsection (3) of this section in an amount equivalent to the determined and estimated ~~((overpayments))~~ debt.

(6) If the total of withheld payments~~((, bonds,))~~ and ~~((assignments))~~ assigned funds is less than the total of determined and estimated ~~((overpayments))~~ debt, the unsecured amount of such ~~((overpayments))~~ debt shall be a debt due the state and shall become a lien against the real and personal property of the contractor from the time of filing by the department with the county auditor of the county where the contractor resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

(7) ~~((The contractor shall file))~~ A properly completed final cost report shall be filed in accordance with the requirements of ~~((this chapter))~~ RCW 74.46.040, which shall be ~~((audited))~~ examined by the department in accordance with the requirements of RCW 74.46.100. ~~((A final settlement shall be determined within ninety days following completion of the audit process, including completion of any administrative appeals or exception procedure review of the audit requested by the contractor, but not including completion of any judicial review available to and commenced by the contractor.))~~

(8) ~~((Following determination of settlement for all periods;))~~ Security held pursuant to this section shall be released to the contractor after all ~~((overpayments, erroneous payments, and))~~ debts ~~((determined in connection with final settlement, or otherwise)),~~ including accumulated interest owed the department, have been paid by the ~~((contractor))~~ old owner.

(9) If, after calculation of settlements for any periods, it is determined that overpayments exist in excess of the value of security held by the state, the department may seek recovery of these additional overpayments as provided by law.

(10) Regardless of whether a contractor intends to ~~((terminate its medicaid contracts))~~ change ownership, if a contractor's net medicaid overpayments and erroneous payments for one or more settlement periods, and for one or more nursing facilities, combined with debts due the department, reaches or exceeds a total of fifty thousand dollars, as determined by ~~((preliminary settlement, final))~~ settlement, civil fines imposed by the department, third-party liabilities or by any other source, whether such amounts are subject to good faith dispute or not, the department shall demand and obtain security equivalent to the total of such overpayments, erroneous payments, and debts and shall obtain security for each subsequent increase in liability reaching or exceeding twenty-five thousand dollars. Such security shall meet the criteria in subsections (3) and (4) of this section, except that the department shall not accept an assumption of liability. The department shall withhold all or portions of a contractor's current contract payments or impose liens, or both, if security acceptable to the department is not forthcoming. The department shall release a contractor's withheld payments or lift liens, or both, if the contractor subsequently provides security acceptable to the department. ~~((This subsection shall apply to all overpayments and erroneous payments determined by preliminary or final settlements issued on or after July 1, 1995, regardless of what payment periods the settlements may cover and shall apply to all debts owed the department from any source, including interest debts, which become due on or after July 1, 1995.))~~

(11) Notwithstanding the application of security measures authorized by this section, if the department determines that any remaining debt of the old owner is uncollectible from the old owner, the new owner is liable for the unsatisfied debt in all respects. If the new owner does not accept assignment of the contract and the contingent liability for all debt of the prior owner, a new certification survey shall be done and no payments shall be made to the new owner until the department determines the facility is in substantial compliance for the purposes of certification.

(12) Medicaid provider contracts shall only be assigned if there is a change of ownership, and with approval by the department.



**Sec. 40.** RCW 74.46.770 and 1995 1st sp.s. c 18 s 114 are each amended to read as follows:

(1) ~~((For all nursing facility medicaid payment rates effective on or after July 1, 1995, and for all settlements and audits issued on or after July 1, 1995, regardless of what periods the settlements or audits may cover.))~~ If a contractor wishes to contest the way in which a rule relating to the medicaid payment ~~((rate))~~ system was applied to the contractor by the department, it shall pursue ~~((the))~~ any appeals or exception procedure ~~((established by))~~ that the department may establish in rule authorized by RCW 74.46.780.

(2) If a contractor wishes to challenge the legal validity of a statute, rule, or contract provision or wishes to bring a challenge based in whole or in part on federal law, ~~((including but not limited to issues of procedural or substantive compliance with the federal medicaid minimum payment standard for long-term care facility services, the))~~ any appeals or exception procedure ~~((established by))~~ that the department may establish in rule may not be used for these purposes. This prohibition shall apply regardless of whether the contractor wishes to obtain a decision or ruling on an issue of validity or federal compliance or wishes only to make a record for the purpose of subsequent judicial review.

(3) If a contractor wishes to challenge the legal validity of a statute, rule, or contract provision relating to the medicaid payment rate system, or wishes to bring a challenge based in whole or in part on federal law, it must bring such action de novo in a court of proper jurisdiction as may be provided by law.

**Sec. 41.** RCW 74.46.780 and 1995 1st sp.s. c 18 s 115 are each amended to read as follows:

~~((For all nursing facility medicaid payment rates effective on or after July 1, 1995, and for all audits completed and settlements issued on or after July 1, 1995, regardless of what periods the payment rates, audits, or settlements may cover.))~~ The department shall establish in rule, consistent with federal requirements for nursing facilities participating in the medicaid program, an appeals or exception procedure that allows individual nursing care providers an opportunity to submit additional evidence and receive prompt administrative review of payment rates with respect to such issues as the department deems appropriate.

**Sec. 42.** RCW 74.46.800 and 1980 c 177 s 80 are each amended to read as follows:

(1) The department shall have authority to adopt, ~~((promulgate.))~~ amend, and rescind such administrative rules and definitions as ~~((are))~~ it deems necessary to carry out the policies and purposes of this chapter and to resolve issues and develop procedures that it deems necessary to implement, update, and improve the case mix elements of the nursing facility medicaid payment system. ~~((In addition, at least annually the department shall review changes to generally accepted accounting principles and generally accepted auditing standards as approved by the financial accounting standards board, and the American institute of certified public accountants, respectively. The department shall adopt by administrative rule those approved changes which it finds to be consistent with the policies and purposes of this chapter.))~~

(2) Nothing in this chapter shall be construed to require the department to adopt or employ any calculations, steps, tests, methodologies, alternate methodologies, indexes, formulas, mathematical or statistical models, concepts, or procedures for medicaid rate setting or payment that are not expressly called for in this chapter.

**Sec. 43.** RCW 74.46.820 and 1985 c 361 s 14 are each amended to read as follows:

(1) Cost reports and their final audit reports filed by the contractor shall be subject to public disclosure pursuant to the requirements of chapter 42.17 RCW. ~~((Notwithstanding any other provision of law, cost report schedules showing information on rental or lease of assets, the facility or corporate balance sheet, schedule of changes in financial position, statement of changes in equity fund balances, notes to financial statements, and any accompanying schedules summarizing the adjustments to a contractor's financial records, reports on review of internal control and accounting procedures, and letters of comments or recommendations relating to suggested improvements in internal control or accounting procedures which are prepared pursuant to the requirements of this chapter shall be exempt from public disclosure.~~

~~This))~~ (2) Subsection (1) of this section does not prevent a contractor from having access to its own records or from authorizing an agent or designee to have access to the contractor's records.

~~((2))~~ (3) Regardless of whether any document or report submitted to the secretary pursuant to this chapter is subject to public disclosure, copies of such documents or reports shall be provided by the secretary, upon written request, to the legislature and to state agencies or state or local law enforcement officials who have an official interest in the contents thereof.

**Sec. 44.** RCW 74.46.840 and 1983 1st ex.s. c 67 s 42 are each amended to read as follows:

If any part of this chapter ~~((and))~~ or RCW 18.51.145 ~~((and))~~ or 74.09.120 is found by an agency of the federal government to be in conflict with federal requirements ~~((which))~~ that are a prescribed condition to the receipts of federal funds to the state, the conflicting part of this chapter ~~((and))~~ or RCW 18.51.145 ~~((and))~~ or 74.09.120 is ~~((hereby))~~ declared inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter ~~((and))~~ or RCW 18.51.145 ~~((and))~~ or 74.09.120 in its application to the agencies concerned. In the event that any portion of this chapter ~~((and))~~ or RCW 18.51.145 ~~((and))~~ or 74.09.120 is found to be in conflict with federal requirements ~~((which))~~ that are a prescribed condition to the receipt of federal funds, the secretary, to the extent that the secretary finds it to be consistent with the general policies and intent of chapters 18.51, 74.09, and 74.46 RCW, may adopt such rules as to resolve a specific conflict and ~~((which))~~ that do meet minimum federal requirements. In addition, the secretary shall submit to the next regular session of the legislature a summary of the specific rule changes made and recommendations for statutory resolution of the conflict.

**Sec. 45.** RCW 74.09.120 and 1993 sp.s. c 3 s 8 are each amended to read as follows:

The department shall purchase necessary physician and dentist services by contract or "fee for service." The department shall purchase nursing home care by contract and payment for the care shall be in accordance with the provisions of chapter 74.46 RCW and rules adopted by the department under the authority of RCW 74.46.800. (~~(The department shall establish regulations for reasonable nursing home accounting and reimbursement systems which shall provide that)~~) No payment shall be made to a nursing home which does not permit inspection by the department of social and health services of every part of its premises and an examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the department deems relevant to the (~~(establishment of such a system)~~) regulation of nursing home operations, enforcement of standards for resident care, and payment for nursing home services.

The department may purchase nursing home care by contract in veterans' homes operated by the state department of veterans affairs(~~(The department shall establish rules for reasonable accounting and reimbursement systems for such care)~~) and payment for the care shall be in accordance with the provisions of chapter 74.46 RCW and rules adopted by the department under the authority of RCW 74.46.800.

The department may purchase care in institutions for the mentally retarded, also known as intermediate care facilities for the mentally retarded. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for the mentally retarded include licensed nursing homes, public institutions, licensed boarding homes with fifteen beds or less, and hospital facilities certified as intermediate care facilities for the mentally retarded under the federal medicaid program to provide health, habilitative, or rehabilitative services and twenty-four hour supervision for mentally retarded individuals or persons with related conditions and includes in the program "active treatment" as federally defined.

The department may purchase care in institutions for mental diseases by contract. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for mental diseases are certified under the federal medicaid program and primarily engaged in providing diagnosis, treatment, or care to persons with mental diseases, including medical attention, nursing care, and related services.

The department may purchase all other services provided under this chapter by contract or at rates established by the department.

**NEW SECTION. Sec. 46.** (1) Payment for direct care at the pilot nursing facility in King county designed to meet the service needs of residents living with AIDS, as defined in RCW 70.24.017, and as specifically authorized for this purpose under chapter 9, Laws of 1989 1st ex. sess., shall be exempt from case mix methods of rate determination set forth in this chapter and shall be exempt from the direct care metropolitan statistical area peer group cost limitation set forth in this chapter.

(2) Direct care component rates at the AIDS pilot facility shall be based on direct care reported costs at the pilot facility, utilizing the same three-year, rate-setting cycle prescribed for other nursing facilities, and as supported by a staffing benchmark based upon a department-approved acuity measurement system.

(3) The provisions of section 18 of this act and all other rate-setting principles, cost lids, and limits, including settlement as provided in section 10 of this act shall apply to the AIDS pilot facility.

(4) This section applies only to the AIDS pilot nursing facility.

**NEW SECTION. Sec. 47.** (1) By December 1, 1998, the department of social and health services shall study and provide recommendations to the chairs of the house of representatives appropriations and health care committees, and the senate ways and means and health and long-term care committees, concerning options for changing the method for paying facilities for capital and property related expenses.

(2) The department of social and health services shall contract with an independent and recognized organization to study and evaluate the impacts of chapter 74.46 RCW implementation on access, quality of care, quality of life for nursing facility residents, and the wage and benefit levels of all nursing facility employees. The department shall require, and the contractor shall submit, a report with the results of this study and evaluation, including their findings, to the governor and legislature by December 1, 2001.

(3) The department of social and health services shall study and, as needed, specify additional case mix groups and appropriate case mix weights to reflect the resource utilization of residents whose care needs are not adequately identified or reflected in the resource utilization group III grouper version 5.10. At a minimum, the department shall study the adequacy of the resource utilization group III grouper version 5.10, including the minimum data set, for capturing the care and resource utilization needs of residents with AIDS, residents with traumatic brain injury, and residents who are behaviorally challenged. The department shall report its findings to the chairs of the house of representatives health care committee and the senate health and long-term care committee by December 12, 2002.

(4) By December 12, 2002, the department of social and health services shall report to the legislature and provide an evaluation of the fiscal impact of rebasing future payments at different intervals, including the impact of averaging two years' cost data as the basis for rebasing. This report shall include the fiscal impact to the state and the fiscal impact to nursing facility providers.

**NEW SECTION. Sec. 48.** By December 12, 1998, the department of social and health services shall study and provide recommendation to appropriate committees of the legislature on the appropriateness of extending case-mix reimbursement to home and community services providers, as defined in chapter 74.39A RCW. The department shall invite stakeholders to participate in this study.

**Sec. 49.** RCW 72.36.030 and 1993 sp.s. c 3 s 5 are each amended to read as follows:

All of the following persons who have been actual bona fide residents of this state at the time of their application, and who are indigent and unable to support themselves and their families may be admitted to a state veterans' home under rules as may be adopted by the director of the department, unless sufficient facilities and resources are not available to accommodate these people:

(1)(a) All honorably discharged veterans of a branch of the armed forces of the United States or merchant marines; (b) members of the state militia disabled while in the line of duty; ~~((and))~~ (c) Filipino World War II veterans who swore an oath to American authority and who participated in military engagements with American soldiers; and (d) the spouses of these veterans, merchant marines, and members of the state militia. However, it is required that the spouse was married to and living with the veteran three years prior to the date of application for admittance, or, if married to him or her since that date, was also a resident of a state veterans' home in this state or entitled to admission thereto;

(2)(a) The spouses of: (i) All honorably discharged veterans of the United States armed forces; (ii) merchant marines; and (iii) members of the state militia who were disabled while in the line of duty and who were residents of a state veterans' home in this state or were entitled to admission to one of this state's state veteran homes at the time of death; (b) the spouses of: (i) All honorably discharged veterans of a branch of the United States armed forces; (ii) merchant marines; and (iii) members of the state militia who would have been entitled to admission to one of this state's state veterans' homes at the time of death, but for the fact that the spouse was not indigent, but has since become indigent and unable to support himself or herself and his or her family. However, the included spouse shall be at least fifty years old and have been married to and living with their husband or wife for three years prior to the date of their application. The included spouse shall not have been married since the death of his or her husband or wife to a person who is not a resident of one of this state's state veterans' homes or entitled to admission to one of this state's state veterans' homes; and

(3) All applicants for admission to a state veterans' home shall apply for all federal and state benefits for which they may be eligible, including medical assistance under chapter 74.09 RCW.

NEW SECTION. Sec. 50. A new section is added to chapter 70.38 RCW to read as follows:

(1) A change in bed capacity at a residential hospice care center shall not be subject to certificate of need review under this chapter if the department determined prior to June 1994 that the construction, development, or other establishment of the residential hospice care center was not subject to certificate of need review under this chapter.

(2) For purposes of this section, a "residential hospice care center" means any building, facility, place, or equivalent that opened in December 1996 and is organized, maintained, and operated specifically to provide beds, accommodations, facilities, and services over a continuous period of twenty-four hours or more for palliative care of two or more individuals, not related to the operator, who are diagnosed as being in the latter stages of an advanced disease that is expected to lead to death.

NEW SECTION. Sec. 51. (1) A facility's nursing services, food, administrative, and operational component rates, existing on June 30, 1998, weighted by medicaid resident days, and adjusted by a factor specified in the biennial appropriations act, shall be the facility's nursing services, food, administrative, and operational component rates for the period July 1, 1998, through September 30, 1998.

(2) A facility's return on investment and property component rates existing on June 30, 1998, or as subsequently adjusted or revised, shall be the facility's return on investment and property component rates for the period July 1, 1998, through September 30, 1998, with no increase for the period July 1, 1998, through September 30, 1998.

NEW SECTION. Sec. 52. The following acts or parts of acts are each repealed:

(1) RCW 74.46.105 and 1995 1st sp.s. c 18 s 91, 1985 c 361 s 10, & 1983 1st ex.s. c 67 s 5;

(2) RCW 74.46.115 and 1995 1st sp.s. c 18 s 92 & 1983 1st ex.s. c 67 s 6;

(3) RCW 74.46.130 and 1985 c 361 s 11, 1983 1st ex.s. c 67 s 7, & 1980 c 177 s 13;

(4) RCW 74.46.150 and 1983 1st ex.s. c 67 s 8 & 1980 c 177 s 15;

(5) RCW 74.46.160 and 1995 1st sp.s. c 18 s 93, 1985 c 361 s 12, 1983 1st ex.s. c 67 s 9, & 1980 c 177 s 16;

(6) RCW 74.46.170 and 1995 1st sp.s. c 18 s 94, 1983 1st ex.s. c 67 s 10, & 1980 c 177 s 17;

(7) RCW 74.46.180 and 1995 1st sp.s. c 18 s 95 & 1993 sp.s. c 13 s 2;

(8) RCW 74.46.210 and 1991 sp.s. c 8 s 14 & 1980 c 177 s 21; and

(9) RCW 74.46.670 and 1983 1st ex.s. c 67 s 35 & 1980 c 177 s 67.

NEW SECTION. Sec. 53. RCW 74.46.595 and 1995 1st sp.s. c 18 s 98 are each repealed effective July 2, 1998.

NEW SECTION. Sec. 54. The following acts or parts of acts are each repealed, effective June 30, 1999:

(1) 1998 c . . . s 29 (section 29 of this act) (uncodified); and

(2) 1998 c . . . s 30 (section 30 of this act) (uncodified).

NEW SECTION. Sec. 55. Sections 1 through 37, 40 through 49, and 52 through 54 of this act take effect July 1, 1998.

NEW SECTION. Sec. 56. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 57. (1) Sections 9, 10, 19, 20, 22 through 28, 31, and 46 of this act are each added to chapter 74.46 RCW.

(2) Sections 19, 20, 22 through 28, and 31 of this act shall be codified in part E of chapter 74.46 RCW.

NEW SECTION. Sec. 58. Section 51 of this act takes effect July 1, 1998, and expires October 1, 1998.

NEW SECTION. Sec. 59. Sections 38 and 39 of this act take effect October 1, 1998."

The President declared the question before the Senate to be the motion by Senator West that the Committee on Ways and Means striking amendment to Engrossed Second Substitute House Bill No. 2935 not be adopted.

The motion by Senator West carried and the striking committee amendment was not adopted.

## MOTION

Senator West moved that the following amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.46.010 and 1980 c 177 s 1 are each amended to read as follows:

This chapter may be known and cited as the "nursing ((Homes Auditing and Cost Reimbursement Act of 1980)) facility medicaid payment system."

The purposes of this chapter are to specify the manner by which legislative appropriations for medicaid nursing facility services are to be allocated as payment rates among nursing facilities, and to set forth auditing, billing, and other administrative standards associated with payments to nursing home facilities.

**Sec. 2.** RCW 74.46.020 and 1995 1st sp.s. c 18 s 90 are each amended to read as follows:

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

(1) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

~~(2) ("Ancillary care" means those services required by the individual, comprehensive plan of care provided by qualified therapists.~~

~~(3))~~ (3) "Appraisal" means the process of estimating the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by a professionally designated real estate appraiser with no pecuniary interest in the property to be appraised. It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

~~((4))~~ (3) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

~~((5))~~ (4) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

~~((6))~~ (5) "Audit" or "department audit" means an examination of the records of a nursing facility participating in the medicaid payment system, including but not limited to: The contractor's financial and statistical records, cost reports and all supporting documentation and schedules, receivables, and resident trust funds, to be performed as deemed necessary by the department and according to department rule.

(6) "Bad debts" means amounts considered to be uncollectible from accounts and notes receivable.

~~(7) ("Beds" means the number of set up beds in the facility, not to exceed the number of licensed beds.~~

~~(8))~~ "Beneficial owner" means:

(a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;

(c) Any person who, subject to ~~((subparagraph))~~ (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

except that, any person who acquires an ownership interest or power specified in ~~((subparagraphs))~~ (c)(i), (ii), or (iii) of this ~~((subparagraph (c)))~~ subsection with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power;

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to

declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(i) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in ~~((subparagraph))~~ (b) of this subsection; and

(ii) The pledgee agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

~~((9))~~ (8) "Capitalization" means the recording of an expenditure as an asset.

~~((10))~~ (9) "Case mix" means a measure of the intensity of care and services needed by the residents of a nursing facility or a group of residents in the facility.

(10) "Case mix index" means a number representing the average case mix of a nursing facility.

(11) "Case mix weight" means a numeric score that identifies the relative resources used by a particular group of a nursing facility's residents.

(12) "Contractor" means ~~((an))~~ a person or entity ~~((which contracts))~~ licensed under chapter 18.51 RCW to operate a medicare and medicaid certified nursing facility, responsible for operational decisions, and contracting with the department to provide services to ~~((medical care))~~ medicaid recipients residing in ~~((a))~~ the facility ~~((and which entity is responsible for operational decisions))~~.

~~((14))~~ (13) "Default case" means no initial assessment has been completed for a resident and transmitted to the department by the cut-off date, or an assessment is otherwise past due for the resident, under state and federal requirements.

(14) "Department" means the department of social and health services (DSHS) and its employees.

~~((12))~~ (15) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

~~((13))~~ (16) "Direct care" means nursing care and related care provided to nursing facility residents. Therapy care shall not be considered part of direct care.

(17) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct ~~((nursing and ancillary))~~ care of ~~((medical care recipients))~~ a nursing facility's residents.

~~((14))~~ (18) "Entity" means an individual, partnership, corporation, limited liability company, or any other association of individuals capable of entering enforceable contracts.

~~((15))~~ (19) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

~~((16))~~ (20) "Facility" or "nursing facility" means a nursing home licensed in accordance with chapter 18.51 RCW, excepting nursing homes certified as institutions for mental diseases, or that portion of a multiservice facility licensed as a nursing home, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

~~((17))~~ (21) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

~~((18))~~ (22) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

~~((19))~~ (23) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB).

~~((20))~~ "Generally accepted auditing standards" means auditing standards approved by the American institute of certified public accountants (AICPA).

~~((21))~~ (24) "Goodwill" means the excess of the price paid for a nursing facility business over the fair market value of all ~~((other))~~ net identifiable ~~((s))~~ tangible ~~((s))~~ and intangible assets acquired, as measured in accordance with generally accepted accounting principles.

~~((22))~~ (25) "Grouper" means a computer software product that groups individual nursing facility residents into case mix classification groups based on specific resident assessment data and computer logic.

(26) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

~~((23))~~ (27) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

~~((24))~~ (28) "Joint facility costs" means any costs which represent resources which benefit more than one facility, or one facility and any other entity.

~~((25))~~ (29) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination (due to any cause other than death or divorce) or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party

by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee, shall not be considered modification of a lease term.

~~((26))~~ (30) "Medical care program" or "medicaid program" means medical assistance, including nursing care, provided under RCW 74.09.500 or authorized state medical care services.

~~((27))~~ (31) "Medical care recipient," "medicaid recipient," or "recipient" means an individual determined eligible by the department for the services provided ~~((#))~~ under chapter 74.09 RCW.

~~((28))~~ (32) "Minimum data set" means the overall data component of the resident assessment instrument, indicating the strengths, needs, and preferences of an individual nursing facility resident.

(33) "Net book value" means the historical cost of an asset less accumulated depreciation.

~~((29))~~ (34) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles, plus an allowance for working capital which shall be five percent of the product of the per patient day rate multiplied by the prior calendar year reported total patient days of each contractor.

~~((30))~~ (35) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

~~((31))~~ (36) "Owner" means a sole proprietor, general or limited partners, members of a limited liability company, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

~~((32))~~ (37) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

~~((33))~~ (38) "Patient day" or "resident day" means a calendar day of care provided to a nursing facility resident, regardless of payment source, which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. A ~~((client day))~~ medicaid day or "recipient day" means a calendar day of care provided to a ~~((medical care))~~ medicaid recipient determined eligible by the department for services provided under chapter 74.09 RCW, subject to the same conditions regarding admission and discharge applicable to a patient day or resident day of care.

~~((34))~~ (39) "Professionally designated real estate appraiser" means an individual who is regularly engaged in the business of providing real estate valuation services for a fee, and who is deemed qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the writing of real estate valuation reports as well as the passing of written examinations on valuation practice and theory, and who by virtue of membership in such organization is required to subscribe and adhere to certain standards of professional practice as such organization prescribes.

~~((35))~~ (40) "Qualified therapist" means:

(a) ~~((An activities specialist who has specialized education, training, or experience as specified by the department;~~

~~((b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience;~~

~~((c))~~ (e) A mental health professional as defined by chapter 71.05 RCW;

~~((d))~~ (b) A mental retardation professional who is ~~((either a qualified therapist or))~~ a therapist approved by the department who has had specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

~~((e) A social worker who is a graduate of a school of social work;~~

~~((f))~~ (c) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

~~((g))~~ (d) A physical therapist as defined by chapter 18.74 RCW;

~~((h))~~ (e) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training; and

~~((i))~~ (f) A respiratory care practitioner certified under chapter 18.89 RCW.

~~((36))~~ "Questioned costs" means those costs which have been determined in accordance with generally accepted accounting principles but which may constitute disallowed costs or departures from the provisions of this chapter or rules and regulations adopted by the department.

~~((37))~~ (41) "Rate" or "rate allocation" means the medicaid per-patient-day payment amount for medicaid patients calculated in accordance with the allocation methodology set forth in part E of this chapter.

(42) "Real property," whether leased or owned by the contractor, means the building, allowable land, land improvements, and building improvements associated with a nursing facility.

(43) "Rebased rate" or "cost-rebased rate" means a facility-specific component rate assigned to a nursing facility for a particular rate period established on desk-reviewed, adjusted costs reported for that facility covering at least six months of a prior calendar year designated as a year to be used for cost rebasing payment rate allocations under the provisions of this chapter.

~~((38))~~ (44) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

~~((39))~~ (45) "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

(a) "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

(b) "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.

~~((40))~~ (46) "Related care" means only those services that are directly related to providing direct care to nursing facility residents. These services include, but are not limited to, nursing direction and supervision, medical direction, medical records, pharmacy services, activities, and social services.

(47) "Resident assessment instrument," including federally approved modifications for use in this state, means a federally mandated, comprehensive nursing facility resident care planning and assessment tool, consisting of the minimum data set and resident assessment protocols.

(48) "Resident assessment protocols" means those components of the resident assessment instrument that use the minimum data set to trigger or flag a resident's potential problems and risk areas.

(49) "Resource utilization groups" means a case mix classification system that identifies relative resources needed to care for an individual nursing facility resident.

(50) "Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

~~((41))~~ (51) "Secretary" means the secretary of the department of social and health services.

~~((42))~~ (52) "Support services" means food, food preparation, dietary, housekeeping, and laundry services provided to nursing facility residents.

(53) "Therapy care" means those services required by a nursing facility resident's comprehensive assessment and plan of care, that are provided by qualified therapists, or support personnel under their supervision, including related costs as designated by the department.

(54) "Title XIX" or "medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended and the medicaid program administered by the department.

~~((43) "Physical plant capital improvement" means a capitalized improvement that is limited to an improvement to the building or the related physical plant.)~~

**Sec. 3.** RCW 74.46.040 and 1985 c 361 s 4 are each amended to read as follows:

(1) Not later than March 31<sup>st</sup> of each year, each contractor shall submit to the department an annual cost report for the period from January 1<sup>st</sup> through December 31<sup>st</sup> of the preceding year.

(2) Not later than one hundred twenty days following the termination or assignment of a contract, the terminating or assigning contractor shall submit to the department a cost report for the period from January 1<sup>st</sup> through the date the contract was terminated or assigned.

(3) Two extensions of not more than thirty days each may be granted by the department upon receipt of a written request setting forth the circumstances which prohibit the contractor from compliance with a report due date; except, that the ~~((secretary))~~ department shall establish the grounds for extension in rule ~~((and regulation))~~. Such request must be received by the department at least ten days prior to the due date.

**Sec. 4.** RCW 74.46.050 and 1985 c 361 s 5 are each amended to read as follows:

(1) If the cost report is not properly completed or if it is not received by the due date, all or part of any payments due under the contract may be withheld by the department until such time as the required cost report is properly completed and received.

(2) The department may impose civil fines, or take adverse rate action against contractors and former contractors who do not submit properly completed cost reports by the applicable due date. The department is authorized to adopt rules addressing fines and adverse rate actions including procedures, conditions, and the magnitude and frequency of fines.

**Sec. 5.** RCW 74.46.060 and 1985 c 361 s 6 are each amended to read as follows:

(1) Cost reports shall be prepared in a standard manner and form, as determined by the department ~~((, which shall provide for an itemized list of allowable costs and a preliminary settlement report))~~. Costs reported shall be determined in accordance with generally accepted accounting principles, the provisions of this chapter, and such additional rules ~~((and regulations as are))~~ established by the ~~((secretary))~~ department. In the event of conflict, rules adopted and instructions issued by the department take precedence over generally accepted accounting principles.

(2) The records shall be maintained on the accrual method of accounting and agree with or be reconcilable to the cost report. All revenue and expense accruals shall be reversed against the appropriate accounts unless they are received or paid, respectively, within one hundred twenty days after the accrual is made. However, if the contractor can document a good faith billing dispute with the supplier or vendor, the period may be extended, but only for those portions of billings subject to good faith dispute. Accruals for vacation, holiday, sick pay, payroll, and real estate taxes may be carried for longer periods, provided the contractor follows generally accepted accounting principles and pays this type of accrual when due.

**Sec. 6.** RCW 74.46.080 and 1985 c 361 s 7 are each amended to read as follows:

(1) All records supporting the required cost reports, as well as trust funds established by RCW 74.46.700, shall be retained by the contractor for a period of four years following the filing of such reports at a location in the state of Washington specified by the contractor. ~~((All records supporting the cost reports and financial statements filed with the department before May 20, 1985, shall be retained by the contractor for four years following their filing.))~~

(2) The department may direct supporting records to be retained for a longer period if there remain unresolved questions on the cost reports. All such records shall be made available upon demand to authorized representatives of the department, the office of the state auditor, and the United States department of health and human services.

~~((2))~~ (3) When a contract is terminated or assigned, all payments due the terminating or assigning contractor will be withheld until accessibility and preservation of the records within the state of Washington are assured.

**Sec. 7.** RCW 74.46.090 and 1985 c 361 s 8 are each amended to read as follows:

The department will retain the required cost reports for a period of one year after final settlement or reconciliation, or the period required under chapter 40.14 RCW, whichever is longer. Resident assessment information and records shall be retained as provided elsewhere in statute or by department rule.

**Sec. 8.** RCW 74.46.100 and 1985 c 361 s 9 are each amended to read as follows:

~~((The principles inherent within RCW 74.46.105 and 74.46.130 are))~~ (1) The purposes of department audits under this chapter are to ascertain, through department audit of the financial and statistical records of the contractor's nursing facility operation, that:

~~((1) To ascertain, through department audit, that the))~~ (a) Allowable costs for each year for each medicaid nursing facility are accurately reported~~((, thereby providing a valid basis for future rate determination));~~

~~((2) To ascertain, through department audits of the cost reports, that))~~ (b) Cost reports ~~((properly))~~ accurately reflect the true financial condition, revenues, expenditures, equity, beneficial ownership, related party status, and records of the contractor~~((, particularly as they pertain to related organizations and beneficial ownership, thereby providing a valid basis for the determination of return as specified by this chapter));~~

~~((3) To ascertain, through department audit that compliance with the accounting and auditing provisions of this chapter and the rules and regulations of the department as they pertain to these accounting and auditing provisions is proper and consistent))~~ (c) The contractor's revenues, expenditures, and costs of the building, land, land improvements, building improvements, and movable and fixed equipment are recorded in compliance with department requirements, instructions, and generally accepted accounting principles; and

~~((4) To ascertain, through department audits, that))~~ (d) The responsibility of the contractor has been met in the maintenance and disbursement of patient trust funds.

(2) The department shall examine the submitted cost report, or a portion thereof, of each contractor for each nursing facility for each report period to determine if the information is correct, complete, reported in conformance with department instructions and generally accepted accounting principles, the requirements of this chapter, and rules as the department may adopt. The department shall determine the scope of the examination.

(3) If the examination finds that the cost report is incorrect or incomplete, the department may make adjustments to the reported information for purposes of establishing component rate allocations or in determining amounts to be recovered in direct care, therapy care, and support services under section 10 (3) and (4) of this act or in any component rate resulting from undocumented or misreported costs. A schedule of the adjustments shall be provided to the contractor, including dollar amount and explanations for the adjustments. Adjustments shall be subject to review if desired by the contractor under the appeals or exception procedure established by the department.

(4) Examinations of resident trust funds and receivables shall be reported separately and in accordance with the provisions of this chapter and rules adopted by the department.

(5) The contractor shall:

(a) Provide access to the nursing facility, all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds. To ensure accuracy, the department may require the contractor to submit for departmental review any underlying financial statements or other records, including income tax returns, relating to the cost report directly or indirectly;

(b) Prepare a reconciliation of the cost report with (i) applicable federal income and federal and state payroll tax returns; and (ii) the records for the period covered by the cost report;

(c) Make available to the department's auditor an individual or individuals to respond to questions and requests for information from the auditor. The designated individual or individuals shall have sufficient knowledge of the issues, operations, or functions to provide accurate and reliable information.

(6) If an examination discloses material discrepancies, undocumented costs, or mishandling of resident trust funds, the department may open or reopen one or both of the two preceding cost report or resident trust fund periods, whether examined or unexamined, for indication of similar discrepancies, undocumented costs, or mishandling of resident trust funds.

(7) Any assets, liabilities, revenues, or expenses reported as allowable that are not supported by adequate documentation in the contractor's records shall be disallowed. Documentation must show both that costs reported were incurred during the period covered by the report and were related to resident care, and that assets reported were used in the provision of resident care.



(8) When access is required at the facility or at another location in the state, the department shall notify a contractor of its intent to examine all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds.

(9) The department is authorized to assess civil fines and take adverse rate action if a contractor, or any of its employees, does not allow access to the contractor's nursing facility records.

(10) Part B of this chapter, and rules adopted by the department pursuant thereto prior to January 1, 1998, shall continue to govern the medicaid nursing facility audit process for periods prior to January 1, 1997, as if these statutes and rules remained in full force and effect.

**NEW SECTION. Sec. 9.** (1) The department shall reconcile medicaid resident days to billed days and medicaid payments for each medicaid nursing facility for the preceding calendar year, or for that portion of the calendar year the provider's contract was in effect.

(2) The contractor shall make any payment owed the department, determined by the process of reconciliation, by the process of settlement at the lower of cost or rate in direct care, therapy care, and support services component rate allocations, as authorized in this chapter, within sixty days after notification and demand for payment is sent to the contractor.

(3) The department shall make any payment due the contractor within sixty days after it determines the underpayment exists and notification is sent to the contractor.

(4) Interest at the rate of one percent per month accrues against the department or the contractor on an unpaid balance existing sixty days after notification is sent to the contractor. Accrued interest shall be adjusted back to the date it began to accrue if the payment obligation is subsequently revised after administrative or judicial review.

(5) The department is authorized to withhold funds from the contractor's payment for services, and to take all other actions authorized by law, to recover amounts due and payable from the contractor, including any accrued interest. Neither a timely filed request to pursue any administrative appeals or exception procedure that the department may establish in rule, nor commencement of judicial review as may be available to the contractor in law, to contest a payment obligation determination shall delay recovery from the contractor or payment to the contractor.

**NEW SECTION. Sec. 10.** (1) Contractors shall be required to submit with each annual nursing facility cost report a proposed settlement report showing underspending or overspending in each component rate during the cost report year on a per-resident day basis. The department shall accept or reject the proposed settlement report, explain any adjustments, and issue a revised settlement report if needed.

(2) Contractors shall not be required to refund payments made in the operations, property, and return on investment component rates in excess of the adjusted costs of providing services corresponding to these components.

(3) The facility will return to the department any overpayment amounts in each of the direct care, therapy care, and support services rate components that the department identifies following the audit and settlement procedures as described in this chapter, provided that the contractor may retain any overpayment that does not exceed 1.0% of the facility's direct care, therapy care, and support services component rate. However, no overpayments may be retained in a cost center to which savings have been shifted to cover a deficit, as provided in subsection (4) of this section. Facilities that are not in substantial compliance for more than ninety days, and facilities that provide substandard quality of care at any time, during the period for which settlement is being calculated, will not be allowed to retain any amount of overpayment in the facility's direct care, therapy care, and support services component rate. The terms "not in substantial compliance" and "substandard quality of care" shall be defined by federal survey regulations.

(4) Determination of unused rate funds, including the amounts of direct care, therapy care, and support services to be recovered, shall be done separately for each component rate, and neither costs nor rate payments shall be shifted from one component rate or corresponding service area to another in determining the degree of underspending or recovery, if any. However, in computing a preliminary or final settlement, savings in the support services cost center may be shifted to cover a deficit in the direct care or therapy cost centers up to the amount of any savings. Not more than twenty percent of the rate in a cost center may be shifted.

(5) Total and component payment rates assigned to a nursing facility, as calculated and revised, if needed, under the provisions of this chapter and those rules as the department may adopt, shall represent the maximum payment for nursing facility services rendered to medicaid recipients for the period the rates are in effect. No increase in payment to a contractor shall result from spending above the total payment rate or in any rate component.

(6) RCW 74.46.150 through 74.46.180, and rules adopted by the department prior to the effective date of this section, shall continue to govern the medicaid settlement process for periods prior to October 1, 1998, as if these statutes and rules remained in full force and effect.

(7) For calendar year 1998, the department shall calculate split settlements covering January 1, 1998, through September 30, 1998, and October 1, 1998, through December 31, 1998. For the period beginning October 1, 1998, rules specified in this chapter shall apply. The department shall, by rule, determine the division of calendar year 1998 adjusted costs for settlement purposes.

**Sec. 11.** RCW 74.46.190 and 1995 1st sp.s. c 18 s 96 are each amended to read as follows:

(1) The substance of a transaction will prevail over its form.

(2) All documented costs which are ordinary, necessary, related to care of medical care recipients, and not expressly unallowable under this chapter or department rule, are to be allowable. Costs of providing ~~((ancillary))~~ therapy care are allowable, subject to any applicable ~~((cost center))~~ limit contained in this chapter, provided documentation establishes the costs were incurred for medical care recipients and other sources of payment to which recipients may be legally entitled, such as private insurance or medicare, were first fully utilized.

(3) ~~((Costs applicable to services, facilities, and supplies furnished to the provider by related organizations are allowable but at the cost to the related organization, provided they do not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.~~

~~(4) Beginning January 1, 1985,))~~ The payment for property usage is to be independent of ownership structure and financing arrangements.

~~((5) Beginning July 1, 1995,))~~ (4) Allowable costs shall not include costs reported by a ~~((nursing care provider))~~ contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the nursing facility in the period to be covered by the rate.

(5) Any costs deemed allowable under this chapter are subject to the provisions of section 18 of this act. The allowability of a cost shall not be construed as creating a legal right or entitlement to reimbursement of the cost.

**Sec. 12.** RCW 74.46.220 and 1980 c 177 s 22 are each amended to read as follows:

(1) Costs applicable to services, facilities, and supplies furnished by a related organization to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere.

(2) Documentation of costs to the related organization shall be made available to the ~~((auditor at the time and place the records relating to the entity are audited))~~ department. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

**Sec. 13.** RCW 74.46.230 and 1993 sp.s. c 13 s 3 are each amended to read as follows:

(1) The necessary and ordinary one-time expenses directly incident to the preparation of a newly constructed or purchased building by a contractor for operation as a licensed facility shall be allowable costs. These expenses shall be limited to start-up and organizational costs incurred prior to the admission of the first patient.

(2) Start-up costs shall include, but not be limited to, administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, and training; except, that they shall exclude expenditures for capital assets. These costs will be allowable in the ~~((administrative))~~ operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

(3) Organizational costs are those necessary, ordinary, and directly incident to the creation of a corporation or other form of business of the contractor including, but not limited to, legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation; except, that they do not include costs relating to the issuance and sale of shares of capital stock or other securities. Such organizational costs will be allowable in the ~~((administrative))~~ operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

**Sec. 14.** RCW 74.46.270 and 1983 1st ex.s. c 67 s 13 are each amended to read as follows:

(1) The contractor shall disclose to the department:

- (a) The nature and purpose of all costs which represent allocations of joint facility costs; and
- (b) The methodology of the allocation utilized.

(2) Such disclosure shall demonstrate that:

- (a) The services involved are necessary and nonduplicative; and
- (b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(3) Such disclosure shall be made not later than September ~~((30, 1980,))~~ 30th for the following calendar year ~~((and not later than September 30th for each year thereafter));~~ except that a new contractor shall submit the first year's disclosure ~~((together with the submissions required by RCW 74.46.670. Where a contractor will make neither a change in the joint costs to be incurred nor in the allocation methodology, the contractor may certify that no change will be made in lieu of the disclosure required in subsection (1) of this section))~~ at least sixty days prior to the date the new contract becomes effective.

(4) The department shall ~~((approve such methodology not later than))~~ by December 31st, ((1980, and not later than December 31st for each year thereafter)) for all disclosures that are complete and timely submitted, either approve or reject the disclosure. The department may request additional information or clarification.

(5) Acceptance of a disclosure or approval of a joint cost methodology by the department may not be construed as a determination that the allocated costs are allowable in whole or in part. However, joint facility costs not disclosed, allocated, and reported in conformity with this section and department rules are unallowable.

(6) An approved methodology may be revised or amended subject to approval as provided in rules and regulations adopted by the department.

**Sec. 15.** RCW 74.46.280 and 1993 sp.s. c 13 s 4 are each amended to read as follows:

(1) Management fees will be allowed only if:

(a) A written management agreement both creates a principal/agent relationship between the contractor and the manager, and sets forth the items, services, and activities to be provided by the manager; and

(b) Documentation demonstrates that the services contracted for were actually delivered.

(2) To be allowable, fees must be for necessary, nonduplicative services.

(3) A management fee paid to or for the benefit of a related organization will be allowable to the extent it does not exceed the lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement or the cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the measurement of such costs shall comply with RCW 74.46.270.

(4) A copy of the agreement must be received by the department at least sixty days before it is to become effective. A copy of any amendment to a management agreement must also be received by the department at least thirty days in advance of the date it is to become effective. Failure to meet these deadlines will result in the unallowability of cost incurred more than sixty days prior to submitting a management agreement and more than thirty days prior to submitting an amendment.

(5) The scope of services to be performed under a management agreement cannot be so extensive that the manager or managing entity is substituted for the contractor in fact, substantially relieving the contractor/licensee of responsibility for operating the facility.

**Sec. 16.** RCW 74.46.300 and 1980 c 177 s 30 are each amended to read as follows:

Rental or lease costs under arm's-length operating leases of office equipment shall be allowable to the extent the cost is necessary and ordinary. The department may adopt rules to limit the allowability of office equipment leasing expenses.

**Sec. 17.** RCW 74.46.410 and 1995 1st sp.s. c 18 s 97 are each amended to read as follows:

(1) Costs will be unallowable if they are not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of such items or services will be unallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to recipients which are covered by the department's medical care program but not included in ~~((care services))~~ the medicaid per-resident day payment rate established by the department under this chapter;

(c) Costs associated with a capital expenditure subject to section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria, or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be unallowable up to the date they are determined to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval, or exemption from the requirements for certificate of need for the replacement of existing nursing home beds, pursuant to chapter 70.38 RCW if such approval or exemption was not obtained;

(e) Interest costs other than those provided by RCW 74.46.290 on and after January 1, 1985;

(f) Salaries or other compensation of owners, officers, directors, stockholders, partners, principals, participants, and others associated with the contractor or its home office, including all board of directors' fees for any purpose, except reasonable compensation paid for service related to patient care;

(g) Costs in excess of limits or in violation of principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the ~~((cost-related reimbursement))~~ payment system set forth in this chapter;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX recipients are allowable if the debt is related to covered services, it arises from the recipient's required contribution toward the cost of care, the provider can establish that reasonable collection efforts were made, the debt was actually uncollectible when claimed as worthless, and sound business judgment established that there was no likelihood of recovery at any time in the future;

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;

(r) Fund-raising expenses, except those directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;

(u) Federal, state, and other income taxes;

- (v) Costs of special care services except where authorized by the department;
- (w) Expenses of an employee benefit not in fact made available to all employees on an equal or fair basis, for example, key-man insurance and other insurance or retirement plans ((not made available to all employees));
- (x) Expenses of profit-sharing plans;
- (y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;
- (z) Personal expenses and allowances of owners or relatives;
- (aa) All expenses of maintaining professional licenses or membership in professional organizations;
- (bb) Costs related to agreements not to compete;
- (cc) Amortization of goodwill, lease acquisition, or any other intangible asset, whether related to resident care or not, and whether recognized under generally accepted accounting principles or not;
- (dd) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;
- (ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands;
- (ff) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department;
- (gg) Lease acquisition costs ((and), goodwill, the cost of bed rights, or any other ((intangibles not related to patient care)) intangible assets;
- (hh) All rental or lease costs other than those provided in RCW 74.46.300 on and after January 1, 1985;
- (ii) Postsurvey charges incurred by the facility as a result of subsequent inspections under RCW 18.51.050 which occur beyond the first postsurvey visit during the certification survey calendar year;
- (jj) Compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensation paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period;
- (kk) For all partial or whole rate periods after July 17, 1984, costs of land and depreciable assets that cannot be reimbursed under the Deficit Reduction Act of 1984 and implementing state statutory and regulatory provisions;
- (ll) Costs reported by the contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the contractor in the period to be covered by the rate;
- (mm) Costs of outside activities, for example, costs allocated to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space;
- (nn) Travel expenses outside the states of Idaho, Oregon, and Washington and the province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing facility is allowed whether inside or outside these areas if the travel is necessary, ordinary, and related to resident care;
- (oo) Moving expenses of employees in the absence of demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the province of British Columbia;
- (pp) Depreciation in excess of four thousand dollars per year for each passenger car or other vehicle primarily used by the administrator, facility staff, or central office staff;
- (qq) Costs for temporary health care personnel from a nursing pool not registered with the secretary of the department of health;
- (rr) Payroll taxes associated with compensation in excess of allowable compensation of owners, relatives, and administrative personnel;
- (ss) Costs and fees associated with filing a petition for bankruptcy;
- (tt) All advertising or promotional costs, except reasonable costs of help wanted advertising;
- (uu) Outside consultation expenses required to meet department-required minimum data set completion proficiency;
- (vv) Interest charges assessed by any department or agency of this state for failure to make a timely refund of overpayments and interest expenses incurred for loans obtained to make the refunds;
- (ww) All home office or central office costs, whether on or off the nursing facility premises, and whether allocated or not to specific services, in excess of the median of those adjusted costs for all facilities reporting such costs for the most recent report period; and
- (xx) Tax expenses that a nursing facility has never incurred.

**NEW SECTION. Sec. 18.** A new section, to be codified as RCW 74.46.421, is added to chapter 74.46 RCW to read as follows:

- (1) The purpose of part E of this chapter is to determine nursing facility medicaid payment rates that, in the aggregate for all participating nursing facilities, are in accordance with the biennial appropriations act.
- (2)(a) The department shall use the nursing facility medicaid payment rate methodologies described in this chapter to determine initial component rate allocations for each medicaid nursing facility.

(b) The initial component rate allocations shall be subject to adjustment as provided in this section in order to assure that the state-wide average payment rate to nursing facilities is less than or equal to the state-wide average payment rate specified in the biennial appropriations act.

(3) Nothing in this chapter shall be construed as creating a legal right or entitlement to any payment that (a) has not been adjusted under this section or (b) would cause the state-wide average payment rate to exceed the state-wide average payment rate specified in the biennial appropriations act.

(4)(a) The state-wide average payment rate for any state fiscal year under the nursing facility medicaid payment system, weighted by patient days, shall not exceed the annual state-wide weighted average nursing facility payment rate identified for that fiscal year in the biennial appropriations act.

(b) If the department determines that the weighted average nursing facility payment rate calculated in accordance with this chapter is likely to exceed the weighted average nursing facility payment rate identified in the biennial appropriations act, then the department shall adjust all nursing facility payment rates proportional to the amount by which the weighted average rate allocations would otherwise exceed the budgeted rate amount. Any such adjustments shall only be made prospectively, not retrospectively, and shall be applied proportionately to each component rate allocation for each facility.

**NEW SECTION. Sec. 19.** (1) Effective October 1, 1998, nursing facility medicaid payment rate allocations shall be facility-specific and shall have six components: Direct care, therapy care, support services, operations, property, and return on investment. The department shall establish and adjust each of these components, as provided in this section and elsewhere in this chapter, for each medicaid nursing facility in this state.

(2) All component rate allocations shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use.

(3) Information and data sources used in determining medicaid payment rate allocations, including formulas, procedures, cost report periods, resident assessment instrument formats, resident assessment methodologies, and resident classification and case mix weighting methodologies, may be substituted or altered from time to time as determined by the department.

(4)(a) Direct care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, direct care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2004, direct care component rate allocations.

(b) Direct care component rate allocations based on 1996 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in section 25(5)(k) of this act.

(c) Direct care component rate allocations based on 1999 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in section 25(5)(k) of this act.

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, therapy care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2004, therapy care component rate allocations.

(b) Therapy care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, support services component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2004, support services component rate allocations.

(b) Support services component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, operations component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2004, operations component rate allocations.

(b) Operations component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(8) For July 1, 1998, through September 30, 1998, a facility's property and return on investment component rates shall be the facility's June 30, 1998, property and return on investment component rates, without increase. For October 1, 1998, through June 30, 1999, a facility's property and return on investment component rates shall be rebased utilizing 1997 adjusted cost report data covering at least six months of data.

(9) Total payment rates under the nursing facility medicaid payment system shall not exceed facility rates charged to the general public for comparable services.

(10) Medicaid contractors shall pay to all facility staff a minimum wage of the greater of five dollars and fifteen cents per hour or the federal minimum wage.

(11) The department shall establish in rule procedures, principles, and conditions for determining component rate allocations for facilities in circumstances not directly addressed by this chapter, including but not limited to: The need to prorate inflation for partial-period cost report data, newly constructed facilities, existing facilities entering the medicaid program for the first time or after a period of absence from the program, existing facilities with expanded new bed capacity, existing medicaid facilities following a change of ownership of the nursing facility business, facilities banking beds or converting beds back into service, facilities having less than six months of either resident assessment, cost report data, or both, under the current contractor prior to rate setting, and other circumstances.

(12) The department shall establish in rule procedures, principles, and conditions, including necessary threshold costs, for adjusting rates to reflect capital improvements or new requirements imposed by the department or the federal government. Any such rate adjustments are subject to the provisions of section 18 of this act.

**NEW SECTION. Sec. 20.** The department shall disclose to any member of the public all rate-setting information consistent with requirements of state and federal laws.

**Sec. 21.** RCW 74.46.475 and 1985 c 361 s 13 are each amended to read as follows:

(1) The department shall analyze the submitted cost report or a portion thereof of each contractor for each report period to determine if the information is correct, complete, ~~((and))~~ reported in conformance with department instructions and generally accepted accounting principles, the requirements of this chapter, and such rules ~~((and regulations))~~ as the ~~((secretary))~~ department may adopt. If the analysis finds that the cost report is incorrect or incomplete, the department may make adjustments to the reported information for purposes of establishing ~~((reimbursement))~~ payment rate(s) allocations. A schedule of such adjustments shall be provided to contractors and shall include an explanation for the adjustment and the dollar amount of the adjustment. Adjustments shall be subject to review and appeal as provided in this chapter.

(2) The department shall accumulate data from properly completed cost reports, in addition to assessment data on each facility's resident population characteristics, for use in:

- (a) Exception profiling; and
- (b) Establishing rates.

(3) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as necessary.

**NEW SECTION. Sec. 22.** (1) The department shall employ the resource utilization group III case mix classification methodology. The department shall use the forty-four group index maximizing model for the resource utilization group III grouper version 5.10, but the department may revise or update the classification methodology to reflect advances or refinements in resident assessment or classification, subject to federal requirements.

(2) A default case mix group shall be established for cases in which the resident dies or is discharged for any purpose prior to completion of the resident's initial assessment. The default case mix group and case mix weight for these cases shall be designated by the department.

(3) A default case mix group may also be established for cases in which there is an untimely assessment for the resident. The default case mix group and case mix weight for these cases shall be designated by the department.

**NEW SECTION. Sec. 23.** (1) Each case mix classification group shall be assigned a case mix weight. The case mix weight for each resident of a nursing facility for each calendar quarter shall be based on data from resident assessment instruments completed for the resident and weighted by the number of days the resident was in each case mix classification group. Days shall be counted as provided in this section.

(2) The case mix weights shall be based on the average minutes per registered nurse, licensed practical nurse, and certified nurse aide, for each case mix group, and using the health care financing administration of the United States department of health and human services 1995 nursing facility staff time measurement study stemming from its multistate nursing home case mix and quality demonstration project. Those minutes shall be weighted by state-wide ratios of registered nurse to certified nurse aide, and licensed practical nurse to certified nurse aide, wages, including salaries and benefits, which shall be based on 1995 cost report data for this state.

(3) The case mix weights shall be determined as follows:

(a) Set the certified nurse aide wage weight at 1.000 and calculate wage weights for registered nurse and licensed practical nurse average wages by dividing the certified nurse aide average wage into the registered nurse average wage and licensed practical nurse average wage;

(b) Calculate the total weighted minutes for each case mix group in the resource utilization group III classification system by multiplying the wage weight for each worker classification by the average number of minutes that classification of worker spends caring for a resident in that resource utilization group III classification group, and summing the products;

(c) Assign a case mix weight of 1.000 to the resource utilization group III classification group with the lowest total weighted minutes and calculate case mix weights by dividing the lowest group's total weighted minutes into each group's total weighted minutes and rounding weight calculations to the third decimal place.

(4) The case mix weights in this state may be revised if the health care financing administration updates its nursing facility staff time measurement studies. The case mix weights shall be revised, but only when direct care component rates are cost-rebased as provided in

subsection (5) of this section, to be effective on the July 1st effective date of each cost-rebased direct care component rate. However, the department may revise case mix weights more frequently if, and only if, significant variances in wage ratios occur among direct care staff in the different caregiver classifications identified in this section.

(5) Case mix weights shall be revised when direct care component rates are cost-rebased every three years as provided in section 19(4)(a) of this act.

**NEW SECTION. Sec. 24.** (1) From individual case mix weights for the applicable quarter, the department shall determine two average case mix indexes for each medicaid nursing facility, one for all residents in the facility, known as the facility average case mix index, and one for medicaid residents, known as the medicaid average case mix index.

(2)(a) In calculating a facility's two average case mix indexes for each quarter, the department shall include all residents or medicaid residents, as applicable, who were physically in the facility during the quarter in question (January 1st through March 31st, April 1st through June 30th, July 1st through September 30th, or October 1st through December 31st).

(b) The facility average case mix index shall exclude all default cases as defined in this chapter. However, the medicaid average case mix index shall include all default cases.

(3) Both the facility average and the medicaid average case mix indexes shall be determined by multiplying the case mix weight of each resident, or each medicaid resident, as applicable, by the number of days, as defined in this section and as applicable, the resident was at each particular case mix classification or group, and then averaging.

(4)(a) In determining the number of days a resident is classified into a particular case mix group, the department shall determine a start date for calculating case mix grouping periods as follows:

(i) If a resident's initial assessment for a first stay or a return stay in the nursing facility is timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the later of either the first day of the quarter or the resident's facility admission or readmission date;

(ii) If a resident's significant change, quarterly, or annual assessment is timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the date the assessment is completed;

(iii) If a resident's significant change, quarterly, or annual assessment is not timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the due date for the assessment.

(b) If state or federal rules require more frequent assessment, the same principles for determining the start date of a resident's classification in a particular case mix group set forth in subsection (4)(a) of this section shall apply.

(c) In calculating the number of days a resident is classified into a particular case mix group, the department shall determine an end date for calculating case mix grouping periods as follows:

(i) If a resident is discharged before the end of the applicable quarter, the end date shall be the day before discharge;

(ii) If a resident is not discharged before the end of the applicable quarter, the end date shall be the last day of the quarter;

(iii) If a new assessment is due for a resident or a new assessment is completed and transmitted to the department, the end date of the previous assessment shall be the earlier of either the day before the assessment is due or the day before the assessment is completed by the nursing facility.

(5) The cutoff date for the department to use resident assessment data, for the purposes of calculating both the facility average and the medicaid average case mix indexes, and for establishing and updating a facility's direct care component rate, shall be one month and one day after the end of the quarter for which the resident assessment data applies.

(6) A threshold of ninety percent, as described and calculated in this subsection, shall be used to determine the case mix index each quarter. The threshold shall also be used to determine which facilities' costs per case mix unit are included in determining the ceiling, floor, and price. If the facility does not meet the ninety percent threshold, the department may use an alternate case mix index to determine the facility average and medicaid average case mix indexes for the quarter. The threshold is a count of unique minimum data set assessments, and it shall include resident assessment instrument tracking forms for residents discharged prior to completing an initial assessment. The threshold is calculated by dividing the count of unique minimum data set assessments by the average census for each facility. A daily census shall be reported by each nursing facility as it transmits assessment data to the department. The department shall compute a quarterly average census based on the daily census. If no census has been reported by a facility during a specified quarter, then the department shall use the facility's licensed beds as the denominator in computing the threshold.

(7)(a) Although the facility average and the medicaid average case mix indexes shall both be calculated quarterly, the facility average case mix index will be used only every three years in combination with cost report data as specified by sections 19 and 25 of this act, to establish a facility's allowable cost per case mix unit. A facility's medicaid average case mix index shall be used to update a nursing facility's direct care component rate quarterly.

(b) The facility average case mix index used to establish each nursing facility's direct care component rate shall be based on an average of calendar quarters of the facility's average case mix indexes.

(i) For October 1, 1998, direct care component rates, the department shall use an average of facility average case mix indexes from the four calendar quarters of 1997.

(ii) For July 1, 2001, direct care component rates, the department shall use an average of facility average case mix indexes from the four calendar quarters of 1999.

(c) The medicaid average case mix index used to update or recalibrate a nursing facility's direct care component rate quarterly shall be from the calendar quarter commencing six months prior to the effective date of the quarterly rate. For example, October 1, 1998, through December 31, 1998, direct care component rates shall utilize case mix averages from the April 1, 1998, through June 30, 1998, calendar quarter, and so forth.

**NEW SECTION. Sec. 25.** (1) The direct care component rate allocation corresponds to the provision of nursing care for one resident of a nursing facility for one day, including direct care supplies. Therapy services and supplies, which correspond to the therapy care component rate, shall be excluded. The direct care component rate includes elements of case mix determined consistent with the principles of this section and other applicable provisions of this chapter.

(2) Beginning October 1, 1998, the department shall determine and update quarterly for each nursing facility serving medicaid residents a facility-specific per-resident day direct care component rate allocation, to be effective on the first day of each calendar quarter. In determining direct care component rates the department shall utilize, as specified in this section, minimum data set resident assessment data for each resident of the facility, as transmitted to, and if necessary corrected by, the department in the resident assessment instrument format approved by federal authorities for use in this state.

(3) The department may question the accuracy of assessment data for any resident and utilize corrected or substitute information, however derived, in determining direct care component rates. The department is authorized to impose civil fines and to take adverse rate actions against a contractor, as specified by the department in rule, in order to obtain compliance with resident assessment and data transmission requirements and to ensure accuracy.

(4) Cost report data used in setting direct care component rate allocations shall be 1996 and 1999, for rate periods as specified in section 19(4)(a) of this act.

(5) Beginning October 1, 1998, the department shall rebase each nursing facility's direct care component rate allocation as described in section 19 of this act, adjust its direct care component rate allocation for economic trends and conditions as described in section 19 of this act, and update its medicaid average case mix index, consistent with the following:

(a) Reduce total direct care costs reported by each nursing facility for the applicable cost report period specified in section 19(4)(a) of this act to reflect any department adjustments, and to eliminate reported resident therapy costs and adjustments, in order to derive the facility's total allowable direct care cost;

(b) Divide each facility's total allowable direct care cost by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy of eighty-five percent; that is, the greater of actual or imputed occupancy at eighty-five percent of licensed beds, to derive the facility's allowable direct care cost per resident day;

(c) Adjust the facility's per resident day direct care cost by the applicable factor specified in section 19(4) (b) and (c) of this act to derive its adjusted allowable direct care cost per resident day;

(d) Divide each facility's adjusted allowable direct care cost per resident day by the facility average case mix index for the applicable quarters specified by section 24(7)(b) of this act to derive the facility's allowable direct care cost per case mix unit;

(e) Divide nursing facilities into two peer groups: Those located in metropolitan statistical areas as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government, and those not located in a metropolitan statistical area;

(f) Array separately the allowable direct care cost per case mix unit for all metropolitan statistical area and for all nonmetropolitan statistical area facilities, and determine the median allowable direct care cost per case mix unit for each peer group;

(g) Except as provided in (k) of this subsection, from October 1, 1998, through June 30, 2000, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than eighty-five percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to eighty-five percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred fifteen percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred fifteen percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(iii) Any facility whose allowable cost per case mix unit is between eighty-five and one hundred fifteen percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;



(h) Except as provided in (k) of this subsection, from July 1, 2000, through June 30, 2002, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than ninety percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to ninety percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred ten percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred ten percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(iii) Any facility whose allowable cost per case mix unit is between ninety and one hundred ten percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(i) From July 1, 2002, through June 30, 2004, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than ninety-five percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to ninety-five percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred five percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred five percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(iii) Any facility whose allowable cost per case mix unit is between ninety-five and one hundred five percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in section 24(7)(c) of this act;

(j) Beginning July 1, 2004, determine each facility's quarterly direct care component rate by multiplying the facility's peer group median allowable direct care cost per case mix unit by that facility's medicaid average case mix index from the applicable quarter as specified in section 24(7)(c) of this act.

(k)(i) Between October 1, 1998, and June 30, 2000, the department shall compare each facility's direct care component rate allocation calculated under (g) of this subsection with the facility's nursing services component rate in effect on June 30, 1998, less therapy costs, plus any exceptional care offsets as reported on the cost report, adjusted for economic trends and conditions as provided in section 19 of this act. A facility shall receive the higher of the two rates;

(ii) Between July 1, 2000, and June 30, 2002, the department shall compare each facility's direct care component rate allocation calculated under (h) of this subsection with the facility's direct care component rate in effect on June 30, 2000. A facility shall receive the higher of the two rates.

(6) The direct care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 26.** (1) The therapy care component rate allocation corresponds to the provision of medicaid one-on-one therapy provided by a qualified therapist as defined in this chapter, including therapy supplies and therapy consultation, for one day for one medicaid resident of a nursing facility. The therapy care component rate allocation for October 1, 1998, through June 30, 2001, shall be based on adjusted therapy costs and days from calendar year 1996. The therapy component rate allocation for July 1, 2001, through June 30, 2004, shall be based on adjusted therapy costs and days from calendar year 1999. The therapy care component rate shall be adjusted for economic trends and conditions as specified in section 19(5)(b) of this act, and shall be determined in accordance with this section.

(2) In rebasing, as provided in section 19(5)(a) of this act, the department shall take from the cost reports of facilities the following reported information:

(a) Direct one-on-one therapy charges for all residents by payer including charges for supplies;

(b) The total units or modules of therapy care for all residents by type of therapy provided, for example, speech or physical. A unit or module of therapy care is considered to be fifteen minutes of one-on-one therapy provided by a qualified therapist or support personnel; and

(c) Therapy consulting expenses for all residents.

(3) The department shall determine for all residents the total cost per unit of therapy for each type of therapy by dividing the total adjusted one-on-one therapy expense for each type by the total units provided for that therapy type.

(4) The department shall divide medicaid nursing facilities in this state into two peer groups:

- (a) Those facilities located within a metropolitan statistical area; and
- (b) Those not located in a metropolitan statistical area.

Metropolitan statistical areas and nonmetropolitan statistical areas shall be as determined by the United States office of management and budget or other applicable federal office. The department shall array the facilities in each peer group from highest to lowest based on their total cost per unit of therapy for each therapy type. The department shall determine the median total cost per unit of therapy for each therapy type and add ten percent of median total cost per unit of therapy. The cost per unit of therapy for each therapy type at a nursing facility shall be the lesser of its cost per unit of therapy for each therapy type or the median total cost per unit plus ten percent for each therapy type for its peer group.

(5) The department shall calculate each nursing facility's therapy care component rate allocation as follows:

(a) To determine the allowable total therapy cost for each therapy type, the allowable cost per unit of therapy for each type of therapy shall be multiplied by the total therapy units for each type of therapy;

(b) The medicaid allowable one-on-one therapy expense shall be calculated taking the allowable total therapy cost for each therapy type times the medicaid percent of total therapy charges for each therapy type;

(c) The medicaid allowable one-on-one therapy expense for each therapy type shall be divided by total adjusted medicaid days to arrive at the medicaid one-on-one therapy cost per patient day for each therapy type;

(d) The medicaid one-on-one therapy cost per patient day for each therapy type shall be multiplied by total adjusted patient days for all residents to calculate the total allowable one-on-one therapy expense. The lesser of the total allowable therapy consultant expense for the therapy type or a reasonable percentage of allowable therapy consultant expense for each therapy type, as established in rule by the department, shall be added to the total allowable one-on-one therapy expense to determine the allowable therapy cost for each therapy type;

(e) The allowable therapy cost for each therapy type shall be added together, the sum of which shall be the total allowable therapy expense for the nursing facility;

(f) The total allowable therapy expense will be divided by the greater of adjusted total patient days from the cost report on which the therapy expenses were reported, or patient days at eighty-five percent occupancy of licensed beds. The outcome shall be the nursing facility's therapy care component rate allocation.

(6) The therapy care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 27.** (1) The support services component rate allocation corresponds to the provision of food, food preparation, dietary, housekeeping, and laundry services for one resident for one day.

(2) Beginning October 1, 1998, the department shall determine each medicaid nursing facility's support services component rate allocation using cost report data specified by section 19(6) of this act.

(3) To determine each facility's support services component rate allocation, the department shall:

(a) Array facilities' adjusted support services costs per adjusted resident day for each facility from facilities' cost reports from the applicable report year, for facilities located within a metropolitan statistical area, and for those not located in any metropolitan statistical area and determine the median adjusted cost for each peer group;

(b) Set each facility's support services component rate at the lower of the facility's per resident day adjusted support services costs from the applicable cost report period or the adjusted median per resident day support services cost for that facility's peer group, either metropolitan statistical area or nonmetropolitan statistical area, plus ten percent; and

(c) Adjust each facility's support services component rate for economic trends and conditions as provided in section 19(6) of this act.

(4) The support services component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 28.** (1) The operations component rate allocation corresponds to the general operation of a nursing facility for one resident for one day, including but not limited to management, administration, utilities, office supplies, accounting and bookkeeping, minor building maintenance, minor equipment repairs and replacements, and other supplies and services, exclusive of direct care, therapy care, support services, property, and return on investment.

(2) Beginning October 1, 1998, the department shall determine each medicaid nursing facility's operations component rate allocation using cost report data specified by section 19(7)(a) of this act.

(3) To determine each facility's operations component rate the department shall:

(a) Array facilities' adjusted general operations costs per adjusted resident day for each facility from facilities' cost reports from the applicable report year, for facilities located within a metropolitan statistical area and for those not located in a metropolitan statistical area and determine the median adjusted cost for each peer group;

(b) Set each facility's operations component rate at the lower of the facility's per resident day adjusted operations costs from the applicable cost report period or the adjusted median per resident day general operations cost for that facility's peer group, metropolitan statistical area or nonmetropolitan statistical area; and

(c) Adjust each facility's operations component rate for economic trends and conditions as provided in section 19(7)(b) of this act.

(4) The operations component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 29.** (1) The property component rate allocation for each facility shall be determined by dividing the sum of the reported allowable prior period actual depreciation, subject to RCW 74.46.310 through 74.46.380, adjusted for any capitalized additions or replacements approved by the department, and the retained savings from such cost center, by the greater of a facility's total resident days for the facility in the prior period or resident days as calculated on eighty-five percent facility occupancy. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the property component rate shall be adjusted to anticipated resident day level.

(2) A nursing facility's property component rate allocation shall be rebased annually, effective July 1st or October 1st as applicable, in accordance with this section and this chapter.

(3) When a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum to be established by the secretary.

(4) For the purpose of calculating a nursing facility's property component rate, if a contractor elects to bank licensed beds or to convert banked beds to active service, under chapter 70.38 RCW, the department shall use the facility's anticipated resident occupancy level subsequent to the decrease or increase in licensed bed capacity. However, in no case shall the department use less than eighty-five percent occupancy of the facility's licensed bed capacity after banking or conversion.

(5) The property component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 30.** (1) The department shall establish for each medicaid nursing facility a return on investment component rate allocation composed of two parts: A financing allowance and a variable return allowance. The financing allowance part of a facility's return on investment component rate shall be rebased annually, effective July 1st, in accordance with the provisions of this section and this chapter.

(a) The financing allowance shall be determined by multiplying the net invested funds of each facility by .10, and dividing by the greater of a nursing facility's total resident days from the most recent cost report period or resident days calculated on eighty-five percent facility occupancy. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the financing and variable return allowances shall be adjusted to the anticipated resident day level.

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in RCW 74.46.330, 74.46.350, 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets, shall be utilized, except that the capitalized cost of land upon which the facility is located and such other contiguous land which is reasonable and necessary for use in the regular course of providing resident care shall also be included. Subject to provisions and limitations contained in this chapter, for land purchased by owners or lessors before July 18, 1984, capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased after July 17, 1984, capitalized cost shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable to provide necessary information to determine net invested funds, the secretary shall have the authority to determine an amount for net invested funds based on an appraisal conducted according to RCW 74.46.360(1).

(c) In determining the variable return allowance:

(i) For the October 1, 1998, rate setting, the department, without utilizing peer groups, shall first rank all facilities in numerical order from highest to lowest according to their per resident day adjusted or audited, or both, allowable costs for nursing services, food, administration, and operational costs combined for the 1996 calendar year cost report period.

(ii) The department shall then compute the variable return allowance by multiplying the appropriate percentage amounts, which shall not be less than one percent and not greater than four percent, by the sum of the facility's nursing services, food, administrative, and operational

rate components. The percentage amounts will be based on groupings of facilities according to the rankings prescribed in (c)(i) of this subsection. Those groups of facilities with lower per diem costs shall receive higher percentage amounts than those with higher per diem costs.

(d) The sum of the financing allowance and the variable return allowance shall be the return on investment rate for each facility, and shall be added to the prospective rates of each contractor as determined in sections 19 through 29 of this act.

(e) In the case of a facility that was leased by the contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement, and for which the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property component rate allocation determined according to section 29 of this act, is more than the return on investment rate determined according to (d) of this subsection, the following shall apply:

(i) The financing allowance shall be recomputed substituting the fair market value of the assets as of January 1, 1982, as determined by the department of general administration through an appraisal procedure, less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such a determination is shown to be arbitrary and capricious.

(ii) The sum of the financing allowance computed under (e)(i) of this subsection and the variable allowance shall be compared to the annualized lease payment, plus any interest and depreciation associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property component rate determined according to section 29 of this act. The lesser of the two amounts shall be called the alternate return on investment rate.

(iii) The return on investment rate determined according to (d) of this subsection or the alternate return on investment rate, whichever is greater, shall be the return on investment rate for the facility and shall be added to the prospective rates of the contractor as determined in sections 19 through 29 of this act.

(f) In the case of a facility that was leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended under a provision of the lease, the treatment provided in (e) of this subsection shall be applied, except that in the case of renewals or extensions made subsequent to April 1, 1985, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(2) For the purpose of calculating a nursing facility's return on investment component rate, if a contractor elects to bank beds or to convert banked beds to active service, under chapter 70.38 RCW, the department shall use the facility's anticipated resident occupancy level subsequent to the decrease or increase in licensed bed capacity. However, in no case shall the department use less than eighty-five percent occupancy of the facility's licensed bed capacity after banking or conversion.

(3) Each biennium the secretary shall review the adequacy of return on investment rates in relation to anticipated requirements for maintaining, reducing, or expanding nursing care capacity. The secretary shall report the results of a such review to the legislature and make recommendations for adjustments in the return on investment rates utilized in this section, if appropriate.

(4) The return or investment component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with section 18 of this act. If the department determines that the weighted average rate allocations for all rate components for all facilities is likely to exceed the weighted average total rate specified in the state biennial appropriations act, the department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

**NEW SECTION. Sec. 31.** (1) The department may adjust component rates for errors or omissions made in establishing component rates and determine amounts either overpaid to the contractor or underpaid by the department.

(2) A contractor may request the department to adjust its component rates because of:

(a) An error or omission the contractor made in completing a cost report; or

(b) An alleged error or omission made by the department in determining one or more of the contractor's component rates.

(3) A request for a rate adjustment made on incorrect cost reporting must be accompanied by the amended cost report pages prepared in accordance with the department's written instructions and by a written explanation of the error or omission and the necessity for the amended cost report pages and the rate adjustment.

(4) The department shall review a contractor's request for a rate adjustment because of an alleged error or omission, even if the time period has expired in which the contractor must appeal the rate when initially issued, pursuant to rules adopted by the department under RCW 74.46.780. If the request is received after this time period, the department has the authority to correct the rate if it agrees an error or omission was committed. However, if the request is denied, the contractor shall not be entitled to any appeals or exception review procedure that the department may adopt under RCW 74.46.780.

(5) The department shall notify the contractor of the amount of the overpayment to be recovered or additional payment to be made to the contractor reflecting a rate adjustment to correct an error or omission. The recovery from the contractor of the overpayment or the additional payment to the contractor shall be governed by the reconciliation, settlement, security, and recovery processes set forth in this chapter and by rules adopted by the department in accordance with this chapter.

(6) Component rate adjustments approved in accordance with this section are subject to the provisions of section 18 of this act.

**Sec. 32.** RCW 74.46.610 and 1983 1st ex.s. c 67 s 33 are each amended to read as follows:

(1) A contractor shall bill the department each month by completing and returning a facility billing statement as provided by the department ~~((which shall include, but not be limited to:~~

- ~~(a) Billing by cost center;~~
- ~~(b) Total patient days; and~~
- ~~(c) Patient days for medical care recipients)).~~

The statement shall be completed and filed in accordance with rules ~~((and regulations))~~ established by the ~~((secretary))~~ department.

(2) A facility shall not bill the department for service provided to a recipient until an award letter of eligibility of such recipient under rules established under chapter 74.09 RCW has been received by the facility. However a facility may bill and shall be reimbursed for all medical care recipients referred to the facility by the department prior to the receipt of the award letter of eligibility or the denial of such eligibility.

(3) Billing shall cover the patient days of care.

**Sec. 33.** RCW 74.46.620 and 1980 c 177 s 62 are each amended to read as follows:

(1) The department will ~~((reimburse))~~ pay a contractor for service rendered under the facility contract and billed in accordance with RCW 74.46.610.

(2) The amount paid will be computed using the appropriate rates assigned to the contractor.

(3) For each recipient, the department will pay an amount equal to the appropriate rates, multiplied by the number of ~~((patient))~~ medicaid resident days each rate was in effect, less the amount the recipient is required to pay for his or her care as set forth by RCW 74.46.630.

**Sec. 34.** RCW 74.46.630 and 1980 c 177 s 63 are each amended to read as follows:

(1) The department will notify a contractor of the amount each medical care recipient is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility to collect that portion of the cost of care from the patient, and to account for any authorized reduction from his or her contribution in accordance with rules ~~((and regulations))~~ established by the ~~((secretary))~~ department.

(2) If a contractor receives documentation showing a change in the income or resources of a recipient which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the department within seventy-two hours and in a manner specified by rules ~~((and regulations))~~ established by the ~~((secretary))~~ department. If necessary, appropriate corrections will be made in the next facility statement, and a copy of documentation supporting the change will be attached. If increased funds for a recipient are received by a contractor, an amount determined by the department shall be allowed for clothing and personal and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the ~~((reimbursement))~~ payment rates established by the department as full compensation for all services provided under the contract, certification as specified by Title XIX, and licensure under chapter 18.51 RCW. The contractor shall not seek or accept additional compensation from or on behalf of a recipient for any or all such services.

**Sec. 35.** RCW 74.46.640 and 1995 1st sp.s. c 18 s 112 are each amended to read as follows:

(1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extension. Payments will be released as soon as a properly completed report is received;

(b) State auditors, department auditors, or authorized personnel in the course of their duties are refused access to a nursing facility or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided;

(c) A refund in connection with a ~~((preliminary or final))~~ settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund and any accumulated interest owed to the department as authorized by this chapter;

(d) Payment for the final sixty days of service ~~((under))~~ prior to termination or assignment of a contract will be held in the absence of adequate alternate security acceptable to the department pending ~~((final))~~ settlement of all periods when the contract is terminated or assigned; and

(e) Payment for services at any time during the contract period in the absence of adequate alternate security acceptable to the department, if a contractor's net medicaid overpayment liability for one or more nursing facilities or other debt to the department, as determined by ~~((preliminary settlement, final))~~ settlement, civil fines imposed by the department, third-party liabilities or other source, reaches or exceeds fifty thousand dollars, whether subject to good faith dispute or not, and for each subsequent increase in liability reaching or exceeding twenty-five thousand dollars. Payments will be released as soon as practicable after acceptable security is provided or refund to the department is made.

(2) No payment will be withheld until written notification of the suspension is provided to the contractor, stating the reason for the withholding, except that neither a timely filed request to pursue ~~((the))~~ any administrative appeals or exception procedure that the department may establish~~((ed))~~ by ~~((the department in))~~ rule nor commencement of judicial review, as may be available to the contractor in law, shall delay suspension of payment.

**Sec. 36.** RCW 74.46.650 and 1980 c 177 s 65 are each amended to read as follows:

All payments to a contractor will end no later than sixty days after any of the following occurs:

- (1) A contract (~~((expires,))~~) is terminated, assigned, or is not renewed;
- (2) A facility license is revoked; or
- (3) A facility is decertified as a Title XIX facility; except that, in situations where the (~~((secretary))~~) department determines that residents must remain in such facility for a longer period because of the resident's health or safety, payments for such residents shall continue.

**Sec. 37.** RCW 74.46.660 and 1992 c 215 s 1 are each amended to read as follows:

In order to participate in the (~~((prospective cost-related reimbursement))~~) nursing facility medicaid payment system established by this chapter, the person or legal (~~((organization))~~) entity responsible for operation of a facility shall:

- (1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR where required;
- (2) Hold the appropriate current license;
- (3) Hold current Title XIX certification;
- (4) Hold a current contract to provide services under this chapter;
- (5) Comply with all provisions of the contract and all (~~((application))~~) applicable regulations, including but not limited to the provisions of this chapter; and
- (6) Obtain and maintain medicare certification, under Title XVIII of the social security act, 42 U.S.C. Sec. 1395, as amended, for a portion of the facility's licensed beds. (~~((Until June 1, 1993, the department may grant exemptions from the medicare certification requirements of this subsection to nursing facilities that are making good faith efforts to obtain medicare certification.))~~)

**Sec. 38.** RCW 74.46.680 and 1985 c 361 s 2 are each amended to read as follows:

- (1) On the effective date of a change of ownership the department's contract with the old owner shall be (~~((terminated))~~) automatically assigned to the new owner, unless: (a) The new owner does not desire to participate in medicaid as a nursing facility provider; (b) the department elects not to continue the contract with the new owner for good cause; or (c) the new owner elects not to accept assignment and requests certification and a new contract. The old owner shall give the department sixty days' written notice of such (~~((termination))~~) intent to change ownership and assign. When certificate of need and/or section 1122 approval is required pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR, for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need and/or section 1122 approval shall be obtained before the old owner submits a notice of (~~((termination))~~) intent to change ownership and assign.
- (2) If the new owner desires to participate in the (~~((cost-related reimbursement))~~) nursing facility medicaid payment system, it shall meet the conditions specified in RCW 74.46.660 (~~((and shall submit a projected budget in accordance with RCW 74.46.670 no later than sixty days before the date of the change of ownership))~~). The facility contract with the new owner shall be effective as of the date of the change of ownership.

**Sec. 39.** RCW 74.46.690 and 1995 1st sp.s. c 18 s 113 are each amended to read as follows:

- (1) When (~~((a facility contract is terminated))~~) there is a change of ownership for any reason, (~~((the old contractor shall submit))~~) final reports shall be submitted as required by RCW 74.46.040.
- (2) Upon a notification of (~~((a contract termination))~~) intent to change ownership, the department shall determine by (~~((preliminary or final settlement calculations))~~) settlement or reconciliation the amount of any overpayments made to the assigning or terminating contractor, including overpayments disputed by the assigning or terminating contractor. If (~~((preliminary or final))~~) settlements are unavailable for any period up to the date of (~~((contract termination))~~) assignment or termination, the department shall make a reasonable estimate of any overpayment or underpayments for such periods. The reasonable estimate shall be based upon prior period settlements, available audit findings, the projected impact of prospective rates, and other information available to the department. The department shall also determine and add in the total of all other debts and potential debts owed to the department regardless of source, including, but not limited to, interest owed to the department as authorized by this chapter, civil fines imposed by the department, or third-party liabilities.
- (3) (~~((The old))~~) For all cost reports filed after December 31, 1997, the assigning or terminating contractor shall provide security, in a form deemed adequate by the department, equal to the total amount of determined and estimated overpayments and all ((other)) debts and potential debts from any source, whether or not the overpayments are the subject of good faith dispute including but not limited to, interest owed to the department, civil fines imposed by the department, and third-party liabilities. Security shall consist of one or more of the following:
  - (a) Withheld payments due the assigning or terminating contractor under the contract being assigned or terminated; (~~((or))~~)
  - (b) (~~((A surety bond issued by a bonding company acceptable to the department; or~~
  - (c)) An assignment of funds to the department; (~~((or~~
  - (d)) Collateral acceptable to the department; or
  - (e) A purchaser's) (c) The new contractor's assumption of liability for the prior contractor's ((overpayment)) debt or potential debt;
  - (d) An authorization to withhold payments from one or more medicaid nursing facilities that continue to be operated by the assigning or terminating contractor;

((f)) (e) A promissory note secured by a deed of trust; or

((g)) Any combination of (a), (b), (c), (d), (e), or (f) of this subsection)) (f) Other collateral or security acceptable to the department.

(4) ~~((A surety bond or))~~ An assignment of funds shall:

(a) Be at least equal ~~((it))~~ to the amount ~~((to))~~ of determined or estimated ~~((overpayments, whether or not the subject of good faith dispute;))~~ debt or potential debt minus withheld payments or other security provided; and

(b) ~~((Be issued or accepted by a bonding company or financial institution licensed to transact business in Washington state;))~~

(c) ~~Be for a term, as determined by the department, sufficient to ensure effectiveness after final settlement and the exhaustion of any administrative appeals or exception procedure and judicial remedies, as may be available to and sought by the contractor, regarding payment, settlement, civil fine, interest assessment, or other debt issues: PROVIDED, That the bond or assignment shall initially be for a term of at least five years, and shall be forfeited if not renewed thereafter in an amount equal to any remaining combined overpayment and debt liability as determined by the department;~~

(d) ~~Provide that the full amount of the bond or assignment, or both, shall be paid to the department if a properly completed final cost report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the auditor; and~~

(e)) ~~Provide that an amount equal to any recovery the department determines is due from the contractor from ((settlement or from)) any ((other)) source of debt to the department, but not exceeding the amount of the ((bond and assignment)) assigned funds, shall be paid to the department if the contractor does not pay the ((refund and)) debt within sixty days following receipt of written demand for payment from the department to the contractor.~~

(5) The department shall release any payment withheld as security if alternate security is provided under subsection (3) of this section in an amount equivalent to the determined and estimated ~~((overpayments))~~ debt.

(6) If the total of withheld payments~~((, bonds,))~~ and ~~((assignments))~~ assigned funds is less than the total of determined and estimated ~~((overpayments))~~ debt, the unsecured amount of such ~~((overpayments))~~ debt shall be a debt due the state and shall become a lien against the real and personal property of the contractor from the time of filing by the department with the county auditor of the county where the contractor resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

(7) ~~((The contractor shall file))~~ A properly completed final cost report shall be filed in accordance with the requirements of ~~((this chapter))~~ RCW 74.46.040, which shall be ~~((audited))~~ examined by the department in accordance with the requirements of RCW 74.46.100. ~~((A final settlement shall be determined within ninety days following completion of the audit process, including completion of any administrative appeals or exception procedure review of the audit requested by the contractor, but not including completion of any judicial review available to and commenced by the contractor.))~~

(8) ~~((Following determination of settlement for all periods;))~~ Security held pursuant to this section shall be released to the contractor after all ~~((overpayments, erroneous payments, and))~~ debts ~~((determined in connection with final settlement, or otherwise)),~~ including accumulated interest owed the department, have been paid by the ~~((contractor))~~ old owner.

(9) If, after calculation of settlements for any periods, it is determined that overpayments exist in excess of the value of security held by the state, the department may seek recovery of these additional overpayments as provided by law.

(10) Regardless of whether a contractor intends to ~~((terminate its medicaid contracts))~~ change ownership, if a contractor's net medicaid overpayments and erroneous payments for one or more settlement periods, and for one or more nursing facilities, combined with debts due the department, reaches or exceeds a total of fifty thousand dollars, as determined by ~~((preliminary settlement, final))~~ settlement, civil fines imposed by the department, third-party liabilities or by any other source, whether such amounts are subject to good faith dispute or not, the department shall demand and obtain security equivalent to the total of such overpayments, erroneous payments, and debts and shall obtain security for each subsequent increase in liability reaching or exceeding twenty-five thousand dollars. Such security shall meet the criteria in subsections (3) and (4) of this section, except that the department shall not accept an assumption of liability. The department shall withhold all or portions of a contractor's current contract payments or impose liens, or both, if security acceptable to the department is not forthcoming. The department shall release a contractor's withheld payments or lift liens, or both, if the contractor subsequently provides security acceptable to the department. ~~((This subsection shall apply to all overpayments and erroneous payments determined by preliminary or final settlements issued on or after July 1, 1995, regardless of what payment periods the settlements may cover and shall apply to all debts owed the department from any source, including interest debts, which become due on or after July 1, 1995.))~~

(11) Notwithstanding the application of security measures authorized by this section, if the department determines that any remaining debt of the old owner is uncollectible from the old owner, the new owner is liable for the unsatisfied debt in all respects. If the new owner does not accept assignment of the contract and the contingent liability for all debt of the prior owner, a new certification survey shall be done and no payments shall be made to the new owner until the department determines the facility is in substantial compliance for the purposes of certification.

(12) Medicaid provider contracts shall only be assigned if there is a change of ownership, and with approval by the department.

**Sec. 40.** RCW 74.46.770 and 1995 1st sp.s. c 18 s 114 are each amended to read as follows:

(1) ~~((For all nursing facility medicaid payment rates effective on or after July 1, 1995, and for all settlements and audits issued on or after July 1, 1995, regardless of what periods the settlements or audits may cover.))~~ If a contractor wishes to contest the way in which a rule

relating to the medicaid payment ((rate)) system was applied to the contractor by the department, it shall pursue ((the)) any appeals or exception procedure ((established by)) that the department may establish in rule authorized by RCW 74.46.780.

(2) If a contractor wishes to challenge the legal validity of a statute, rule, or contract provision or wishes to bring a challenge based in whole or in part on federal law, ((including but not limited to issues of procedural or substantive compliance with the federal medicaid minimum payment standard for long-term care facility services, the)) any appeals or exception procedure ((established by)) that the department may establish in rule may not be used for these purposes. This prohibition shall apply regardless of whether the contractor wishes to obtain a decision or ruling on an issue of validity or federal compliance or wishes only to make a record for the purpose of subsequent judicial review.

(3) If a contractor wishes to challenge the legal validity of a statute, rule, or contract provision relating to the medicaid payment rate system, or wishes to bring a challenge based in whole or in part on federal law, it must bring such action de novo in a court of proper jurisdiction as may be provided by law.

**Sec. 41.** RCW 74.46.780 and 1995 1st sp.s. c 18 s 115 are each amended to read as follows:

((For all nursing facility medicaid payment rates effective on or after July 1, 1995, and for all audits completed and settlements issued on or after July 1, 1995, regardless of what periods the payment rates, audits, or settlements may cover,)) The department shall establish in rule, consistent with federal requirements for nursing facilities participating in the medicaid program, an appeals or exception procedure that allows individual nursing care providers an opportunity to submit additional evidence and receive prompt administrative review of payment rates with respect to such issues as the department deems appropriate.

**Sec. 42.** RCW 74.46.800 and 1980 c 177 s 80 are each amended to read as follows:

(1) The department shall have authority to adopt, ((promulgate,)) amend, and rescind such administrative rules and definitions as ((are)) it deems necessary to carry out the policies and purposes of this chapter and to resolve issues and develop procedures that it deems necessary to implement, update, and improve the case mix elements of the nursing facility medicaid payment system. ((In addition, at least annually the department shall review changes to generally accepted accounting principles and generally accepted auditing standards as approved by the financial accounting standards board, and the American institute of certified public accountants, respectively. The department shall adopt by administrative rule those approved changes which it finds to be consistent with the policies and purposes of this chapter.))

(2) Nothing in this chapter shall be construed to require the department to adopt or employ any calculations, steps, tests, methodologies, alternate methodologies, indexes, formulas, mathematical or statistical models, concepts, or procedures for medicaid rate setting or payment that are not expressly called for in this chapter.

**Sec. 43.** RCW 74.46.820 and 1985 c 361 s 14 are each amended to read as follows:

(1) Cost reports and their final audit reports filed by the contractor shall be subject to public disclosure pursuant to the requirements of chapter 42.17 RCW. ((Notwithstanding any other provision of law, cost report schedules showing information on rental or lease of assets, the facility or corporate balance sheet, schedule of changes in financial position, statement of changes in equity fund balances, notes to financial statements, and any accompanying schedules summarizing the adjustments to a contractor's financial records, reports on review of internal control and accounting procedures, and letters of comments or recommendations relating to suggested improvements in internal control or accounting procedures which are prepared pursuant to the requirements of this chapter shall be exempt from public disclosure.

This)) (2) Subsection (1) of this section does not prevent a contractor from having access to its own records or from authorizing an agent or designee to have access to the contractor's records.

((2)) (3) Regardless of whether any document or report submitted to the secretary pursuant to this chapter is subject to public disclosure, copies of such documents or reports shall be provided by the secretary, upon written request, to the legislature and to state agencies or state or local law enforcement officials who have an official interest in the contents thereof.

**Sec. 44.** RCW 74.46.840 and 1983 1st ex.s. c 67 s 42 are each amended to read as follows:

If any part of this chapter ((and)) or RCW 18.51.145 ((and)) or 74.09.120 is found by an agency of the federal government to be in conflict with federal requirements ((which)) that are a prescribed condition to the receipts of federal funds to the state, the conflicting part of this chapter ((and)) or RCW 18.51.145 ((and)) or 74.09.120 is ((hereby)) declared inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter ((and)) or RCW 18.51.145 ((and)) or 74.09.120 in its application to the agencies concerned. In the event that any portion of this chapter ((and)) or RCW 18.51.145 ((and)) or 74.09.120 is found to be in conflict with federal requirements ((which)) that are a prescribed condition to the receipt of federal funds, the secretary, to the extent that the secretary finds it to be consistent with the general policies and intent of chapters 18.51, 74.09, and 74.46 RCW, may adopt such rules as to resolve a specific conflict and ((which)) that do meet minimum federal requirements. In addition, the secretary shall submit to the next regular session of the legislature a summary of the specific rule changes made and recommendations for statutory resolution of the conflict.

**Sec. 45.** RCW 74.09.120 and 1993 sp.s. c 3 s 8 are each amended to read as follows:

The department shall purchase necessary physician and dentist services by contract or "fee for service." The department shall purchase nursing home care by contract and payment for the care shall be in accordance with the provisions of chapter 74.46 RCW and rules adopted by the department under the authority of RCW 74.46.800. ((The department shall establish regulations for reasonable nursing home accounting and reimbursement systems which shall provide that)) No payment shall be made to a nursing home which does not permit inspection



by the department of social and health services of every part of its premises and an examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the department deems relevant to the ~~((establishment of such a system))~~ regulation of nursing home operations, enforcement of standards for resident care, and payment for nursing home services.

The department may purchase nursing home care by contract in veterans' homes operated by the state department of veterans affairs(~~(=The department shall establish rules for reasonable accounting and reimbursement systems for such care))~~ and payment for the care shall be in accordance with the provisions of chapter 74.46 RCW and rules adopted by the department under the authority of RCW 74.46.800.

The department may purchase care in institutions for the mentally retarded, also known as intermediate care facilities for the mentally retarded. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for the mentally retarded include licensed nursing homes, public institutions, licensed boarding homes with fifteen beds or less, and hospital facilities certified as intermediate care facilities for the mentally retarded under the federal medicaid program to provide health, habilitative, or rehabilitative services and twenty-four hour supervision for mentally retarded individuals or persons with related conditions and includes in the program "active treatment" as federally defined.

The department may purchase care in institutions for mental diseases by contract. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for mental diseases are certified under the federal medicaid program and primarily engaged in providing diagnosis, treatment, or care to persons with mental diseases, including medical attention, nursing care, and related services.

The department may purchase all other services provided under this chapter by contract or at rates established by the department.

**NEW SECTION. Sec. 46.** (1) Payment for direct care at the pilot nursing facility in King county designed to meet the service needs of residents living with AIDS, as defined in RCW 70.24.017, and as specifically authorized for this purpose under chapter 9, Laws of 1989 1st ex. sess., shall be exempt from case mix methods of rate determination set forth in this chapter and shall be exempt from the direct care metropolitan statistical area peer group cost limitation set forth in this chapter.

(2) Direct care component rates at the AIDS pilot facility shall be based on direct care reported costs at the pilot facility, utilizing the same three-year, rate-setting cycle prescribed for other nursing facilities, and as supported by a staffing benchmark based upon a department-approved acuity measurement system.

(3) The provisions of section 18 of this act and all other rate-setting principles, cost lids, and limits, including settlement as provided in section 10 of this act shall apply to the AIDS pilot facility.

(4) This section applies only to the AIDS pilot nursing facility.

**NEW SECTION. Sec. 47.** (1) By December 1, 1998, the department of social and health services shall study and provide recommendations to the chairs of the house of representatives appropriations and health care committees, and the senate ways and means and health and long-term care committees, concerning options for changing the method for paying facilities for capital and property related expenses.

(2) The department of social and health services shall contract with an independent and recognized organization to study and evaluate the impacts of chapter 74.46 RCW implementation on access, quality of care, quality of life for nursing facility residents, and the wage and benefit levels of all nursing facility employees. The department shall require, and the contractor shall submit, a report with the results of this study and evaluation, including their findings, to the governor and legislature by December 1, 2001.

(3) The department of social and health services shall study and, as needed, specify additional case mix groups and appropriate case mix weights to reflect the resource utilization of residents whose care needs are not adequately identified or reflected in the resource utilization group III grouper version 5.10. At a minimum, the department shall study the adequacy of the resource utilization group III grouper version 5.10, including the minimum data set, for capturing the care and resource utilization needs of residents with AIDS, residents with traumatic brain injury, and residents who are behaviorally challenged. The department shall report its findings to the chairs of the house of representatives health care committee and the senate health and long-term care committee by December 12, 2002.

(4) By December 12, 2002, the department of social and health services shall report to the legislature and provide an evaluation of the fiscal impact of rebasing future payments at different intervals, including the impact of averaging two years' cost data as the basis for rebasing. This report shall include the fiscal impact to the state and the fiscal impact to nursing facility providers.

**NEW SECTION. Sec. 48.** By December 12, 1998, the department of social and health services shall study and provide recommendation to appropriate committees of the legislature on the appropriateness of extending case-mix reimbursement to home and community services providers, as defined in chapter 74.39A RCW. The department shall invite stakeholders to participate in this study.

**Sec. 49.** RCW 72.36.030 and 1993 sp.s. c 3 s 5 are each amended to read as follows:

All of the following persons who have been actual bona fide residents of this state at the time of their application, and who are indigent and unable to support themselves and their families may be admitted to a state veterans' home under rules as may be adopted by the director of the department, unless sufficient facilities and resources are not available to accommodate these people:

(1)(a) All honorably discharged veterans of a branch of the armed forces of the United States or merchant marines; (b) members of the state militia disabled while in the line of duty; ~~((and))~~ (c) Filipino World War II veterans who swore an oath to American authority and who participated in military engagements with American soldiers; and (d) the spouses of these veterans, merchant marines, and members of the state

militia. However, it is required that the spouse was married to and living with the veteran three years prior to the date of application for admittance, or, if married to him or her since that date, was also a resident of a state veterans' home in this state or entitled to admission thereto;

(2)(a) The spouses of: (i) All honorably discharged veterans of the United States armed forces; (ii) merchant marines; and (iii) members of the state militia who were disabled while in the line of duty and who were residents of a state veterans' home in this state or were entitled to admission to one of this state's state veteran homes at the time of death; (b) the spouses of: (i) All honorably discharged veterans of a branch of the United States armed forces; (ii) merchant marines; and (iii) members of the state militia who would have been entitled to admission to one of this state's state veterans' homes at the time of death, but for the fact that the spouse was not indigent, but has since become indigent and unable to support himself or herself and his or her family. However, the included spouse shall be at least fifty years old and have been married to and living with their husband or wife for three years prior to the date of their application. The included spouse shall not have been married since the death of his or her husband or wife to a person who is not a resident of one of this state's state veterans' homes or entitled to admission to one of this state's state veterans' homes; and

(3) All applicants for admission to a state veterans' home shall apply for all federal and state benefits for which they may be eligible, including medical assistance under chapter 74.09 RCW.

**NEW SECTION. Sec. 50.** A new section is added to chapter 70.38 RCW to read as follows:

(1) A change in bed capacity at a residential hospice care center shall not be subject to certificate of need review under this chapter if the department determined prior to June 1994 that the construction, development, or other establishment of the residential hospice care center was not subject to certificate of need review under this chapter.

(2) For purposes of this section, a "residential hospice care center" means any building, facility, place, or equivalent that opened in December 1996 and is organized, maintained, and operated specifically to provide beds, accommodations, facilities, and services over a continuous period of twenty-four hours or more for palliative care of two or more individuals, not related to the operator, who are diagnosed as being in the latter stages of an advanced disease that is expected to lead to death.

**NEW SECTION. Sec. 51.** (1) A facility's nursing services, food, administrative, and operational component rates, existing on June 30, 1998, weighted by medicaid resident days, and adjusted by a factor specified in the biennial appropriations act, shall be the facility's nursing services, food, administrative, and operational component rates for the period July 1, 1998, through September 30, 1998.

(2) A facility's return on investment and property component rates existing on June 30, 1998, or as subsequently adjusted or revised, shall be the facility's return on investment and property component rates for the period July 1, 1998, through September 30, 1998, with no increase for the period July 1, 1998, through September 30, 1998.

**NEW SECTION. Sec. 52.** The following acts or parts of acts are each repealed:

- (1) RCW 74.46.105 and 1995 1st sp.s. c 18 s 91, 1985 c 361 s 10, & 1983 1st ex.s. c 67 s 5;
- (2) RCW 74.46.115 and 1995 1st sp.s. c 18 s 92 & 1983 1st ex.s. c 67 s 6;
- (3) RCW 74.46.130 and 1985 c 361 s 11, 1983 1st ex.s. c 67 s 7, & 1980 c 177 s 13;
- (4) RCW 74.46.150 and 1983 1st ex.s. c 67 s 8 & 1980 c 177 s 15;
- (5) RCW 74.46.160 and 1995 1st sp.s. c 18 s 93, 1985 c 361 s 12, 1983 1st ex.s. c 67 s 9, & 1980 c 177 s 16;
- (6) RCW 74.46.170 and 1995 1st sp.s. c 18 s 94, 1983 1st ex.s. c 67 s 10, & 1980 c 177 s 17;
- (7) RCW 74.46.180 and 1995 1st sp.s. c 18 s 95 & 1993 sp.s. c 13 s 2;
- (8) RCW 74.46.210 and 1991 sp.s. c 8 s 14 & 1980 c 177 s 21; and
- (9) RCW 74.46.670 and 1983 1st ex.s. c 67 s 35 & 1980 c 177 s 67.

**NEW SECTION. Sec. 53.** RCW 74.46.595 and 1995 1st sp.s. c 18 s 98 are each repealed effective July 2, 1998.

**NEW SECTION. Sec. 54.** The following acts or parts of acts are each repealed, effective June 30, 1999:

- (1) 1998 c . . . s 29 (section 29 of this act) (uncodified); and
- (2) 1998 c . . . s 30 (section 30 of this act) (uncodified).

**NEW SECTION. Sec. 55.** Sections 1 through 37, 40 through 49, and 52 through 54 of this act take effect July 1, 1998.

**NEW SECTION. Sec. 56.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 57.** (1) Sections 9, 10, 19, 20, 22 through 28, 31, and 46 of this act are each added to chapter 74.46 RCW.

(2) Sections 19, 20, 22 through 28, and 31 of this act shall be codified in part E of chapter 74.46 RCW.

**NEW SECTION. Sec. 58.** Section 51 of this act takes effect July 1, 1998, and expires October 1, 1998.

**NEW SECTION. Sec. 59.** Sections 38 and 39 of this act take effect October 1, 1998."

Debate ensued.

#### POINT OF INQUIRY

Senator Wojahn: "Senator West, is it your expectation that the study of applying case mix reimbursement to community based long-term care services will include an assessment of the adequacy of current home care worker wages?"

Senator West: "Yes, Senator Wojahn, I do expect that the study should take a look at home care worker rates and compensation levels. I think it should be a relatively broad study."

Senator Wojahn: "Senator West, would you join me in sending a letter to DSHS clarifying our intent that the study should address this issue?"

Senator West: "Certainly, Senator Wojahn, I would be more than happy to join you in that letter."

Senator Wojahn: "Thank you."

The President declared the question before the Senate to be the adoption of the striking amendment by Senator West to Engrossed Second Substitute House Bill No. 2935.

The motion by Senator West carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator Deccio, the following title amendment was adopted:

On page 1, line 1 of the title, after "rates;" strike the remainder of the title and insert "amending RCW 74.46.010, 74.46.020, 74.46.040, 74.46.050, 74.46.060, 74.46.080, 74.46.090, 74.46.100, 74.46.190, 74.46.220, 74.46.230, 74.46.270, 74.46.280, 74.46.300, 74.46.410, 74.46.475, 74.46.610, 74.46.620, 74.46.630, 74.46.640, 74.46.650, 74.46.660, 74.46.680, 74.46.690, 74.46.770, 74.46.780, 74.46.800, 74.46.820, 74.46.840, 74.09.120, and 72.36.030; adding new sections to chapter 74.46 RCW; adding a new section to chapter 70.38 RCW; creating new sections; repealing RCW 74.46.105, 74.46.115, 74.46.130, 74.46.150, 74.46.160, 74.46.170, 74.46.180, 74.46.210, 74.46.670, and 74.46.595; prescribing penalties; providing effective dates; and providing an expiration date."

On motion of Senator Deccio, the rules were suspended, Engrossed Second Substitute House Bill No. 2935, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute House Bill No. 2935, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2935, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senator Prince - 1. Excused: Senator Heavey - 1. ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2935, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of House Bill No. 2335 and the pending amendment by Senators Thibaudeau, Brown and Kohl on page 7, after line 3, and the pending amendment by Senators Hargrove, Tim Sheldon and Snyder on page 8, after line 31, deferred earlier today.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator West to the scope and object of the amendment on page 7, after line 3, by Senators Thibaudeau, Brown and Kohl, and the amendment by Senators Hargrove, Tim Sheldon and Snyder on page 8, after line 31, the President finds that House Bill No. 2335 is a measure which consolidates the current ten rates of B&O tax into six rates by exempting the wholesaling of certain grains and reducing the rate for several groups including manufacturers of certain food products, international freight brokers and insurance agents and brokers.

"The amendment by Senators Thibaudeau, Brown and Kohl would lower the B&O tax rate for child care services into one of the consolidated rates. The President, therefore, finds that the proposed amendment does not change the scope and object of the bill and the point of order is not well taken.

"The amendment by Senators Hargrove, Tim Sheldon and Snyder would provide criteria for a tax credit. The President, therefore, finds that the proposed amendment does change the scope and object of the bill and the point of order is well taken."

The amendment on page 7, after line 3, by Senators Thibaudeau, Brown and Kohl to House Bill No. 2335 was ruled in order.

The amendment on page 8, after line 31, by Senators Hargrove, Tim Sheldon and Snyder to House Bill No. 2335 was ruled out of order.

#### MOTION

On motion of Senator Johnson, further consideration of House Bill No. 2335 was deferred.

There being no objection, the Senate resumed consideration of House Bill No. 2278 and the pending amendments by Senators Finkbeiner, Brown, Hochstatter and Jacobsen on page 1, lines 13 and 15; page 2, lines 5, 18 and 29; and page 3, line 1; deferred earlier today.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator West to the scope and object of the amendments on page 1, lines 13 and 15; page 2, lines 5, 18, and 29; and page 3, line 1; by Senators Finkbeiner, Brown, Hochstatter and Jacobsen, the President finds that House Bill No. 2278 is a measure which extends the sales and use tax exemption for alternate energy facilities producing more than 200 kilowatts of electricity to include landfill gas facilities, in addition to wind and sun energy facilities.

"The amendments by Senators Finkbeiner, Brown, Hochstatter and Jacobsen would do three things, including lowering the exemption threshold for only sun and wind facilities to 20 watts.

"Because of this provision, the President finds that the proposed amendments do change the scope and object of the bill and the point of order is well taken."

The amendments on pages 1, 2, and 3, by Senators Finkbeiner, Brown, Hochstatter and Jacobsen to House Bill No. 2278 were ruled out of order.

#### MOTION

On motion of Senator West, the rules were suspended, House Bill No. 2278 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2278.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2278, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 3; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Voting nay: Senator Fairley - 1. Absent: Senators Horn, McCaslin and Prince - 3. Excused: Senator Heavey - 1. HOUSE BILL NO. 2278, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act

#### MOTION

At 6:20 p.m., on motion of Senator Johnson, the Senate recessed until 7:00 p.m.

The Senate was called to order at 7:00 p.m. by President Owen.

#### SECOND READING GUBERNATORIAL APPOINTMENT

#### MOTION

On motion of Senator Wood, Gubernatorial Appointment No. 9313, Robert D. Fukai, as a member of the Board of Regents for Washington State University, was confirmed.

Senators Wood and Brown spoke to the confirmation of Robert D. Fukai as a member of the Board of Regents for Washington State University.

#### APPOINTMENT OF ROBERT D. FUKAI

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 5; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Thibaudeau, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senators Deccio, Haugen, Kohl, Swecker and West - 5.

#### SECOND READING

HOUSE BILL NO. 1549, by Representatives H. Sommers, Reams, Scott, B. Thomas, Dunshee, Gombosky, Cooper, Chopp, Conway, Costa, Lantz, Cole, O'Brien and Mason

Reducing property tax assessments in response to government restrictions.

The bill was read the second time.

#### MOTION

On motion of Senator Strannigan, the rules were suspended, House Bill No. 1549 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1549.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1549 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 3; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senators Deccio, Haugen and McCaslin - 3. HOUSE BILL NO. 1549, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Goings, Senator Haugen was excused

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2711, by House Committee on Finance (originally sponsored by Representatives Parlette, Chandler, Mulliken and Sump)

Providing tax exemptions for small irrigation districts.

The bill was read the second time.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute House Bill No. 2711 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2711.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2711 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senators Brown, Fairley and Franklin - 3. Excused: Senator Haugen - 1.

SUBSTITUTE HOUSE BILL NO. 2711, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 10, 1998

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 3001 and asks the Senate to recede therefrom., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator Schow, the rules were suspended, Substitute House Bill No. 3001 was returned to second reading and read the second time.

#### MOTION

On motion of Senator Schow, the following amendment by Senators Schow and Heavey was adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 66.28.040 and 1997 c 39 s 1 are each amended to read as follows:

Except as permitted by the board under RCW 66.20.010, no brewer, wholesaler, distiller, winery, importer, rectifier, or other manufacturer of liquor shall, within the state, by himself or herself, a clerk, servant, or agent, give to any person any liquor; but nothing in this section nor in RCW 66.28.010 shall prevent a brewer, wholesaler, winery, distiller, or importer from furnishing samples of beer, wine, or spirituous liquor to authorized licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210, and in the case of spirituous liquor, any product used for samples must be purchased at retail from the board; nothing in this section shall prevent the furnishing of samples of liquor to the board for the purpose of negotiating the sale of liquor to the state liquor control board; nothing in this section shall prevent a brewery, winery, distillery, or wholesaler from furnishing beer, wine, or spirituous liquor for instructional purposes under RCW 66.28.150 and 66.28.155; nothing in this section shall prevent a winery or wholesaler from furnishing wine without charge, subject to the taxes imposed by RCW 66.24.210, to a not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and ~~((any)) that uses~~ wine so furnished ~~((shall be used))~~ solely for such educational purposes~~((, provided that the wine furnished shall be subject to the taxes imposed by RCW 66.24.210))~~ or a domestic winery from furnishing wine without charge or a domestic brewery from furnishing beer without charge, subject to the taxes imposed by RCW 66.24.210 or 66.24.290, to a nonprofit charitable corporation or association exempt from taxation under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) for use consistent with the purpose or purposes entitling it to such exemption; nothing in this section shall prevent a brewer from serving beer without charge, on the brewery premises; nothing in this section shall prevent donations of wine for the purposes of RCW 66.12.180; and nothing in this section shall prevent a domestic winery from serving wine without charge, on the winery premises."

## MOTIONS

On motion of Senator Schow, the following title amendment was adopted:

On page 1, line 2 of the title, after "organizations;" strike the remainder of the title and insert "and amending RCW 66.28.040."

On motion of Senator Schow, the rules were suspended, Substitute House Bill No. 3001, as amended by the Senate under suspension of the rules, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3001, as amended by the Senate under suspension of the rules.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3001, as amended by the Senate under suspension of the rules, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 3; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 45. Absent: Senators Finkbeiner, Strannigan and Wojahn - 3. Excused: Senator Haugen - 1. SUBSTITUTE HOUSE BILL NO. 3001, as amended by the Senate under suspension of the rules, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGES FROM THE HOUSE

March 11, 1998

MR.. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 5309,  
SENATE BILL NO. 5631,  
SUBSTITUTE SENATE BILL NO. 6077,  
SUBSTITUTE SENATE BILL NO. 6161,  
SENATE BILL NO. 6270,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6418,  
SENATE BILL NO. 6449,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6509,  
SENATE BILL NO. 6539,  
SENATE BILL NO. 6552,  
SENATE BILL NO. 6599,  
SUBSTITUTE SENATE BILL NO. 6602,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6622,  
SENATE BILL NO. 6662,  
SENATE BILL NO. 6668,  
SENATE BILL NO. 6699,  
SUBSTITUTE SENATE BILL NO. 6727, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 11, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following House Bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1541,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2933.

TIMOTHY A. MARTIN, Chief Clerk

March 11, 1998

MR. PRESIDENT:

The House has adopted SENATE CONCURRENT RESOLUTION NO. 8429, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SENATE CONCURRENT RESOLUTION NO. 8429.

MESSAGE FROM THE HOUSE

March 11, 1998

MR.. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SENATE BILL NO. 6541 and asks the Senate to concur therein., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Sellar moved that the Senate concur in the House amendments on page 2, line 33, and page 3, line 6, and asks the House to recede from its amendment on page 3, line 10.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Sellar that the Senate concur in the House amendments on page 2, line 33, and page 3, line 6, and asks the House to recede from its amendment on page 3, line 10, to Senate Bill No. 6541.

The motion by Senator Sellar carried and the Senate concurred in the House amendments on page 2, line 33, and page 3, line 6, and asks the House to recede from its amendment on page 3, line 10, to Senate Bill No. 6541.

MOTION

Having voted on the prevailing side, Senator Schow moved that the Senate immediately reconsider the vote by which Substitute Senate Bill No. 6119, as amended by the House, failed to pass the Senate earlier today.

PARLIAMENTARY INQUIRY

Senator Snyder: "Thank you, Mr. President. I have a point of parliamentary inquiry. Papers are running across our desks so fast that we can't always dig back and find out what happened. Was this a Report of a Conference Committee that was adopted and then failed or was it a concurrence or did we recede or what did we do on this bill?"

REPLY BY THE PRESIDENT

President Owen: "Senator Snyder, it was final passage, following concurrence on the House amendments."

Senator Snyder demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the motion by Senator Schow to immediately reconsider the vote by which Substitute Senate Bill No. 6119, as amended by the House, failed to pass the Senate.

ROLL CALL



The Secretary called the roll and the motion for immediate reconsideration carried by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wood and Zarelli - 27. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel and Wojahn - 22. The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6119, as amended by the House, on reconsideration.

Debate ensued.

#### POINT OF INQUIRY

Senator Fraser: "Senator Patterson, could you please clarify the current content of this proposal?"

#### RULING BY THE PRESIDENT

President Owen: "That would be out of order, Senator Fraser. That would be yielding your time or asking a question for the purpose of allowing Senator Patterson to speak again."

Senator Fraser: "I apologize."

Further debate ensued.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6119, as amended by the House, on reconsideration, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hargrove, Heavey, Hochstatter, Horn, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley and Zarelli - 29. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Haugen, Jacobsen, Kline, Kohl, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau, Wojahn and Wood - 20. SUBSTITUTE SENATE BILL NO. 6119, as amended by the House, on reconsideration, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the sixth order of business.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3076, by House Committee on Finance (originally sponsored by Representatives H. Sommers, Cooke, Dickerson, Anderson, Gardner and Ogden)

Authorizing sharing of tax information for purposes of investigating food stamp fraud.

The bill was read the second time.

#### POINT OF INQUIRY

Senator Snyder: "Senator West, these bills are appearing on our desk pretty fast and we don't know where they are coming from. Is this a bill necessary to implement the budget or by what reason is it before us?"

Senator West: "May I have a moment? Mr. President, I move that this bill hold its place on the calendar and further consideration be deferred."

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 6108 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

**REPORT OF CONFERENCE COMMITTEE**

**ESSB 6108**

**March 10, 1998**

Includes "NEW ITEM": YES

Relating to fiscal matters

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE SENATE BILL NO. 6108, relating to fiscal matters, have had the same under consideration and we recommend that all previous amendments not be adopted, and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) A budget is hereby adopted and, subject to the provisions set forth in the following sections, the several amounts specified in parts I through VIII of this act, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for salaries, wages, and other expenses of the agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1997, and ending June 30, 1999, except as otherwise provided, out of the several funds of the state hereinafter named.

(2) Unless the context clearly requires otherwise, the definitions in this section apply throughout this act.

(a) "Fiscal year 1998" or "FY 1998" means the fiscal year ending June 30, 1998.

(b) "Fiscal year 1999" or "FY 1999" means the fiscal year ending June 30, 1999.

(c) "FTE" means full time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall lapse.

**PART I  
GENERAL GOVERNMENT**

**Sec. 101.** 1997 c 149 s 101 (uncodified) is amended to read as follows:

**FOR THE HOUSE OF REPRESENTATIVES**

General Fund Appropriation (FY 1998) \$	((24,241,000))
	<u>24,221,000</u>
General Fund Appropriation (FY 1999) \$	((25,637,000))
	<u>25,907,000</u>
<u>Department of Retirement Systems Expense</u>	
<u>Account Appropriation \$</u>	<u>25,000</u>
TOTAL APPROPRIATION \$	((49,878,000))
	<u>50,153,000</u>

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

(1) \$75,000 of the general fund fiscal year 1998 appropriation and \$75,000 of the general fund fiscal year 1999 appropriation are provided solely for the independent operations of the legislative ethics board. Expenditure decisions of the board, including employment of staff, shall be independent of the senate and house of representatives.

(2) (~~(\$25,000 of the general fund fiscal year 1998 appropriation is provided solely to implement Substitute Senate Concurrent Resolution No. 8408 (water policy report). If the concurrent resolution is not enacted by June 30, 1997, the amount provided in this subsection shall lapse~~) The department of retirement systems expense account appropriation is provided solely to implement the provisions relating to the actuarial audit of the pension contribution rates in Substitute House Bill No. 2544 (funding state retirement systems). If the bill is not enacted by June 30, 1998, the appropriation shall lapse.

(3) \$125,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a review of the memorandum of agreement signed between the United States environmental protection agency and the department of ecology. The agreement requires the department to conduct total maximum daily loads on polluted water bodies as defined by the federal clean water act. The review may include but is not limited to the department's program for implementing the settlement, an examination of the decisions that affect how water quality problems are defined, the causes of those problems, and the means by which solutions to these problems are to be developed and implemented.

**Sec. 102.** 1997 c 149 s 102 (uncodified) is amended to read as follows:

**FOR THE SENATE**

General Fund Appropriation (FY 1998) \$	19,357,000
General Fund Appropriation (FY 1999) \$	((20,663,000))
	<u>20,838,000</u>
<u>Department of Retirement Systems Expense Account</u>	
<u>Appropriation \$</u>	<u>25,000</u>
TOTAL APPROPRIATION \$	((40,020,000))
	<u>40,220,000</u>

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

(1) \$75,000 of the general fund fiscal year 1998 appropriation and \$75,000 of the general fund fiscal year 1999 appropriation are provided solely for the independent operations of the legislative ethics board. Expenditure decisions of the board, including employment of staff, shall be independent of the senate and house of representatives.

(2) (~~(\$25,000 of the general fund fiscal year 1998 appropriation is provided solely to implement Substitute Senate Concurrent Resolution No. 8408 (water policy report). If the concurrent resolution is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.~~

~~(3))~~ \$100,000 of the general fund appropriation for fiscal year 1998 is provided solely for a study of financial aid and tuition by the senate committee on ways and means and the house of representatives committee on appropriations.

(a) The study shall report on the current usage and distribution of financial aid, investigate other resources available to financial aid recipients, and shall compare alternative methods of financial aid distribution and their impacts on the sectors of higher education and students served within each sector.

(b) The study shall also provide comparative data from other states on methods of establishing tuition rates and the relationship of tuition to state funding.

(3) The department of retirement systems expense account appropriation is provided solely to implement the provisions relating to the actuarial audit of the pension contribution rates in Substitute House Bill No. 2544 (funding state retirement systems). If the bill is not enacted by June 30, 1998, the appropriation shall lapse.

(4) \$25,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the legislature and the office of financial management to contract jointly for a performance review of the state long-term care system. The review shall result in recommendations by October 1, 1998, on strategies for increasing the long-term affordability and cost-effectiveness of the system, and shall include a review of topics such as methods for matching service levels to recipient needs, options for managing growth in entitlement caseloads, and techniques for projecting the number of persons in need of publicly funded services.

(5) \$125,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a review of the memorandum of agreement signed between the United States environmental protection agency and the department of ecology. The agreement requires the department to conduct total maximum daily loads on polluted water bodies as defined by the federal clean water act. The review may include but

is not limited to the department's program for implementing the settlement, an examination of the decisions that affect how water quality problems are defined, the causes of those problems, and the means by which solutions to these problems are to be developed and implemented.

Sec. 103. 1997 c 454 s 101 (uncodified) is amended to read as follows:

**FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

General Fund Appropriation (FY 1998) \$

((1,421,000))

1,371,000

General Fund Appropriation (FY 1999) \$

((1,425,000))

1,890,000

TOTAL APPROPRIATION \$

((2,846,000))

3,261,000

The appropriations in this section are subject to the following conditions and limitations: ((~~\$50,000 of the general fund appropriation for fiscal year 1998 is provided solely to implement Substitute Senate Bill No. 5071 (school district territory). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.~~))

(1) \$340,000 of the general fund appropriation for fiscal year 1999 is provided solely for a study of the system of finance of the Washington common schools as required by section 501 of this act.

(2) \$75,000 of the general fund appropriation for fiscal year 1999 is provided solely for completion of a management audit of the division of developmental disabilities within the department of social and health services. The objectives of the review shall include, but are not limited to: (a) An analysis and evaluation of the current organizational structures, management practices, and performance measures that are in place to fulfill statutory responsibilities; (b) an assessment of the impact of overlapping statutory or administrative code responsibilities with other department of social and health services divisions and other state agencies; and (c) development of recommendations, as appropriate, that would result in significant management improvements in the division's operations. The audit report shall be provided to the senate committee on ways and means and the house of representatives committee on appropriations by January 8, 1999.

(3) \$50,000 of the general fund appropriation for fiscal year 1999 is provided solely for a study of: (a) The effect of the state certificate of need program under chapter 70.38 RCW on the cost, quality, and availability of hospital, ambulatory surgery, home health, hospice, and kidney disease treatment services; and (b) the effect the repeal of the program would have on the cost, quality, and availability of any of these services, and on the availability of charity care and of health facilities and services in rural areas, including the experience in other states where such programs have been fully or partially repealed. The study shall be submitted to the legislature by January 1, 1999.

Sec. 104. 1997 c 149 s 104 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

General Fund Appropriation (FY 1998) \$

1,263,000

General Fund Appropriation (FY 1999) \$

((1,332,000))

1,482,000

TOTAL APPROPRIATION \$

((2,595,000))

2,745,000

The appropriations in this section are subject to the following conditions and limitations: The committee shall conduct an inventory and examination of state data processing projects funded in this act and make recommendations to improve the accountability and legislative evaluation and oversight of these projects.

Sec. 105. 1997 c 149 s 110 (uncodified) is amended to read as follows:

**FOR THE COURT OF APPEALS**

General Fund Appropriation (FY 1998) \$

((10,225,000))

General Fund Appropriation (FY 1999) \$	<u>10,340,000</u>
	((10,133,000))
TOTAL APPROPRIATION \$	<u>10,307,000</u>
	((20,358,000))
	<u>20,647,000</u>

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

(1) \$271,000 of the general fund fiscal year 1999 appropriation is provided solely for an additional judge position and related support staff in division I in King county, effective July 1, 1998.

(2) \$490,000 of the general fund fiscal year 1998 appropriation is provided solely for remodeling existing space in division I court facilities to house additional staff.

**Sec. 106.** 1997 c 149 s 111 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON JUDICIAL CONDUCT**

General Fund Appropriation (FY 1998) \$	((652,000))
	<u>692,000</u>
General Fund Appropriation (FY 1999) \$	((653,000))
	<u>714,000</u>
TOTAL APPROPRIATION \$	((1,305,000))
	<u>1,406,000</u>

**Sec. 107.** 1997 c 149 s 112 (uncodified) is amended to read as follows:

**FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund Appropriation (FY 1998) \$	12,723,000
General Fund Appropriation (FY 1999) \$	((12,595,000))
	<u>12,770,000</u>
Public Safety and Education Account Appropriation \$	((31,134,000))
	<u>27,709,000</u>
Judicial Information Systems Account Appropriation \$	((16,305,000))
	<u>17,489,000</u>
TOTAL APPROPRIATION \$	((72,757,000))
	<u>70,691,000</u>

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

(1) Funding provided in the judicial information systems account appropriation shall be used for the operations and maintenance of technology systems that improve services provided by the supreme court, the court of appeals, the office of public defense, and the office of the administrator for the courts. \$400,000 of the judicial information systems account appropriation is provided solely for the year 2000 date conversion.

(2) No moneys appropriated in this section may be expended by the administrator for the courts for payments in excess of fifty percent of the employer contribution on behalf of superior courts judges for insurance and health care plans and federal social security and medicare and medical aid benefits. Consistent with Article IV, section 13 of the state Constitution and 1996 Attorney General's Opinion No. 2, it is the intent of the legislature that the cost of these employer contributions shall be shared equally between the state and county or counties in which the judges serve. The administrator for the courts shall continue to implement procedures for the collection and disbursement of these employer contributions.

(3) ~~(\$6,510,000)~~ \$3,255,000 of the public safety and education account appropriation is provided solely for the continuation of treatment alternatives to street crimes (TASC) programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties.

(4) \$125,000 of the public safety and education account appropriation is provided solely for the workload associated with the increase in state cases filed in Thurston county superior court.

(5) \$223,000 of the public safety and education account appropriation is provided solely for the gender and justice commission.

(6) \$308,000 of the public safety and education account appropriation is provided solely for the minority and justice commission.

(7) \$100,000 of the general fund fiscal year 1998 appropriation and \$100,000 of the general fund fiscal year 1999 appropriation are provided solely for judicial program enhancements. Within the funding provided in this subsection, the office of administrator of courts in consultation with the supreme court shall determine the program or programs to receive an enhancement.

(8) \$35,000 of the general fund fiscal year 1998 appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 1771 (guardian certification). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(9) \$100,000 of the general fund fiscal year 1998 appropriation is provided solely for the Snohomish county preprosecution diversion program.

(10) \$175,000 of the general fund appropriation for fiscal year 1999 is provided solely for costs associated with the publication and distribution of a judicial voter pamphlet for the 1998 primary election.

**Sec. 108.** 1997 c 149 s 113 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF PUBLIC DEFENSE**

Public Safety and Education Account

Appropriation \$

~~((12,187,000))~~

12,103,000

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

(1) The cost of defending indigent offenders in death penalty cases has escalated significantly over the last four years. The office of public defense advisory committee shall analyze the current methods for reimbursing private attorneys and shall develop appropriate standards and criteria designed to control costs and still provide indigent defendants their constitutional right to representation at public expense. The office of public defense advisory committee shall report its findings and recommendations to the supreme court and the appropriate legislative committees by September 30, 1998.

(2) \$688,000 of the public safety and education account appropriation is provided solely to increase the reimbursement for private attorneys providing constitutionally mandated indigent defense in nondeath penalty cases.

**Sec. 109.** 1997 c 149 s 114 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE GOVERNOR**

General Fund--State Appropriation (FY 1998) \$

~~((5,047,000))~~

5,068,000

General Fund--State Appropriation (FY 1999) \$

~~((4,963,000))~~

5,520,000

General Fund--Federal Appropriation \$

~~((188,000))~~

Water Quality Account Appropriation	\$	553,000
		700,000
TOTAL APPROPRIATION	\$	((10,898,000))
		<u>11,841,000</u>

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

(1) \$1,618,000 of the general fund--state appropriation for fiscal year 1998, \$1,520,000 of the general fund--state appropriation for fiscal year 1999, \$700,000 of the water quality account appropriation, and \$188,000 of the general fund--federal appropriation are provided solely for the implementation of the Puget Sound work plan and agency action items PSAT-01 through PSAT-06.

(2) \$12,000 of the general fund--state appropriation for fiscal year 1998 and \$13,000 of the general fund--state appropriation for fiscal year 1999 are provided for the state law enforcement medal of honor committee for the purposes of recognizing qualified law enforcement officers as provided by chapter 41.72 RCW.

(3) \$21,000 of the general fund--state appropriation for fiscal year 1998 and \$57,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the office of the family and children's ombudsman for the Wenatchee investigation, support staff, and increased travel costs.

(4) \$500,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for implementation of the salmon recovery office in accordance with sections 3 through 5 of Engrossed Substitute House Bill No. 2496 (salmon recovery planning). If any of sections 3 through 5 of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

**Sec. 110.** 1997 c 149 s 116 (uncodified) is amended to read as follows:

**FOR THE PUBLIC DISCLOSURE COMMISSION**

General Fund Appropriation (FY 1998)	\$	((1,457,000))
		<u>1,568,000</u>
General Fund Appropriation (FY 1999)	\$	((1,206,000))
		<u>1,262,000</u>
TOTAL APPROPRIATION	\$	((2,663,000))
		<u>2,830,000</u>

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

(1) \$306,000 of the general fund fiscal year 1998 appropriation and \$72,000 of the general fund fiscal year 1999 appropriation are provided solely for technology for customer service improvements.

(2) \$111,000 of the fiscal year 1998 general fund appropriation is provided for attorney general services for the public disclosure commission's investigations of the Washington education association and the building industry association of Washington, and other cases.

**Sec. 111.** 1997 c 149 s 117 (uncodified) is amended to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund Appropriation (FY 1998)	\$	((8,055,000))
		<u>7,970,000</u>
General Fund Appropriation (FY 1999)	\$	((5,901,000))
		<u>7,899,000</u>
Archives & Records Management Account--State Appropriation	\$	4,032,000

Archives & Records Management Account--Private/Local

Appropriation \$

((2,553,000))

2,833,000

Department of Personnel Service Account

Appropriation \$

663,000

TOTAL APPROPRIATION \$

((21,204,000))

23,397,000

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

(1) ~~(\$2,355,000)~~ \$2,255,000 of the general fund appropriation for fiscal year 1998 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures.

(2) \$2,011,000 of the general fund appropriation for fiscal year 1998 and \$2,536,000 of the general fund appropriation for fiscal year 1999 are provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, and the publication and distribution of the voters and candidates pamphlet.

(3) \$99,000 of the general fund appropriation is provided solely for the state's participation in the United States census block boundary suggestion program.

(4) \$125,000 of the fiscal year 1998 general fund appropriation is provided solely for legal advertising of state measures under RCW 29.27.072.

(5) \$45,000 of the general fund fiscal year 1998 appropriation is provided solely for an economic feasibility study of a state horse park.

(6) The election review section under chapter 29.60 RCW shall be administered in a manner consistent with Engrossed Senate Bill No. 5565 (election procedures review).

(7)(a) \$1,850,000 of the general fund appropriation for fiscal year 1999 is provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of state-wide significance during fiscal year 1999. An eligible nonprofit organization must be formed solely for the purpose of, and be experienced in, providing gavel-to-gavel television coverage of state government deliberations and other events of state-wide significance and must have received a determination of tax-exempt status under section 501(c)(3) of the federal internal revenue code.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a four-year contract with the nonprofit organization to provide public affairs coverage through June 30, 2002. The funding level for each year of the contract shall be based on the amount provided in this subsection and adjusted to reflect the implicit price deflator for the previous year. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(8) \$280,000 of the archives and records management account--private/local appropriation is provided solely for preserving and restoring security microfilm.

**Sec. 112.** 1997 c 149 s 120 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER**

State Treasurer's Service Account

Appropriation \$

((11,567,000))



	12,382,000
<b>Sec. 113.</b> 1997 c 149 s 121 (uncodified) is amended to read as follows:	
<b>FOR THE STATE AUDITOR</b>	
General Fund Appropriation (FY 1998) \$	((678,000))
	688,000
General Fund Appropriation (FY 1999) \$	((678,000))
	1,193,000
State Auditing Services Revolving Account Appropriation \$	((11,928,000))
	12,373,000
TOTAL APPROPRIATION \$	((13,284,000))
	14,254,000

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

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$420,000 of the general fund appropriation for fiscal year 1998 and \$420,000 of the general fund appropriation for fiscal year 1999 are provided solely for staff and related costs to audit special education programs that exhibit unusual rates of growth, extraordinarily high costs, or other characteristics requiring attention of the state safety net committee, and other school districts for baseline purposes and to determine if there are common errors. The auditor shall consult with the superintendent of public instruction regarding training and other staffing assistance needed to provide expertise to the audit staff.

(3) \$250,000 of the general fund fiscal year 1998 appropriation and \$250,000 of the general fund fiscal year 1999 appropriation are provided solely for the budget and reporting system (BARS) to improve the reporting of local government fiscal data. Audits of counties and cities by the division of municipal corporations shall include findings regarding the completeness, accuracy, and timeliness of BARS data reported to the state auditor's office.

(4) The state auditor shall develop recommendations and curricula for preventing instances of improper governmental actions as defined in chapter 42.20 RCW, the state whistleblower act. In developing these recommendations and curricula, the state auditor shall involve the office of financial management, office of the attorney general, executive ethics board, department of personnel, employee organizations, and other interested parties. These recommendations shall be submitted to the governor and the legislature by June 30, 1998.

(5) \$120,000 of the auditing services revolving fund appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2881 (auditing state contractors). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(6) \$25,000 of the general fund fiscal year 1999 appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2831 (a joint report to the legislature on the results of cost studies and service quality and reliability reports from electric utilities). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse. No fee may be collected from the electric utilities for this joint report.

(7) \$10,000 of the general fund fiscal year 1998 appropriation and \$490,000 of the general fund fiscal year 1999 appropriation are provided solely for staff and related costs to: Verify the accuracy of reported school district data submitted for state funding purposes or program audits of state funded public school programs; and establish the specific amount of funds to be recovered whenever the amount is not firmly established in the course of any public school audits conducted by the state auditor's office. The results of the audits shall be submitted to the superintendent of public instruction for corrections of data and adjustments of funds.

**Sec. 114.** 1997 c 149 s 122 (uncodified) is amended to read as follows:

**FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

General Fund Appropriation (FY 1998) \$	((4,000))
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General Fund Appropriation (FY 1999) \$	<u>11,000</u>
	63,000
TOTAL APPROPRIATION \$	((67,000))
	<u>74,000</u>
<b>Sec. 115. 1997 c 149 s 123 (uncodified) is amended to read as follows:</b>	
<b>FOR THE ATTORNEY GENERAL</b>	
General Fund--State Appropriation (FY 1998) \$	((4,361,000))
	<u>4,161,000</u>
General Fund--State Appropriation (FY 1999) \$	((3,631,000))
	<u>3,831,000</u>
General Fund--Federal Appropriation \$	2,248,000
Public Safety and Education Account Appropriation \$	((1,300,000))
	<u>1,291,000</u>
New Motor Vehicle Arbitration Account Appropriation \$	1,094,000
Legal Services Revolving Account Appropriation \$	((125,008,000))
	<u>125,758,000</u>
TOTAL APPROPRIATION \$	((137,642,000))
	<u>138,383,000</u>

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

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year.

(2) The attorney general shall include, at a minimum, the following information with each bill sent to agencies receiving legal services: (a) The number of hours and cost of attorney services provided during the billing period; (b) cost of support staff services provided during the billing period; (c) attorney general overhead and central support costs charged to the agency for the billing period; (d) direct legal costs, such as filing and docket fees, charged to the agency for the billing period; and (e) other costs charged to the agency for the billing period. The attorney general may, with approval of the office of financial management change its billing system to meet the needs of its user agencies.

(3) \$300,000 of the fiscal year 1998 general fund--state appropriation is provided for a comprehensive assessment of environmental and public health impacts and for other costs related to pursuing remedies for pollution in the Spokane river basin.

(4) ~~(\$640,000)~~ \$440,000 of the fiscal year 1998 general fund--state appropriation and ~~(\$210,000)~~ \$410,000 of the fiscal year 1999 general fund--state appropriation are provided solely to implement the supervision management and recidivist tracking program to allow the department of corrections and local law enforcement agencies to share information concerning the activities of offenders on community supervision. ~~((No information on any person may be entered into or retained in the program unless the person is under the jurisdiction of the department of corrections.))~~

(5) Within the amounts provided in this section, the attorney general shall implement Second Substitute House Bill No. 2027 (regulating travel sales). If the bill is not enacted by June 30, 1998, this subsection is null and void.

**Sec. 116.** 1997 c 149 s 124 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS**

Securities Regulation Account Appropriation \$	((5,445,000))
	<u>5,482,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$34,000 of the securities regulation account appropriation is provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

**Sec. 117.** 1997 c 454 s 103 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

General Fund--State Appropriation (FY 1998) \$	((57,361,000))
	<u>57,078,000</u>
General Fund--State Appropriation (FY 1999) \$	((56,351,000))
	<u>61,451,000</u>
General Fund--Federal Appropriation \$	((155,278,000))
	<u>164,000,000</u>
General Fund--Private/Local Appropriation \$	6,903,000
Public Safety and Education Account Appropriation \$	((8,781,000))
	<u>8,720,000</u>
Public Works Assistance Account Appropriation \$	2,223,000
Building Code Council Account Appropriation \$	((1,318,000))
	<u>1,366,000</u>
Administrative Contingency Account Appropriation \$	1,776,000
Low-Income Weatherization Assistance Account Appropriation \$	923,000
Violence Reduction and Drug Enforcement Account Appropriation \$	6,042,000
Manufactured Home Installation Training Account Appropriation \$	250,000
Washington Housing Trust Account Appropriation \$	

	7,999,000
Public Facility Construction Loan Revolving Account Appropriation \$	
	515,000
<u>Clean Washington Account Appropriation (FY 1998) \$</u>	
	11,000
TOTAL APPROPRIATION \$	
	((305,720,000))
	<u>319,257,000</u>

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

(1) ~~((3,282,500))~~ \$2,962,500 of the general fund--state appropriation for fiscal year 1998 and ~~((3,282,500))~~ \$3,602,500 of the general fund--state appropriation for fiscal year 1999 are provided solely for a contract with the Washington technology center. For work essential to the mission of the Washington technology center and conducted in partnership with universities, the center shall not pay any increased indirect rate nor increases in other indirect charges above the absolute amount paid during the 1995-97 biennium.

(2) \$155,000 of the general fund--state appropriation for fiscal year 1998 and ~~((155,000))~~ \$445,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for a contract with the Washington manufacturing extension partnership.

(3) \$9,964,000 of the general fund--federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 1998 as follows:

- (a) \$3,603,250 to local units of governments to continue the multi-jurisdictional narcotics task forces;
- (b) \$500,000 to the department to continue the state-wide drug prosecution assistance program in support of multijurisdictional narcotics task forces;
- (c) \$1,306,075 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;
- (d) \$240,000 to the department for grants to support tribal law enforcement needs;
- (e) \$900,000 to drug courts in eastern and western Washington;
- (f) \$300,000 to the department for grants to provide sentencing alternatives training programs to defenders;
- (g) \$200,000 for grants to support substance-abuse treatment in county jails;
- (h) \$517,075 to the department for legal advocacy for victims of domestic violence and for training of local law enforcement officers and prosecutors on domestic violence laws and procedures;
- (i) \$903,000 to the department to continue youth violence prevention and intervention projects;
- (j) \$91,000 for the governor's council on substance abuse;
- (k) \$99,000 for program evaluation and monitoring;
- (l) \$100,000 for the department of corrections for a feasibility study of replacing or updating the offender based tracking system.
- (m) \$498,200 for development of a state-wide system to track criminal history records; and
- (n) No more than \$706,400 to the department for grant administration and reporting.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this section. If moneys in excess of those appropriated in this section become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold these moneys in reserve and may not expend them without a specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding fiscal year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

(4) \$11,715,000 of the general fund--federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 1999 as follows:

- (a) \$3,878,250 to local units of government to continue multijurisdictional narcotics task forces;
- (b) \$531,000 to the department to continue the drug prosecution assistance program in support of multijurisdictional narcotics task forces;
- (c) \$1,363,075 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;
- (d) \$256,000 to the department for grants to support tribal law enforcement needs;
- (e) \$1,093,000 to drug courts in eastern and western Washington;
- (f) \$312,000 to the department for grants assisting in the development, conduct, and training on sentencing alternatives;

(g) \$261,000 to the department to continue a substance-abuse treatment in jails program, to test the effect of treatment on future criminal behavior;

(h) \$581,075 to the department to continue domestic violence legal advocacy;

(i) \$949,000 to the department to continue youth violence prevention and intervention projects;

(j) \$91,000 to the department to continue the governor's council on substance abuse;

(k) \$99,000 to the department to continue evaluation of Byrne formula grant programs;

(l) \$1,496,200 to the office of financial management for the criminal history records improvement program; and

(m) \$804,400 to the department for required grant administration, monitoring and reporting on Byrne formula grant programs.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this subsection. If moneys in excess of those appropriated in this subsection become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold these moneys in reserve and may not expend them without specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

~~((4))~~ (5) \$1,000,000 of the general fund fiscal year 1998 appropriation and \$1,000,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Engrossed Substitute House Bill No. 1576 (buildable lands) or Senate Bill No. 6094 (growth management). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((5) \$4,800,000)~~ (6) \$4,766,000 of the public safety and education account appropriation, \$1,000,000 of the fiscal year 1998 general fund--state appropriation, and ~~((1,000,000))~~ \$1,034,000 of the fiscal year 1999 general fund--state appropriation are provided solely for indigent civil legal representation services contracts and contracts administration. The amounts provided in this subsection are contingent upon enactment of section 2 of Engrossed Substitute House Bill No. 2276 (civil legal services for indigent persons). If section 2 of the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((6))~~ (7) \$643,000 of the general fund--state fiscal year 1998 appropriation and \$643,000 of the general fund--state fiscal year 1999 appropriation are provided solely to increase payment rates for contracted early childhood education assistance program providers. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

~~((7))~~ (8) \$75,000 of the general fund--state fiscal year 1998 appropriation and \$75,000 of the general fund--state fiscal year 1999 appropriation are provided solely as a grant for the community connections program in Walla Walla county.

~~((8))~~ (9) \$300,000 of the general fund--state fiscal year 1998 appropriation and \$300,000 of the general fund--state fiscal year 1999 appropriation are provided solely to contract with the Washington state association of court-appointed special advocates/guardians ad litem (CASA/GAL) to establish pilot programs in three counties to recruit additional community volunteers to represent the interests of children in dependency proceedings. Of this amount, a maximum of \$30,000 shall be used by the department to contract for an evaluation of the effectiveness of CASA/GAL in improving outcomes for dependent children. The evaluation shall address the cost-effectiveness of CASA/GAL and to the extent possible, identify savings in other programs of the state budget where the savings resulted from the efforts of the CASA/GAL volunteers. The department shall report to the governor and legislature by October 15, 1998.

~~((9))~~ (10) \$75,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for state sponsorship of the "BIO 99" international biotechnology conference and exhibition in the Seattle area in 1999.

~~((10))~~ (11) \$698,000 of the general fund--state appropriation for fiscal year 1998, \$697,000 of the general fund--state appropriation for fiscal year 1999, and \$1,101,000 of the administrative contingency account appropriation are provided solely for contracting with associate development organizations.

~~((11))~~ (12) \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to expand the long-term care ombudsman program.

~~((12))~~ (13) \$60,000 of the general fund--state appropriation for fiscal year 1998 and \$60,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for implementation of the Puget Sound work plan action item DCTED-01.

~~((13))~~ (14) \$20,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for a task force on tourism promotion and development. The task force shall report to the legislature on its findings and recommendations by January 31, 1998.

~~((14))~~ (15) \$61,000 of the general fund--state appropriation for fiscal year 1998 and \$60,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the pacific northwest economic region (PNWER).

~~((15))~~ (16) \$123,000 of the general fund--state appropriation for fiscal year 1998 and \$124,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the community development finance program.

~~((16))~~ (17) Within the appropriations provided in this section, the department shall conduct a study of possible financial incentives to assist in revitalization of commercial areas and report its findings and recommendations to the appropriate committees of the legislature by November 15, 1997.

(18) \$49,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement section 11 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If section 11 of the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(19) \$1,000,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the development of housing for low-income temporary or migrant farm workers through grants awarded after the effective date of this act. The legislature finds that providing housing for low-income temporary or migrant workers is a public purpose. The department shall prioritize grants and shall award grants on a competitive basis to local governments, nonprofit corporations, or other nonprofit entities. Grant moneys awarded by the department under this subsection may be matched by nonstate sources on a dollar-for-dollar basis, in cash or in-kind. Of the amount provided in this subsection, \$100,000 is provided solely for restroom and shower facilities at the Horn Rapids Park in Benton county; no match need be provided for this project. The amount provided in this subsection is contingent upon enactment of sections 1 through 8 of Second Substitute Senate Bill No. 6168. If any of these sections of the bill are not enacted by June 30, 1998, this subsection is null and void, and the amounts provided in this subsection shall lapse. Any amounts provided in this subsection not committed to grants by June 30, 1999, shall lapse.

(20) \$275,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for coastal erosion project grants to the city of Ocean Shores.

(21) \$191,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Substitute House Bill No. 2556 (child abuse prevention and treatment). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(22) \$965,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Substitute Senate Bill No 6655 (Spokane intercollegiate research and technology institute).

(23) \$92,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6560 (electric power customer rights). For any portion of the appropriation that is expended for contracted services, the department shall: (a) Form an advisory committee consisting of representatives from public utility districts and residential, commercial, and industrial customers; and (b) submit for review and approval by the advisory committee the request for proposal and selection of the successful bidder or bidders. If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(24) \$383,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the emergency food assistance program.

(25) \$120,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for grants to licensed overnight youth shelters for the purpose of assisting the shelters in meeting the minimum requirements for receiving a license under chapter 74.15 RCW. The department may provide grants of up to twenty thousand dollars per year for each shelter. Only shelters that are currently licensed are eligible to receive the grants. Funds may be used for the following purposes, including but not limited to: Additional staff, food, facility maintenance, or beds, provided that these costs are necessary to meet the licensing and facility standards adopted by the department of social and health services. For purposes of this subsection, "overnight youth shelter" means a licensed facility operated by a nonprofit agency that provides overnight shelter to homeless or runaway youth because of family problems or dysfunctions.

(26) \$27,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the sexual assault program within the office of crime victims advocacy.

(27) \$37,000 of the general fund--state appropriation for fiscal year 1998 and \$128,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for deposit in the state trade fair fund. If Engrossed Second Substitute Senate Bill No. 6562 is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(28) \$1,100,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the early childhood education and assistance program.

**Sec. 118.** 1997 c 454 s 104 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

General Fund--State Appropriation (FY 1998) \$	((40,530,000))
	<u>10,626,000</u>
General Fund--State Appropriation (FY 1999) \$	((40,253,000))
	<u>11,160,000</u>
General Fund--Federal Appropriation \$	23,331,000
General Fund--Local Appropriation \$	<u>190,000</u>

TOTAL APPROPRIATION \$

((44,114,000))

45,307,000

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

(1) The office of financial management, in cooperation with the higher education coordinating board and the state board for community and technical colleges, shall develop long-term higher education enrollment forecasting models for consideration by the legislature. To the extent possible, the pilot models shall incorporate trends in demography, higher education applications, K-12 graduation rates, labor market needs, and state and national higher education policy and economic considerations. The public institutions of education shall cooperate in the development of models by providing any necessary data in a timely and organized manner. The private education institutions of the state are encouraged to participate in this effort. A preliminary report shall be provided to the appropriate committees of the legislature by November 1, 1998, and a final report shall be provided by January 15, 1999.

(2) \$139,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Engrossed Second Substitute House Bill No. 2880 (task force on vendor contracting practices). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(3) \$250,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to contract with an outside management consultant to review the department of fish and wildlife's financial operations and management practices.

(4) \$25,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the legislature and the office of financial management to contract jointly for a performance review of the state long-term care system. The review shall result in recommendations by October 1, 1998, on strategies for increasing the long-term affordability and cost-effectiveness of the system, and shall include a review of topics such as methods for matching service levels to recipient needs, options for managing growth in entitlement caseloads, and techniques for projecting the number of persons in need of publicly funded services.

Sec. 119. 1997 c 149 s 129 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF PERSONNEL**

Department of Personnel Service Account

Appropriation \$

((16,493,000))

16,593,000

Higher Education Personnel Services Account

Appropriation \$

1,632,000

TOTAL APPROPRIATION \$

((18,125,000))

18,225,000

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

(1) The department shall reduce its charge for personnel services to the lowest rate possible.

(2) \$32,000 of the department of personnel service fund appropriation is provided solely for the creation, printing, and distribution of the personal benefits statement for state employees.

(3) The department of personnel service account appropriation contains sufficient funds to continue the employee exchange program with the Hyogo prefecture in Japan.

(4) \$500,000 of the department of personnel service account appropriation is provided solely for the career transition program to assist state employees who are separated or are at risk of lay-off due to reduction-in-force. Services shall include employee retraining and career counseling.

(5) \$800,000 of the department of personnel service account appropriation is provided solely for the human resource data warehouse to: Expand the type and amount of information available on the state-wide work force; and to provide the office of financial management, legislature, and state agencies with direct access to the data for policy and planning purposes. The department of personnel shall establish uniform reporting procedures, applicable to all state agencies and higher education institutions, for reporting data to the data warehouse by June 30, 1998. The department of personnel will report quarterly to the legislative fiscal committees, the office of financial management, the information services board, and the office of information technology oversight of the department of information services the following items: (a) The number of state agencies that have received access to the data warehouse (it is anticipated that approximately 40 agencies will receive access

during the 1997-99 biennium); (b) the change in requests for downloads from the mainframe computer by agencies with access to the data warehouse, to reflect transferring customers use of the mainframe computer to the more economical use of data warehouse information; and (c) a summary of customer feedback from agencies with access to the data warehouse. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(6) The department of personnel has the authority to charge agencies for expenses associated with converting its payroll/personnel computer system to accommodate the year 2000 date change. Funding to cover these expenses shall be realized from the agency FICA savings associated with the pretax benefits contributions plan.

(7) The department of personnel shall charge all administrative services costs incurred by the department of retirement systems for the deferred compensation program. The billings to the department of retirement systems shall be for actual costs only.

**Sec. 120.** 1997 c 149 s 130 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE LOTTERY**

Industrial Insurance Premium Refund

Appropriation \$ 9,000

Lottery Administrative Account

Appropriation \$ 19,966,000

TOTAL APPROPRIATION \$ 19,975,000

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

(1) The state lottery shall apportion 30 percent of fiscal year 1999 gross revenue to the state general fund. If a lower percentage is apportioned to the general fund in fiscal year 1999, a dollar amount equal to the difference between the actual apportionment and 30 percent of fiscal year 1999 gross revenue shall lapse from the lottery administrative account appropriation.

(2) If the state lottery provides cash bonuses or cash marketing incentives to retailers, a dollar amount equal to the total cash bonuses and marketing incentives shall lapse from the lottery administrative account appropriation.

(3) The requirements of subsections (1) and (2) of this section are contingent upon the enactment of Engrossed House Bill No. 3120 (lottery revenues). If the bill is not enacted by June 30, 1998, subsections (1) and (2) of this section are null and void.

**Sec. 121.** 1997 c 149 s 134 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS--OPERATIONS**

Dependent Care Administrative Account

Appropriation \$ 357,000

Department of Retirement Systems Expense Account

Appropriation \$ ((31,415,000))

TOTAL APPROPRIATION \$ 34,481,000

((31,772,000))

34,838,000

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

(1) \$1,373,000 of the department of retirement systems expense account appropriation is provided solely for the information systems project known as the electronic document image management system. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(2) \$1,259,000 of the department of retirement systems expense account appropriation is provided solely for the information systems project known as the receivables management system. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(3) The department of retirement systems shall complete a study examining whether it would be cost-effective to contract out the administration functions for the dependent care assistance program and shall report to the fiscal committees of the legislature by December 15, 1997.



(4) \$118,000 of the department of retirement systems expense account appropriation is provided solely to implement Engrossed Substitute House Bill No. 2491 (TRS/PERS plan I gain sharing). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(5) \$920,000 of the department of retirement systems expense account appropriation is provided solely to implement Substitute Senate Bill No. 6306 (creating the Washington school employees' retirement system). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(6) \$42,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Engrossed Senate Bill No. 6305 (death benefits for port and university police). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

Sec. 122, 1997 c 149 s 136 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF REVENUE**

General Fund Appropriation (FY 1998) \$	65,033,000
General Fund Appropriation (FY 1999) \$	((65,320,000))
	<u>65,623,000</u>
Timber Tax Distribution Account Appropriation \$	4,778,000
<u>Enhanced 911 Account Appropriation \$</u>	<u>100,000</u>
Waste Reduction/Recycling/Litter Control Appropriation \$	100,000
State Toxics Control Account Appropriation \$	67,000
Solid Waste Management Account Appropriation \$	92,000
Oil Spill Administration Account Appropriation \$	14,000
TOTAL APPROPRIATION \$	((135,404,000))
	<u>135,807,000</u>

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

(1) \$1,540,000 of the general fund appropriation for fiscal year 1998 and ((~~\$1,710,000~~)) \$1,799,000 of the general fund appropriation for fiscal year 1999 are provided solely for senior citizen property tax deferral distribution. If neither Substitute Senate Bill No. 6321 nor Engrossed Substitute Senate Bill No. 6533 (senior/disabled property tax) is enacted by June 30, 1998, \$89,000 of the general fund appropriation for fiscal year 1999 shall lapse.

(2) Within the amounts appropriated in this section the department shall conduct a study identifying the impacts of exempting all shellfish species from the tax imposed on enhanced food fish under chapter 82.27 RCW. The study shall include an estimate of the fiscal impacts to state revenues as well as an examination of how such an exemption would impact shellfish-based industries and communities where shellfish-based industries are located. The department shall complete this study and report its findings to the legislature by December 1, 1997.

(3) \$60,000 of the general fund appropriation for fiscal year 1999 is provided solely for a study of the costs incurred by retailers in collecting and remitting state and local sales taxes. The department shall (a) identify and estimate the costs for small, medium, and large retailers, (b) estimate the cost to retailers of implementing changes in tax rates and/or the tax base, (c) identify current statutory and regulatory procedures that impose costs and burdens on retailers, as well as alternatives that would lessen these costs and burdens, (d) estimate any direct or indirect compensation retailers currently receive, if any, and (e) review how many other states provide compensation to retailers and the nature of the compensation. The department shall report its findings to the fiscal committees of the house of representatives and senate by December 31, 1998.

(4) \$100,000 of the enhanced 911 account appropriation is provided solely for costs associated with convening a study group on enhanced 911 wireless implementation. The department of revenue shall convene a study group consisting of, but not limited to, representatives of the following: The office of financial management, the military department, the state enhanced 911 advisory committee, the department of revenue, and the utilities and transportation commission. The study shall evaluate the most efficient and cost-effective manner to implement state-wide enhanced 911 emergency communications services for radio access telephone lines. The study will also include an evaluation of the technical issues affecting the implementation of wireless enhanced 911 and may hire a telecommunications consultant to conduct this evaluation. The study group shall present its findings and recommendations to the governor and the appropriate committees of the legislature no later than December 31, 1998.

(5) \$104,000 of the general fund appropriation for fiscal year 1999 is provided solely for the implementation of tax legislation enacted during the 1998 legislative session.

(6) \$50,000 of the general fund appropriation for fiscal year 1999 is provided solely to implement sections 3 and 4 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If sections 3 and 4 of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

Sec. 123. 1997 c 149 s 141 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

Data Processing Revolving Account

Appropriation	\$		3,577,000
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<u>Education Savings Account Appropriation</u>			<u>6,900,000</u>
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K-20 Technology Account Appropriation	\$		44,028,000
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TOTAL APPROPRIATION	\$		((47,605,000))
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54,505,000

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

(1) The department shall provide a toll-free telephone number and operator service staff for the general public to call for information about state agencies. The department may provide such staff, equipment, and facilities as are necessary for this purpose. The director shall adopt rules to fix terms and charges for these services. All state agencies and the legislature shall participate in the information program and shall reimburse the department of information services in accordance with rules established by the director. The department shall also provide conference calling services for state and other public agencies on a fee-for-service basis.

(2) \$44,028,000 of the K-20 technology account appropriation shall be expended in accordance with the expenditures authorized by the K-20 telecommunications oversight and policy committee as currently existing or as modified by Substitute House Bill No. 1698, Substitute Senate Bill No. 5002, or substantially similar legislation (K-20 telecommunications network).

(3) \$6,900,000 of the education savings account appropriation is provided solely to complete the build-out of phase II of the K-12 portion of the K-20 network.

Sec. 124. 1997 c 149 s 142 (uncodified) is amended to read as follows:

**FOR THE INSURANCE COMMISSIONER**

General Fund--Federal Appropriation

Appropriation	\$		106,000
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Insurance Commissioners Regulatory Account

Appropriation	\$		22,431,000
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TOTAL APPROPRIATION	\$		22,537,000
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The appropriations in this section are subject to the following conditions and limitations:

(1) \$532,000 of the insurance commissioner's regulatory account appropriation is provided solely for the expenditure of funds received under the consent order with the Prudential insurance company. These funds are provided solely for implementing the Prudential remediation process and for examinations of the Prudential company.

(2) ((\$206,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Substitute House Bill No. 1387 (basic health plan benefits). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(3)) \$298,000 of the insurance commissioner's regulatory account appropriation is provided solely for technology improvements that will support the electronic filing of insurance rates and contracts and enable regulators and the industry to share information about licensed agents to protect the public from fraudulent sales practices.

(3) \$50,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement sections 10 and 12 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If sections 10 and 12 of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(4) \$100,000 of the insurance commissioner's regulatory account appropriation is provided solely for allocation to the traffic safety commission for implementation of Engrossed Substitute House Bill No. 2439, the Cooper Jones Act (bicycle/pedestrian safety education). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

Sec. 125. 1997 c 149 s 145 (uncodified) is amended to read as follows:

**FOR THE HORSE RACING COMMISSION**

Horse Racing Commission Account Appropriation \$ 4,828,000

The appropriation in this section is subject to the following conditions and limitations: Within the amounts appropriated in this section, the horse racing commission, in consultation with the gambling commission, shall study the impact on the major live race tracks and the horse racing and breeding industry of allowing gambling activity currently authorized in Washington by state law or under a state/tribal compact agreement to be conducted at the live race track facilities. The horse racing commission shall report to the appropriate committees of the legislature by December 15, 1998.

Sec. 126. 1997 c 149 s 146 (uncodified) is amended to read as follows:

**FOR THE LIQUOR CONTROL BOARD**

General Fund Appropriation (FY 1998) \$ 1,603,000

General Fund Appropriation (FY 1999) \$ ((1,242,000))

1,294,000

Liquor Control Board Construction and Maintenance Account Appropriation \$ 9,919,000

Liquor Revolving Account Appropriation \$ ((121,391,000))

TOTAL APPROPRIATION \$ 122,607,000

((134,155,000))

135,423,000

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

(1) \$1,250,000 of the liquor revolving account appropriation is provided solely for the agency information technology upgrade. This item is conditioned on satisfying the requirements of section 902 of this act, including the development of a project management plan, a project schedule, a project budget, a project agreement, and incremental funding based on completion of key milestones.

(2) \$1,603,000 of the general fund fiscal year 1998 appropriation and \$1,242,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Substitute Senate Bill No. 6084 or Engrossed Substitute House Bill No. 2272 (transferring enforcement provisions regarding cigarette and tobacco taxes to the liquor control board). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(3) \$459,000 of the liquor revolving account appropriation is provided solely for implementation of Substitute Senate Bill No. 5664 (credit and debit cards purchases in state liquor stores). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(4) \$154,000 of the liquor revolving account appropriation is provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(5) \$944,000 of the liquor revolving account appropriation is provided solely for the increase in vendor commissions due to the higher than expected growth in sales volume.

(6) Within the amounts provided in this section, the liquor control board shall prepare and submit a report on the liquor agency vendor system to the legislature by December 1, 1998. The report shall provide information on: (a) The development and changes to the liquor agency vendor store system during the last twenty years; (b) the business profile of liquor agency vendors, including the number of liquor agency vendors that sell only liquor and the number of liquor agency vendors that sell other items besides liquor; (c) the growth in the number of liquor agency vendors during the last twenty years; (d) the locations served by liquor agency vendors; (e) the criteria used for establishing liquor agency vendors and determining whether to open a state liquor store in a particular location; (f) the average annual commission paid per liquor agency vendor during the last twenty years; (g) the commission rate and components of the commissions provided to liquor agency vendors during the last twenty years; (h) the basis for any changes to the commission rate or components of the commissions provided to liquor agency vendors during the last twenty years; and (i) gross liquor sales by liquor agency vendors during the last twenty years.

(7) \$272,000 of the liquor revolving account appropriation is provided solely for the implementation of Substitute Senate Bill No. 6253 (credit and debit card purchases in state liquor agency vendors). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(8) \$52,000 of the general fund appropriation for fiscal year 1999 is provided solely for equipment for cigarette tax enforcement activities.

Sec. 127. 1997 c 149 s 147 (uncodified) is amended to read as follows:

**FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Public Service Revolving Account--State

Appropriation	\$		
			((24,313,000))
			<u>24,754,000</u>

Public Service Revolving Account--Federal

Appropriation	\$		
			292,000

TOTAL APPROPRIATION	\$		
			((24,605,000))
			<u>25,046,000</u>

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

(1) \$133,000 of the public service revolving account--state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6560 (electric power customer rights). For any portion of the appropriation that is expended for contracted services, the commission shall: (a) Form an advisory committee consisting of representatives from electrical companies regulated by the commission, and residential, commercial, and industrial customers served by those companies; and (b) submit for review and approval by the advisory committee the request for proposal and selection of the successful bidder or bidders. If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(2) \$308,000 of the public service revolving account--state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6622 (federal telecommunications act). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

Sec. 128. 1997 c 454 s 105 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund--State Appropriation (FY 1998)	\$		
			((8,151,000))

8,602,000

General Fund--State Appropriation (FY 1999)	\$		
			((8,154,000))

9,390,000

General Fund--Federal Appropriation	\$		
			34,314,000

General Fund--Private/Local Appropriation	\$		
			238,000

Flood Control Assistance Account Appropriation	\$		
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Enhanced 911 Account Appropriation \$	3,000,000
Disaster Response Account--State Appropriation \$	26,782,000
	<del>((23,977,000))</del>
	<u>25,487,000</u>
Disaster Response Account--Federal Appropriation \$	<del>((95,419,000))</del>
	<u>110,812,000</u>
TOTAL APPROPRIATION \$	<del>((200,035,000))</del>
	<u>218,625,000</u>

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

(1) \$365,000 of the general fund--state appropriation for fiscal year 1998, \$1,145,000 of the general fund--state appropriation for fiscal year 1999, \$3,000,000 of the flood control assistance account appropriation, and \$6,197,000 of the general fund--federal appropriation are provided solely for deposit in the disaster response account to cover costs pursuant to subsection (2) of this section.

(2) ~~((23,977,000))~~ \$25,122,000 of the disaster response account--state appropriation is provided solely for the state share of response and recovery costs associated with federal emergency management agency (FEMA) disaster number 1079 (November/December 1995 storms), FEMA disaster 1100 (February 1996 floods), FEMA disaster 1152 (November 1996 ice storm), FEMA disaster 1159 (December 1996 holiday storm), FEMA disaster 1172 (March 1997 floods) and to assist local governmental entities with the matching funds necessary to earn FEMA funds for FEMA disaster 1100 (February 1996 floods). \$356,000 of the disaster response account--state appropriation is provided solely for fire mobilization costs. \$9,000 of the disaster response account--state appropriation is provided solely for costs associated with FEMA disaster 1182 (Pend Oreille county 1997 spring flood).

(3) \$100,000 of the general fund--state fiscal year 1998 appropriation and \$100,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of a conditional scholarship program pursuant to chapter 28B.103 RCW.

(4) \$35,000 of the general fund--state fiscal year 1998 appropriation and \$35,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the north county emergency medical service.

(5) \$36,000 of the general fund--state fiscal year 1998 appropriation and \$72,000 of the general fund--state fiscal year 1999 appropriation are provided solely for emergency worker claims pursuant to chapter 38.52 RCW.

**Sec. 129.** 1997 c 149 s 152 (uncodified) is amended to read as follows:

**FOR THE STATE CONVENTION AND TRADE CENTER**

State Convention and Trade Center Operating Account

Appropriation \$

~~((27,175,000))~~

27,394,000

**PART II  
HUMAN SERVICES**

**Sec. 201.** 1997 c 149 s 201 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES.** (1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in ~~((this act))~~ subsection (3) of this section, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative

fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) ~~((The appropriations in sections 202 through 213 of this act shall be expended for the programs and in the amounts listed in those sections:))~~

(a) The appropriations to the department of social and health services in chapters 149 and 454, Laws of 1997, as amended, shall be expended for the programs and in the amounts specified therein. However, after May 1, 1998, unless specifically prohibited by this act, the department may transfer general fund--state appropriations for fiscal year 1998 among programs after approval by the director of financial management. However, the department shall not transfer general fund--state appropriations from the economic services program for the 1997-99 fiscal biennium.

(b) To the extent that the transfer of appropriations under subsection (a) of this section is insufficient to fund actual expenditures in fiscal year 1998 in the medical assistance program that exceed the expenditures projected in the November 1997 medical assistance caseload forecast, the department may transfer general fund appropriations, not to exceed five million dollars, within the medical assistance program from fiscal year 1999 into fiscal year 1998.

(c) The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any allotment modifications.

**Sec. 202.** 1997 c 454 s 202 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((196,437,000))
	<u>201,453,000</u>
General Fund--State Appropriation (FY 1999) \$	((208,861,000))
	<u>213,035,000</u>
General Fund--Federal Appropriation \$	((252,269,000))
	<u>252,300,000</u>
General Fund--Private/Local Appropriation \$	400,000
Violence Reduction and Drug Enforcement Account Appropriation \$	((4,230,000))
	<u>4,332,000</u>
<b>TOTAL APPROPRIATION \$</b>	<b>((662,197,000))</b>
	<u>671,520,000</u>

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

(1) \$16,510,000 of the general fund--state appropriation for fiscal year 1998 and \$17,508,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for purposes consistent with the maintenance of effort requirements under the federal temporary assistance for needy families program established under P.L. 104-193.

(2) ~~\$(837,000))~~ 4,332,000 of the violence reduction and drug enforcement account appropriation and ~~\$(7,228,000))~~ 3,733,000 of the general fund--federal appropriation are provided solely for the operation of the family policy council, the community public health and safety networks, and delivery of services authorized under the federal family preservation and support act. Within the funds provided, the family policy council shall contract for an evaluation of the community networks with the institute for public policy and shall provide for audits of ten networks. Within the funds provided, the family policy council may build and maintain a geographic information system database tied to community network geography.

(3) \$577,000 of the general fund--state fiscal year 1998 appropriation and \$577,000 of the general fund--state fiscal year 1999 appropriation are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to twelve children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a

result of substance abuse by their mothers. The facility also shall provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(4) \$481,000 of the general fund--state fiscal year 1998 appropriation and \$481,000 of the general fund--state fiscal year 1999 appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(5) \$640,000 of the general fund--state appropriation for fiscal year 1998 and \$640,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to fund Second Substitute Senate Bill No. 5710 (juvenile care and treatment), including section 2 of the bill. Amounts provided in this subsection to implement Second Substitute Senate Bill No. 5710 must be used to serve families who are screened from the child protective services risk assessment process. Services shall be provided through contracts with community-based organizations. If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(6) \$594,000 of the general fund--state appropriation for fiscal year 1998, \$556,000 of the general fund--state appropriation for fiscal year 1999, and \$290,000 of the general fund--federal appropriation are provided solely to fund the provisions of Engrossed Second Substitute House Bill No. 2046 (foster parent liaison). The department shall establish a foster parent liaison in each department of social and health services region of the state and contract with a private provider to implement a recruitment and retention program for foster parents and adoptive families. The department shall provide a minimum of two hundred additional adoptive and foster home placements by June 30, 1998. If the bill is not enacted by June 30, 1997, the amounts in this subsection shall lapse.

(7) \$433,000 of the fiscal year 1998 general fund--state appropriation, \$395,000 of the fiscal year 1999 general fund--state appropriation, and \$894,000 of the general fund--federal appropriation are provided solely to increase the rate paid to private child-placing agencies.

(8) \$580,000 of the general fund--state appropriation for fiscal year 1998 and \$580,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for development and expansion of child care training requirements and optional training programs. The department shall adopt rules to require annual training in early childhood development of all directors, supervisors, and lead staff at child care facilities. Directors, supervisors, and lead staff at child care facilities include persons licensed as family child care providers, and persons employed at child care centers or school age child care centers. The department shall establish a program to fund scholarships and grants to assist persons in meeting these training requirements. The department shall also develop criteria for approving training programs and establish a system for tracking who has received the required level of training. In adopting rules, developing curricula, setting up systems, and administering scholarship programs, the department shall consult with the child care coordinating committee and other community stakeholders.

(9) The department shall provide a report to the legislature by November 1997 on the growth in additional rates paid to foster parents beyond the basic monthly rate. This report shall explain why exceptional, personal, and special rates are being paid for an increasing number of children and why the amount paid for these rates per child has risen in recent years. This report must also recommend methods by which the legislature may improve the current foster parent compensation system, allow for some method of controlling the growth in costs per case, and improve the department's and the legislature's ability to forecast the program's needs in future years.

(10) \$100,000 of the general fund--state appropriation for fiscal year 1998 and \$100,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for legal costs associated with the defense of vendors operating a secure treatment facility, for actions arising from the good faith performance of treatment services for behavioral difficulties or needs.

(11) \$2,745,000 of the fiscal year 1998 general fund--state appropriation, \$2,745,000 of the fiscal year 1999 general fund--state appropriation, and \$1,944,000 of the general fund--federal appropriation are provided solely for the category of services titled "intensive family preservation services."

(12) ~~\$(2,200,000))~~ 1,642,000 of the fiscal year 1998 general fund--state appropriation and ~~\$(2,200,000))~~ 1,207,000 of the fiscal year 1999 general fund--state appropriation and \$1,551,000 of the general fund--federal appropriation are provided solely to continue existing continuum of care and street youth projects.

(13) \$1,456,000 of the general fund--state appropriation for fiscal year 1998, \$1,474,000 of the general fund--state appropriation for fiscal year 1999 and \$1,141,000 of the general fund--federal appropriation are provided solely for the improvement of quality and capacity of the child care system and related consumer education. The activities funded by this appropriation shall include, but not be limited to: Expansion of child care resource and referral network services to serve additional families, to provide technical assistance to child care providers, and to cover currently unserved areas of the state; development of and incentives for child care during nonstandard work hours; and the development of care for infants, toddlers, preschoolers, and school age youth. These amounts are provided in addition to funding for child care training and fire inspections of child care facilities. These activities shall also improve the quality and capacity of the child care system.

(14)(a) \$6,565,000 of the general fund--state appropriation for fiscal year 1998 and \$7,454,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The department shall not retain any portion of these funds to cover administrative or any other departmental costs. The department, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per petition processing costs nor shall it penalize counties with lower than average per petition processing costs.

(b) Each quarter during the 1997-1999 fiscal biennium, each county shall report the number of petitions processed and the total costs of processing the petitions in each of the following categories: Truancy, children in need of services, and at-risk youth. Counties shall submit the reports to the department no later than 45 days after the end of the quarter. The department shall forward this information to the chair and ranking minority member of the house appropriations committee and the senate ways and means committee no later than 60 days after a quarter ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(15) \$70,000 of the fiscal year 1999 general fund--state appropriation is provided solely for foster parent intervention support teams.

(16) \$255,000 of the general fund--state appropriation for fiscal year 1999 and \$67,000 of the general fund--federal appropriation are provided solely for implementation of Substitute House Bill No. 2556 (child abuse prevention and treatment). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(17) The department and the attorney general shall jointly make recommendations to the legislature to reduce or limit the state's liability for damages in child welfare cases, including shelter care and dependency proceedings. The recommendations shall be submitted to the appropriate committees of the legislature by December 1, 1998.

(18) To the extent funds are available, the department shall pay the expense of fingerprint criminal history record checks for low-income family day care homes through the federal bureau of investigation. The department may promulgate rules to set eligibility levels.

(19) Sufficient funding is provided in this section to implement Engrossed Substitute Senate Bill No. 6238 (dependent children).

Sec. 203, 1997 c 454 s 203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--JUVENILE REHABILITATION PROGRAM**

(1) COMMUNITY SERVICES

General Fund--State Appropriation (FY 1998) \$	((32,305,000))
	<u>35,894,000</u>
General Fund--State Appropriation (FY 1999) \$	((32,348,000))
	<u>35,522,000</u>
General Fund--Federal Appropriation \$	((16,125,000))
	<u>13,365,000</u>
General Fund--Private/Local Appropriation \$	378,000
Violence Reduction and Drug Enforcement Account Appropriation \$	((11,256,000))
	<u>14,080,000</u>
TOTAL APPROPRIATION \$	((92,412,000))
	<u>99,239,000</u>

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

(a) \$527,000 of the violence reduction and drug enforcement account appropriation is provided solely for deposit in the county criminal justice assistance account solely for costs to the criminal justice system associated with the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the amount provided in this subsection shall lapse. The amount provided in this subsection is intended to provide funding for county adult court



costs associated with the implementation of Engrossed Third Substitute House Bill No. 3900 and shall be distributed in accordance with RCW 82.14.310.

(b) \$2,917,000 of the violence reduction and drug enforcement account is provided solely for the implementation of Engrossed Third Substitute Senate Bill No. 3900 (revising the juvenile code). The amount provided in this subsection is intended to provide funding for county impacts associated with the implementation of Third Substitute Senate Bill No. 3900 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula. If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(c) \$2,350,000 of the general fund--state fiscal year 1998 appropriation and \$2,350,000 of the general fund--state fiscal year 1999 appropriation are provided solely for an early intervention program to be administered at the county level. Moneys shall be awarded on a competitive basis to counties that have submitted plans for implementation of an early intervention program consistent with proven methodologies currently in place in the state. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(d) \$1,221,000 of the violence reduction and drug enforcement appropriation is provided solely to implement alcohol and substance abuse treatment for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that have submitted a plan for the provision of treatment services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation. If Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions) is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(e) \$100,000 of the general fund--state fiscal year 1998 appropriation and \$100,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the juvenile rehabilitation administration to contract with the institute for public policy for the responsibilities assigned in Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(f) \$400,000 of the violence reduction and drug enforcement account appropriation is provided solely for the development of standards measuring the effectiveness of chemical dependency treatment and for conducting evaluations of chemical dependency programs pursuant to Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse. The juvenile rehabilitation administration shall consult with the division of alcohol and substance abuse and contract with the University of Washington to develop the standards and conduct the evaluations.

(g) \$150,000 of the general fund--state fiscal year 1998 appropriation and \$150,000 of the general fund--state fiscal year 1999 appropriation are provided solely for a contract to expand the services of the teamchild project to additional sites. Priority use of these funds shall be to provide teamchild service to early repeat offenders to help ensure they receive appropriate child welfare and educational services.

(h) \$2,700,000 of the violence reduction and drug enforcement account appropriation is provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile justice). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(i) \$2,175,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Second Substitute Senate Bill No. 6445 (child community facility placement). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse. The funds are intended to improve the security of state-operated and privately contracted group homes. By June 30, 1999, the juvenile rehabilitation administration shall report to the appropriate policy and fiscal committees of the legislature on the specific actions, and the cost of each action, taken to improve security at both state-operated and contracted group homes.

(j) \$150,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the Skagit county delinquency prevention project.

(2) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 1998) \$	((44,782,000))
	<u>43,909,000</u>
General Fund--State Appropriation (FY 1999) \$	((44,662,000))
	<u>45,977,000</u>
General Fund--Private/Local Appropriation \$	727,000
Violence Reduction and Drug Enforcement Account Appropriation \$	15,281,000

TOTAL APPROPRIATION \$

((105,452,000))

105,894,000

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

(a) \$3,680,000 of the violence reduction and drug enforcement account appropriation is provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(b) \$105,000 of the general fund--state appropriation for fiscal year 1998 and \$377,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for costs associated with implementing chapter 386, Laws of 1997 (juvenile care and treatment).

(c) \$44,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement House Bill No. 1172 (sex offender registration). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(3) PROGRAM SUPPORT

General Fund--State Appropriation (FY 1998) \$

((1,922,000))

1,930,000

General Fund--State Appropriation (FY 1999) \$

((1,610,000))

1,654,000

General Fund--Federal Appropriation \$

156,000

Violence Reduction and Drug Enforcement Account  
Appropriation \$

421,000

TOTAL APPROPRIATION \$

((4,109,000))

4,161,000

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

(a) \$92,000 of the general fund--state fiscal year 1998 appropriation and \$36,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of Substitute Senate Bill No. 5759 (risk classification). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(b) \$206,000 of the general fund--state fiscal year 1998 appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5710 (juvenile care and treatment). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

(c) \$97,000 of the general fund--state fiscal year 1998 appropriation and \$36,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(d) Within the amounts provided in this subsection, the juvenile rehabilitation administration (JRA) shall develop by January 1, 1998, a staffing model for noncustody functions at JRA institutions and work camps. The models should, whenever possible, reflect the most efficient practices currently being used within the system.

(e) \$15,000 of the general fund--state appropriation for fiscal year 1998 and \$175,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the study required in Second Substitute Senate Bill No. 6445 (child community facility placement). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse. The juvenile rehabilitation administration (JRA) shall contract with the institute for public policy for the studies required by the bill.

**Sec. 204.** 1997 c 149 s 204 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MENTAL HEALTH PROGRAM**

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund--State Appropriation (FY 1998) \$

((167,577,000))

General Fund--State Appropriation (FY 1999) \$	<u>170,940,000</u>
	((170,803,000))
General Fund--Federal Appropriation \$	<u>173,645,000</u>
	((296,006,000))
General Fund--Private/Local Appropriation \$	<u>299,651,000</u>
	4,000,000
TOTAL APPROPRIATION \$	((638,386,000))
	<u>648,236,000</u>

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

(a) Regional support networks shall use portions of the general fund--state appropriation for implementation of working agreements with the vocational rehabilitation program which will maximize the use of federal funding for vocational programs.

(b) From the general fund--state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and adult services program for the general fund--state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(c) ~~(\$2,413,000 of the general fund--state appropriation for fiscal year 1998 and \$2,393,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to directly reimburse eligible providers for the medicaid share of mental health services provided to persons eligible for both medicaid and medicare. To be reimbursed, the service must be covered by and provided in accordance with the state medicaid plan.~~

~~(d))~~ \$1,304,000 of the general fund--state appropriation for fiscal year 1998, \$3,356,000 of the general fund--state appropriation for fiscal year 1999, and \$5,056,000 of the general fund--federal appropriation are provided solely for distribution to those regional support networks whose 1997-99 allocation would otherwise be less than the regional support network would receive if all funding appropriated in this subsection (1) of this section for medicaid outpatient mental health services were distributed among all regional support networks at the state-wide average per capita rate for each eligibility category.

~~((e))~~ (d) At least thirty days prior to entering contracts that would capitate payments for voluntary psychiatric hospitalizations, the mental health division shall report the proposed capitation rates, and the assumptions and calculations by which they were established, to the budget and forecasting divisions of the office of financial management, the appropriations committee of the house of representatives, and the ways and means committee of the senate.

(e) \$533,000 of the general fund--state appropriation for fiscal year 1999 and \$587,000 of the general fund--federal appropriation are provided solely for the implementation of the Second Substitute Senate Bill No. 6214 (mentally ill commitment). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(2) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 1998) \$	((59,496,000))
	<u>62,368,000</u>
General Fund--State Appropriation (FY 1999) \$	((59,508,000))
	<u>60,698,000</u>
General Fund--Federal Appropriation \$	((127,118,000))
	<u>133,504,000</u>
General Fund--Private/Local Appropriation \$	((30,940,000))

	<u>25,007,000</u>
TOTAL APPROPRIATION \$	((277,062,000))
	<u>281,577,000</u>

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

(a) The state mental hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) The mental health program at Western state hospital shall continue to use labor provided by the Tacoma prerelease program of the department of corrections.

(c) \$246,000 of the general fund--state fiscal year 1998 appropriation and \$318,000 of the general fund--state fiscal year 1999 appropriation are provided solely for funding outside medical costs. The mental health division shall provide a report on outside medical costs to the fiscal committees of the legislature by September 30, 1998, and September 30, 1999. The report shall detail the monthly and per capita expenditures for outside medical costs at each state hospital.

(d) \$256,000 of the general fund--state fiscal year 1998 appropriation and \$254,000 of the general fund--state fiscal year 1999 appropriation are provided solely for funding pharmacy and new drug costs. The mental health division shall provide a report on pharmacy and new drug costs to the fiscal committees of the legislature by September 30, 1998, and September 30, 1999. The report shall detail monthly and per capita expenditures for pharmacy and new drug costs for each state hospital. Expenditures for each new generation atypical antipsychotic medication including clozapine, resperidone, olanzapine, and any newly introduced medications of this nature shall be specifically reported.

(e) \$1,700,000 of the general fund--state fiscal year 1998 appropriation is provided solely for replacing lost federal revenues in fiscal year 1998 due to a changed definition of discharge for medicare reimbursement purposes. The mental health division must aggressively pursue the prompt resolution of issues resulting in this loss of revenues with the federal health care financing administration. In the event any or all of the lost federal revenues are restored, an equal amount of the general fund--state fiscal year 1998 appropriation shall lapse.

(f) Within the funds provided in this section, the mental health division shall develop by October 1, 1998, a staffing model for direct and indirect functions for the wards at each of the state hospitals. The model should, whenever possible, reflect the most efficient practices for providing treatment and therapeutic services appropriate to the characteristics and needs of the individual patient.

(g) \$1,508,000 of the general fund--state appropriation for fiscal year 1999, \$92,000 of the general fund--federal appropriation, and \$107,000 of the general fund private/local appropriation are provided solely for the implementation of the Second Substitute Senate Bill No. 6214 (mentally ill commitment). If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(3) CIVIL COMMITMENT

General Fund Appropriation (FY 1998) \$	((5,423,000))
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	<u>7,174,000</u>
General Fund Appropriation (FY 1999) \$	((6,082,000))

	<u>7,779,000</u>
TOTAL APPROPRIATION \$	((11,505,000))
	<u>14,953,000</u>

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

(a) \$2,088,000 of the general fund--state fiscal year 1998 appropriation and \$2,415,000 of the general fund--state fiscal year 1999 appropriation are provided solely for court-related costs for residents at the special commitment center.

(b) Within the funds provided in this subsection, the mental health division shall develop by October 1, 1998, a staffing model for direct and indirect functions at the special commitment center. The model should, whenever possible, reflect the most efficient practices for providing treatment and therapeutic services appropriate to the characteristics and needs of the individual patient.

(4) SPECIAL PROJECTS

General Fund--State Appropriation (FY 1998) \$

General Fund--State Appropriation (FY 1999) \$	50,000
General Fund--Federal Appropriation \$	450,000
	3,826,000
TOTAL APPROPRIATION \$	4,326,000

The appropriations in this subsection are subject to the following conditions and limitations: \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$450,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for development and operation of the pilot project for mentally ill offenders described in Substitute Senate Bill No. 6002 (mentally ill offenders). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(5) PROGRAM SUPPORT

General Fund--State Appropriation (FY 1998) \$	<del>((2,560,000))</del>
	<u>2,537,000</u>
General Fund--State Appropriation (FY 1999) \$	<del>((2,395,000))</del>
	<u>2,569,000</u>
General Fund--Federal Appropriation \$	<del>((3,411,000))</del>
	<u>3,085,000</u>
TOTAL APPROPRIATION \$	<del>((8,066,000))</del>
	<u>8,191,000</u>

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

(a) \$60,000 of the general fund--state appropriation for fiscal year 1998 is provided solely to increase the department's capacity to carry out legislative intent set forth in RCW 71.24.400 through 71.24.415. To facilitate this activity, the secretary shall appoint an oversight committee of project stakeholders including representatives from: Service providers, mental health regional support networks, the department's mental health division, the department's division of alcohol and substance abuse, the department's division of children and family services, and the department's medical assistance administration. The oversight group shall continue to seek ways to streamline service delivery as set forth in RCW 71.24.405 until at least July 1, 1998.

(b) \$96,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Second Substitute Senate Bill No. 6214 (mentally ill commitment). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(c) \$100,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the evaluation required by Second Substitute Senate Bill No. 6214 (mentally ill commitment). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse. The mental health division shall contract with the institute for public policy for this evaluation.

**Sec. 205.** 1997 c 149 s 205 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--DEVELOPMENTAL DISABILITIES PROGRAM**

Notwithstanding any other limitations in this section, the secretary shall transfer \$1,140,000 of the general fund--state appropriation, and \$1,060,000 of the general fund--federal appropriation, or so much thereof as may be necessary, among subsections of this section to implement Second Substitute Senate Bill No. 6751 (developmental disabilities service options).

(1) COMMUNITY SERVICES

General Fund--State Appropriation (FY 1998) \$	<del>((140,172,000))</del>
	<u>147,757,000</u>

General Fund--State Appropriation (FY 1999) \$	((142,643,000))
	<u>166,773,000</u>
General Fund--Federal Appropriation \$	((194,347,000))
	<u>226,737,000</u>
Health Services Account Appropriation \$	((1,695,000))
	<u>639,000</u>
TOTAL APPROPRIATION \$	((478,857,000))
	<u>541,906,000</u>

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

(a) ~~(\$1,695,000 of)~~ The health services account appropriation and ~~\$(1,835,000)~~ 692,000 of the general fund--federal appropriation are provided solely for the enrollment in the basic health plan of home care workers with family incomes below 200 percent of the federal poverty level who are employed through state contracts. Enrollment in the basic health plan for home care workers with family incomes at or above 200 percent of poverty shall be covered with general fund--state and matching general fund--federal revenues that were identified by the department to have been previously appropriated for health benefits coverage, to the extent that these funds had not been contractually obligated for worker wage increases prior to March 1, 1996.

(b) \$365,000 of the general fund--state appropriation for fiscal year 1998 and \$1,543,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for employment, or other day activities and training programs, for young people who complete their high school curriculum in 1997 or 1998.

(c) ~~\$(22,974,000)~~ 24,399,000 of the general fund--state appropriation for fiscal year 1998 and ~~\$(25,111,000)~~ 28,729,000 of the general fund--state appropriation for fiscal year 1999 ~~(, plus any vendor rate increases allotted in accordance with section 213 of this act,)~~ are provided solely to deliver personal care services ~~(to an average of 6,250 children and adults in fiscal year 1998 and an average of 7,100 children and adults in fiscal year 1999)~~. Within these amounts, sufficient funding is provided to restore funding for medicaid personal care exceptional rates to the fiscal year 1997 level. If the secretary of social and health services determines that total expenditures are likely to exceed these appropriated amounts, the secretary shall take action as required by RCW 74.09.520 to adjust either functional eligibility standards or service levels or both sufficiently to maintain expenditures within appropriated levels. Such action may include the adoption of emergency rules and may not be taken to the extent that projected over-expenditures are offset by under-expenditures elsewhere within the program's general fund--state appropriation. Prior to making eligibility changes which would terminate all services to some persons, the secretary should first exercise all opportunities to manage the average cost per person served, through methods such as promoting the use of informal care; assuring that local offices are effectively and consistently authorizing the least expensive level of care which can meet recipient needs; and reducing on a sliding-scale basis the amount of service authorized per functional need level, with smaller reductions for greater levels of need.

(d) ~~\$(453,000)~~ 144,000 of the general fund--state appropriation for fiscal year 1998, ~~\$(214,000)~~ 453,000 of the general fund--state appropriation for fiscal year 1999, and ~~\$(719,000)~~ 654,000 of the general fund--federal appropriation are provided solely to continue operation of the united cerebral palsy residential center during the period in which its residents are phasing into new community residences.

(e) \$197,000 of the general fund--state appropriation for fiscal year 1998 and \$197,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to contract with the Washington initiative for supported employment for the purpose of continuing the promotion of supported employment services for persons with disabilities.

(f) The department shall not reduce the number of persons served in community residential, employment and day program, or family support services below the levels identified in the Legislative Budget Notes, 1997-99 Biennium, (August 1997) as published by the legislative fiscal committees, in order to undertake activities proposed by the department but not funded in this 1998 supplemental appropriations act.

(g) \$2,151,000 of the general fund--state appropriation for fiscal year 1998, \$5,782,000 of the general fund--state appropriation for fiscal year 1999, and \$8,362,000 of the general fund--federal appropriation are provided solely to develop and operate secure residential and day program placements for persons who seem likely to present a significant risk to the public safety if their current residential arrangement were to continue.

(h) \$426,000 of the general fund--state appropriation for fiscal year 1999 and \$469,000 of the general fund--federal appropriation are provided solely to develop and operate community services for persons residing at eastern and western state hospitals whose needs are such that they cannot be served in existing community vacancies.

(i) \$200,000 of the general fund--state appropriation for fiscal year 1998 and \$1,592,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for employment and day program services for adults who are not currently able to participate in such services because of funding limitations.

(j) \$105,000 of the general fund--state appropriation for fiscal year 1998, \$933,000 of the general fund--state appropriation for fiscal year 1999, and \$1,029,000 of the general fund--federal appropriation are provided solely to develop and operate community services for persons moving from the residential habilitation centers as a result of an agreement with the federal department of justice or a settlement agreement to a lawsuit.

(k) Within amounts appropriated in this subsection, the division shall contract for a pilot program to test an alternative service delivery model for services to persons with autism. The division must use a competitive process to determine the site of the pilot. The pilot program must be time-limited and subject to an evaluation of client outcomes to determine the effectiveness and efficiency of the pilot program compared to the standard service model for persons with autism.

(2) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 1998) \$	((63,982,000))
	<u>65,277,000</u>
General Fund--State Appropriation (FY 1999) \$	((63,206,000))
	<u>64,187,000</u>
General Fund--Federal Appropriation \$	((142,955,000))
	<u>145,897,000</u>
General Fund--Private/Local Appropriation \$	9,729,000
TOTAL APPROPRIATION \$	((279,872,000))
	<u>285,090,000</u>

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

(a) With the funds appropriated in this subsection, the secretary of social and health services shall develop an eight-bed program at Yakima valley school specifically for the purpose of providing respite services to all eligible individuals on a state-wide basis, with an emphasis on those residing in central Washington.

(b) \$112,000 of the general fund--state appropriation for fiscal year 1998, \$113,000 of the general fund--state appropriation for fiscal year 1999, and \$75,000 of the general fund--federal appropriation are provided solely for a nursing community outreach project at Yakima valley school. Registered nursing staff are to provide nursing assessments, consulting services, training, and quality assurance on behalf of individuals residing in central Washington.

(c) \$200,000 of the general fund--state appropriation for fiscal year 1998, \$200,000 of the general fund--state appropriation for fiscal year 1999, and \$400,000 of the general fund--federal appropriation are provided solely for the development of a sixteen-bed program at Yakima valley school specifically for the purpose of providing respite services to all eligible individuals on a state-wide basis, with an emphasis on those residing in central Washington.

(3) PROGRAM SUPPORT

General Fund--State Appropriation (FY 1998) \$	((2,543,000))
	<u>2,530,000</u>
General Fund--State Appropriation (FY 1999) \$	

	((2,517,000))
	<u>2,501,000</u>
General Fund--Federal Appropriation \$	((1,645,000))
	<u>1,637,000</u>
TOTAL APPROPRIATION \$	((6,705,000))
	<u>6,668,000</u>
 (4) SPECIAL PROJECTS	
General Fund--Federal Appropriation \$	12,030,000
 <b>Sec. 206.</b> 1997 c 149 s 206 (uncodified) is amended to read as follows:	
<b>FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--AGING AND ADULT SERVICES PROGRAM</b>	
General Fund--State Appropriation (FY 1998) \$	((392,045,000))
	<u>409,469,000</u>
General Fund--State Appropriation (FY 1999) \$	((416,304,000))
	<u>425,130,000</u>
General Fund--Federal Appropriation \$	((878,169,000))
	<u>910,685,000</u>
<u>General Fund--Local Appropriation \$</u>	<u>1,781,000</u>
Health Services Account Appropriation \$	((6,087,000))
	<u>2,232,000</u>
TOTAL APPROPRIATION \$	((1,692,605,000))
	<u>1,749,297,000</u>

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

- (1) The entire health services account appropriation and ~~\$(6,076,000))~~ 2,175,000 of the general fund--federal appropriation are provided solely for the enrollment in the basic health plan of home care workers with family incomes below 200 percent of the federal poverty level who are employed through state contracts. Enrollment in the basic health plan for home care workers with family incomes at or above 200 percent of poverty shall be covered with general fund--state and matching general fund--federal revenues that were identified by the department to have been previously appropriated for health benefits coverage, to the extent that these funds had not been contractually obligated for worker wage increases prior to March 1, 1996.
- (2) \$1,277,000 of the general fund--state appropriation for fiscal year 1998 and \$1,277,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for operation of the volunteer chore program.
- (3) ~~\$(107,997,000))~~ 113,534,000 of the general fund--state appropriation for fiscal year 1998 ~~((and \$120,397,000)),~~ \$125,310,000 of the general fund--state appropriation for fiscal year 1999, ~~((plus any vendor rate increases allocated to these services in accordance with section 213 of this act))~~ of which no less than forty-nine percent shall be allotted for expenditure during the first six months of fiscal year 1999, and \$7,374,000 of the general fund--federal social services block grant appropriation, are provided solely to deliver chore, COPES, and medicaid personal care services. If the secretary of social and health services determines that total expenditures are likely to exceed these amounts, the



secretary shall take action as required by RCW 74.09.520, 74.39A.120, and 74.09.530 to adjust functional eligibility standards and/or service levels sufficiently to maintain expenditures within appropriated levels. Such action may include the adoption of emergency rules, and shall not be taken to the extent that projected over-expenditures are offset by under-expenditures resulting from lower than budgeted nursing home caseloads. Prior to making eligibility changes which would terminate all services to some persons, the secretary should first exercise all opportunities to manage the average cost per person served, through methods such as promoting the use of informal care; assuring that local offices are effectively and consistently authorizing the least expensive level of care that can meet recipient needs; using waiting lists for individuals with lower levels of need in order to limit monthly growth; and reducing on a sliding-scale basis the amount of service authorized per functional need level, with smaller reductions for greater levels of need.

(4) \$1,080,000 of the general fund--state appropriation for fiscal year 1999 is provided to maintain service eligibility for persons receiving services through the chore, COPES, or medicaid personal care programs in the event eligibility adjustments may be necessary or are made in accordance with subsection (3) of this section. The department may use seventy-five percent of amounts not needed for that purpose to implement quality of care enhancements.

(5) \$26,000 of the general fund--state appropriation for fiscal year 1998, \$59,000 of the general fund--state appropriation for fiscal year 1999, and \$85,000 of the general fund--federal appropriation are provided solely to employ registered nurses rather than social workers to fill six of the new field positions to be filled in fiscal year 1998 and seven more of the new positions to be filled in fiscal year 1999. These registered nurses shall conduct assessments, develop and monitor service plans, and consult with social work staff to assure that persons with medical needs are placed in and receive the appropriate level of care.

~~((5))~~ (6) \$425,000 of the general fund--state appropriation for fiscal year 1998 and \$882,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Second Substitute Senate Bill No. 5179 (nursing facility reimbursement). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((6) A maximum of \$2,193,000 of the general fund--state appropriation for fiscal year 1998 and \$2,351,000 of the general fund--federal appropriation for fiscal year 1998 are provided to fund the medicaid share of any new prospective payment rate adjustments as may be necessary in accordance with RCW 74.46.460.))~~

(7) \$242,000 of the general fund--state appropriation for fiscal year 1998, \$212,000 of the general fund--state appropriation for fiscal year 1999, and \$498,000 of the general fund--federal appropriation are provided solely for operation of a system for investigating allegations of staff abuse and neglect in nursing homes, as provided in Second Substitute House Bill No. 1850 (long-term care standards of care).

~~((8) \$350,000 of the general fund--state appropriation for fiscal year 1998 and \$382,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to supplement the incomes of disabled legal immigrants who, because of loss of their federal supplemental security income benefit, would otherwise be at risk of placement into a more expensive long-term care setting.~~

(9)(a) ~~The department shall establish a shadow case mix payment system to educate facilities about payment system alternatives. The department shall provide shadow rates beginning July 1, 1997, based on the following:~~

~~(i) The direct care portion of the rate, usually called "nursing services," shall be set under a case mix methodology that classifies residents under the Resource Utilization Group III (RUG-III) Version 5.10 (or subsequent revision) 44 group index maximizing model based on the Minimum Data Set (MDS) Version 2.0.~~

~~(ii) Payment to a facility shall be based on facility weighted average case mix data which provides one rate to a facility reflecting its mix of residents. For purposes of determining the facility's cost per case mix unit, the facility average case mix score will be based on the case mix of all residents. For purposes of determining the facility's payment rate, the facility average case mix score shall be based on the case mix of medicaid residents.~~

~~(iii) The direct care rates shall be adjusted prospectively each quarter based on the facility's MDS 2.0 data from the quarter commencing six months preceding the rate effective date. For example, the MDSs for 1/1/97-3/31/97 shall be used to establish shadow rates for 7/1/97-9/30/97.~~

~~(iv) Those costs which currently comprise nursing services as defined by chapter 74.46 RCW, excluding therapies, shall be included in the direct care component for case mix.~~

~~(v) Data from 1994 cost reports (allowable and audited costs) shall be used to establish the shadow rates. The costs shall be inflated comparable to fiscal year 1998 payment rates, according to RCW 74.46.420.~~

~~(vi) Separate prices, ceilings, and corridors shall be established for the peer groups of metropolitan statistical area and nonmetropolitan statistical area.~~

~~(b) The following methods shall be used to establish the shadow case mix rates:~~

~~(i) A pricing system in which payment to a facility shall be based on a price multiplied by each facility's medicaid case mix. The price, per peer group, shall be established at the median direct care cost per case mix unit.~~

~~(ii) A pricing system in which payment to a facility shall be based on a price multiplied by each facility's medicaid case mix. The price, per peer group, shall be based on the cost per case mix unit of a group of cost effective benchmark facilities which meet quality standards.~~

~~(iii) A corridor-based system in which payment to a facility shall be the facility's allowable cost per case mix unit adjusted for case mix up to a ceiling and no less than a floor. The floor, per peer group, shall be established at 90 percent of the cost per case mix unit of a group~~

of cost-effective benchmark facilities which meet quality standards. The ceiling, per peer group, shall be established at 110 percent of the cost per case-mix unit of the group of benchmark facilities.

(iv) A corridor-based system in which payment to a facility shall be the facility's allowable cost per case-mix unit adjusted for case mix up to a ceiling and no less than a floor. The floor, per peer group, shall be established at 90 percent of the industry-wide median direct care cost per case-mix unit. The ceiling, per peer group, shall be established at 110 percent of the industry-wide median direct care cost per case-mix unit.

(e) The department shall provide all data, information, and specifications of the methods used in establishing the shadow case mix rates to the nursing home provider associations.

(d) It is the legislature's intent that the average state payment for nursing facility services under the new system increase by no more than 175 percent of the health care financing administration nursing home input price index, excluding capital costs. In designing the new payment system, the department shall develop and propose options for the combined direct and indirect rate components that assure this.

~~(10))~~ (8) For purposes of implementing Second Substitute House Bill No. 2935 (nursing facility payment rates), the weighted average nursing facility payment rate for fiscal year 1999 shall be no more than \$117.36, excluding nurse's aide training. Each nursing facility's July 1 through September 30, 1998, medicaid payment rate shall be its June 30, 1998, rate increased by 2.0 percent, except for the property and return on investment component rates, which shall not be increased. Beginning October 1, 1998, component rates rebased on 1996 costs shall be adjusted for economic trends and conditions by 5.18 percent.

(9) \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for payments to any nursing facility licensed under chapter 18.51 RCW which meets all of the following criteria:

(a) The nursing home entered into an arm's length agreement for a facility lease prior to January 1, 1980; (b) the lessee purchased the leased nursing home after January 1, 1980; and (c) the lessor defaulted on its loan or mortgage for the assets of the home after January 1, 1991, and prior to January 1, 1992. Payments provided pursuant to this subsection shall not be subject to the settlement, audit, or rate-setting requirements contained in chapter 74.46 RCW.

~~((11) \$546,000))~~ (10) \$506,000 of the general fund--state appropriation for fiscal year 1998, ~~(((\$583,000))~~ \$502,000 of the general fund--state appropriation for fiscal year 1999, and ~~(((\$1,220,000))~~ \$1,095,000 of the general fund--federal appropriation are provided solely for an increase in the state payment rates for adult residential care and enhanced adult residential care.

~~(11) \$274,000 of the general fund--state appropriation for fiscal year 1998, \$1,357,000 of the general fund--state appropriation for fiscal year 1999, and the entire general fund--local appropriation are provided solely for boarding home licensure and quality assurance by the department of social and health services only if Engrossed House Bill No. 2410 (boarding home administration) is enacted by June 30, 1998. If the bill is not enacted, the amounts provided in this subsection shall be allocated to the department of health, which will manage the boarding home licensure and quality assurance program.~~

Sec. 207. 1997 c 454 s 204 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ECONOMIC SERVICES PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((543,150,000))
	<u>508,243,000</u>
General Fund--State Appropriation (FY 1999) \$	((529,985,000))
	<u>512,200,000</u>
General Fund--Federal Appropriation \$	((952,618,000))
	<u>951,615,000</u>
TOTAL APPROPRIATION \$	((2,025,753,000))
	<u>1,972,058,000</u>

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

~~((2))~~ (1) The legislature finds that, with the passage of the federal personal responsibility and work opportunity act and Engrossed House Bill No. 3901, the temporary assistance for needy families is no longer an entitlement. The legislature declares that the currently appropriated level for the program is sufficient for the next few budget cycles. To the extent, however, that currently appropriated amounts exceed costs during the 1997-99 biennium, the department is encouraged to set aside excess federal funds for use in future years.

~~((3))~~ (2) \$485,000 of the general fund--state fiscal year 1998 appropriation, \$3,186,000 of the general fund--state fiscal year 1999 appropriation, and \$3,168,000 of the general fund--federal appropriation are provided solely to continue to implement the previously competitively procured electronic benefits transfer system through the western states EBT alliance for distribution of cash grants and food stamps so as to meet the requirements of P.L. 104-193.

~~((4))~~ (3) \$50,000 of the fiscal year 1998 general fund--state appropriation is provided solely for a study of child care affordability as directed in section 403 of Engrossed House Bill No. 3901 (implementing welfare reform). The study shall be performed by the Washington institute for public policy. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((5))~~ (4) \$500,000 of the fiscal year 1998 general fund--state appropriation and \$500,000 of the fiscal year 1999 general fund--state appropriation are provided solely for an evaluation of the WorkFirst program as directed in section 705 of Engrossed House Bill No. 3901 (implementing welfare reform). The study shall be performed by the joint legislative audit and review committee. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((6))~~ (5) \$73,129,000 of the general fund--federal appropriation is provided solely for child care assistance for low-income families in the WorkFirst program and for low-income working families as authorized in Engrossed House Bill No. 3901 (implementing welfare reform). All child care assistance provided shall be subject to a monthly copay to be paid by the family receiving the assistance.

~~((7))~~ (6) \$7,624,000 of the fiscal year 1998 general fund--state appropriation, \$18,489,000 of the fiscal year 1999 general fund--state appropriation, and \$29,781,000 of the general fund--federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform), including sections 404 and 405. If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse. The level of benefits in the food program for legal immigrants authorized in the bill shall be equivalent to benefits provided by the federal food stamp program.

~~((8) \$89,722,000)~~ (7) \$56,461,000 of the fiscal year 1998 general fund--state appropriation and ~~\$(75,466,000)~~ 59,393,000 of the fiscal year 1999 general fund--state appropriation are provided solely for cash assistance to recipients in the general assistance--unemployable program. The department shall take any and all actions necessary to maintain expenditures within these amounts.

~~((9))~~ (8) \$55,995,000 of the fiscal year 1998 general fund--state appropriation, \$55,995,000 of the fiscal year 1999 general fund--state appropriation, and \$184,510,000 of the general fund--federal appropriation are provided solely to administer a low-income child care program as authorized in Engrossed House Bill No. 3901 (implementing welfare reform). The child care program funds shall be allotted as follows:

(a) Each six-month period shall have \$27,997,500 general fund--state and \$46,127,500 general fund--federal funds allotted to be spent during that six-month period for low-income child care assistance.

(b) The department may spend up to the allotted amount for child care assistance during each six-month period. Any funds not spent during the six-month period may be held over and allotted in the next six-month period, subject to the provisions of subsection ~~((6))~~ (5) of this section.

(c) Federal funds allotted for child care but not spent in fiscal year 1998 may be transferred to fiscal year 1999 for allotment but state funds must be spent in the year appropriated.

(9) \$5,000,000 of the general fund--federal appropriation from the temporary assistance for needy families block grant is provided solely for allocation to the department of community, trade, and economic development to implement the WorkFirst grants to community action agencies or other local nonprofit organizations. The grants shall be used to provide job opportunities, transitional support services, one-on-one assistance, case management, and job retention services to basic skills training program participants.

(10) Within the amounts provided in this section, the department shall implement the study requirements of Engrossed Substitute House Bill No. 2900 (pro rata calculation of temporary assistance for needy families grants).

**Sec. 208.** 1997 c 454 s 205 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

General Fund--State Appropriation (FY 1998) \$	<del>((14,466,000))</del>
	<u>15,459,000</u>
General Fund--State Appropriation (FY 1999) \$	<del>((14,334,000))</del>
	<u>15,330,000</u>
General Fund--Federal Appropriation \$	<del>((80,497,000))</del>
	<u>81,112,000</u>
General Fund--Private/Local Appropriation \$	

	630,000
<u>Public Safety and Education Account</u>	
<u>Appropriation</u> \$	<u>3,210,000</u>
Violence Reduction and Drug Enforcement Account	
Appropriation    \$	((72,900,000))
	<u>74,889,000</u>
TOTAL APPROPRIATION   \$	((182,827,000))
	<u>190,630,000</u>

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

(1) \$2,062,000 of the general fund--federal appropriation and \$7,482,000 of the violence reduction and drug enforcement account appropriation are provided solely for the grant programs for school districts and educational service districts set forth in RCW 28A.170.080 through 28A.170.100, including state support activities, as administered through the office of the superintendent of public instruction.

(2) \$1,902,000 of the general fund--state fiscal year 1998 appropriation, \$1,902,000 of the general fund--state fiscal year 1999 appropriation, and \$1,592,000 of the general fund--federal appropriation are provided solely for alcohol and substance abuse assessment, treatment, including treatment for drug affected infants and toddlers, and child care services for clients of the division of children and family services. Assessment shall be provided by approved chemical dependency treatment programs as requested by child protective services personnel in the division of children and family services. Child care shall be provided as deemed necessary by the division of children and family services while parents requiring alcohol and substance abuse treatment are attending treatment programs.

(3) \$760,000 of the fiscal year 1998 general fund--state appropriation and \$760,000 of the fiscal year 1999 general fund--state appropriation are provided solely to fund a program serving mothers of children affected by fetal alcohol syndrome and related conditions, known as the birth-to-three program. The program may be operated in two cities in the state.

(4) \$3,210,000 of the public safety and education account appropriation is provided solely for the continuation of treatment alternatives to street crimes (TASC) programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties.

**Sec. 209.** 1997 c 149 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE PROGRAM**

General Fund--State Appropriation (FY 1998)   \$	((684,033,000))
	<u>666,815,000</u>
General Fund--State Appropriation (FY 1999)   \$	((684,885,000))
	<u>681,372,000</u>
General Fund--Federal Appropriation    \$	((2,038,101,000))
	<u>2,086,149,000</u>
General Fund--Private/Local Appropriation   \$	((223,900,000))
	<u>306,601,000</u>
Health Services Account Appropriation   \$	((253,004,000))
	<u>254,506,000</u>
Emergency Medical and Trauma Care Services Account Appropriation    \$	4,600,000

TOTAL APPROPRIATION \$

((3,888,523,000))

4,000,043,000

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

(1) The department shall continue to make use of the special eligibility category created for children through age 18 and in households with incomes below 200 percent of the federal poverty level made eligible for medicaid as of July 1, 1994.

(2) It is the intent of the legislature that Harborview medical center continue to be an economically viable component of the health care system and that the state's financial interest in Harborview medical center be recognized.

(3) Funding is provided in this section for the adult dental program for Title XIX categorically eligible and medically needy persons and to provide foot care services by podiatric physicians and surgeons.

(4) \$1,622,000 of the general fund--state appropriation for fiscal year 1998 and \$1,622,000 of the general fund--state appropriation for fiscal year 1999 are provided for treatment of low-income kidney dialysis patients.

(5) \$80,000 of the general fund--state appropriation for fiscal year 1998, \$80,000 of the general fund--state appropriation for fiscal year 1999, and \$160,000 of the general fund--federal appropriation are provided solely for the prenatal triage clearinghouse to provide access and outreach to reduce infant mortality.

(6) The department shall employ the managed care contracting and negotiation strategies defined in Substitute Senate Bill No. 5125 to assure that the average per-recipient cost of managed care services for temporary assistance to needy families and expansion populations increases by no more than two percent per year in calendar years 1998 and 1999.

(7) The department shall seek federal approval to require adult medicaid recipients who are not elderly or disabled to contribute ten dollars per month toward the cost of their medical assistance coverage. The department shall report on the progress of this effort to the house of representatives and senate health care and fiscal committees by September 1 and November 15, 1997.

(8) \$325,000 of the general fund--state appropriation for fiscal year 1998 and \$325,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to increase rates paid for air ambulance services.

(9) \$1,468,000 of the general fund--state appropriation for fiscal year 1999 is to be expended solely to the extent necessary because the federal government has not approved the department's request to require certain recipients to pay ten dollars per month toward the cost of their medical assistance.

(10) By November 1, 1998, the department shall report to the health care and fiscal committees of the legislature on the estimated average monthly number of nongrant medical assistance recipients who do not meet the earned income eligibility standards that were in effect prior to November 1997.

**Sec. 210.** 1997 c 149 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--VOCATIONAL REHABILITATION PROGRAM**

General Fund--State Appropriation (FY 1998) \$

((8,652,000))

9,046,000

General Fund--State Appropriation (FY 1999) \$

((8,592,000))

8,603,000

General Fund--Federal Appropriation \$

((79,542,000))

79,080,000

General Fund--Private/Local Appropriation \$

2,904,000

TOTAL APPROPRIATION \$

((99,690,000))

99,633,000

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

(1) The division of vocational rehabilitation shall negotiate cooperative interagency agreements with local organizations, including higher education institutions, mental health regional support networks, and county developmental disabilities programs to improve and expand employment opportunities for people with severe disabilities served by those local agencies.

(2) \$363,000 of the general fund--state appropriation for fiscal year 1998, \$506,000 of the general fund--state appropriation for fiscal year 1999, and \$3,208,000 of the general fund--federal appropriation are provided solely for vocational rehabilitation services for individuals enrolled for services with the developmental disabilities program who complete their high school curriculum in 1997 or 1998.

**Sec. 211.** 1997 c 454 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((24,572,000))
	<u>25,818,000</u>
General Fund--State Appropriation (FY 1999) \$	((23,956,000))
	<u>25,744,000</u>
General Fund--Federal Appropriation \$	((40,352,000))
	<u>43,037,000</u>
General Fund--Private/Local Appropriation \$	270,000
TOTAL APPROPRIATION \$	((89,150,000))
	<u>94,869,000</u>

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

(1) The department may transfer up to \$1,289,000 of the general fund--state appropriation for fiscal year 1998, \$1,757,000 of the general fund--state appropriation for fiscal year 1999, and \$2,813,000 of the general fund--federal appropriation to the administration and supporting services program from various other programs to implement administrative reductions.

(2) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1997, and every six months thereafter on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

~~((4))~~ (3) \$60,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for a welfare fraud pilot program as described by House Bill No. 1822 (welfare fraud investigation).

~~((5))~~ (4) \$55,000 of the fiscal year 1998 general fund--state appropriation, \$64,000 of the fiscal year 1999 general fund--state appropriation, and \$231,000 of the general fund--federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(5) \$192,000 of the general fund--state appropriation for fiscal year 1999 and \$131,000 of the general fund--federal appropriation are provided solely to implement sections 3, 4, and 11 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If sections 3, 4, and 11 of the bill are not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(6) The department shall report on the allowance for clothing, personal maintenance, and necessary incidentals provided to persons who receive services funded by state and federal moneys under Title XIX of the social security act. The report shall discuss the range of allowances granted for different populations and programs and compare the allowances to those provided to similar populations in other western states. The report shall also evaluate the need for a uniform amount provided to all populations and, if a uniform allowance is provided, at what level that allowance should be set. In compiling the report, the department shall consult with affected parties and divisions. The report shall be submitted by December 1, 1998, to the chairs and the ranking minority members of the appropriate committees of the legislature.

**Sec. 212.** 1997 c 454 s 207 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CHILD SUPPORT PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((21,122,000))
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General Fund--State Appropriation (FY 1999) \$	<u>21,344,000</u>
	((20,877,000))
General Fund--Federal Appropriation \$	<u>20,965,000</u>
	((145,739,000))
General Fund--Private/Local Appropriation \$	<u>145,321,000</u>
	((33,207,000))
TOTAL APPROPRIATION \$	<u>32,673,000</u>
	((220,945,000))
	<u>220,303,000</u>

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

(1) The department shall contract with private collection agencies to pursue collection of AFDC child support arrearages in cases that might otherwise consume a disproportionate share of the department's collection efforts. The department's child support collection staff shall determine which cases are appropriate for referral to private collection agencies. In determining appropriate contract provisions, the department shall consult with other states that have successfully contracted with private collection agencies to the extent allowed by federal support enforcement regulations.

((3)) (2) The amounts appropriated in this section for child support legal services shall be expended only by means of contracts with local prosecutor's offices.

((4)) (3) \$305,000 of the general fund--state fiscal year 1998 appropriation, \$494,000 of the general fund--state fiscal year 1999 appropriation, and \$1,408,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

Sec. 213. 1997 c 454 s 208 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund--State Appropriation (FY 1998) \$	((47,435,000))
	<u>25,292,000</u>
General Fund--State Appropriation (FY 1999) \$	((47,514,000))
	<u>24,792,000</u>
General Fund--Federal Appropriation \$	((54,366,000))
	<u>18,966,000</u>
<del>(Health Services Account Appropriation—\$</del>	<del>1,502,000</del>
<del>Violence Reduction and Drug Enforcement Account</del>	
<del>Appropriation—\$</del>	<del>2,215,000))</del>
TOTAL APPROPRIATION \$	((153,032,000))
	<u>69,050,000</u>

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

~~((1) \$22,893,000 of the general fund--state appropriation for fiscal year 1998, \$22,835,000 of the general fund--state appropriation for fiscal year 1999, \$35,431,000 of the general fund--federal appropriation, \$2,215,000 of the violence reduction and drug enforcement account appropriation, and \$1,502,000 of the health services account appropriation are provided solely to increase the rates of contracted service providers. The department need not provide all vendors with the same percentage rate increase. Rather, the department is encouraged to use these funds to help assure an adequate supply of qualified vendors. Vendors providing services in markets where recruitment and retention of qualified providers is a problem may receive larger rate increases than other vendors. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery. Any rate increases granted as a result of this section must be implemented so that the carry-forward costs into the 1999-01 biennium do not exceed the amounts provided in this subsection. Within thirty days of granting a vendor rate increase under this section, the department shall report the following information to the fiscal committees of the legislature: (a) The amounts and effective dates of any increases granted; (b) the process and criteria used to determine the increases; and (c) any data used in that process. In accordance with RCW 43.88.110(1), the department and the office of financial management shall allot funds appropriated in this section to the programs and budget units from which the funds will be expended. Such allotments shall be completed no later than September 15, 1997.~~

~~(2)) (1) \$263,000 of the fiscal year 1998 general fund--state appropriation, \$349,000 of the fiscal year 1999 general fund--state appropriation, and \$1,186,000 of the general fund--federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.~~

~~(2) \$113,000 of the fiscal year 1999 general fund--state appropriation and \$31,000 of the general fund--federal appropriation are provided solely for the implementation of Substitute House Bill No. 2556 (child abuse prevention and treatment). If this bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.~~

**Sec. 214.** 1997 c 454 s 210 (uncodified) is amended to read as follows:

**FOR THE STATE HEALTH CARE AUTHORITY**

General Fund--State Appropriation (FY 1998) \$	6,316,000
General Fund--State Appropriation (FY 1999) \$	6,317,000
State Health Care Authority Administration Account Appropriation \$	((14,719,000))
	<u>14,969,000</u>
Health Services Account Appropriation \$	((330,628,000))
	<u>341,800,000</u>
TOTAL APPROPRIATION \$	((357,980,000))
	<u>369,402,000</u>

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

(1) The general fund--state appropriations are provided solely for health care services provided through local community clinics.  
 (2) Within funds appropriated in this section and sections 205 and 206 of chapter 149, Laws of 1997, the health care authority shall continue to provide an enhanced basic health plan subsidy option for foster parents licensed under chapter 74.15 RCW and workers in state-funded homecare programs. Under this enhanced subsidy option, foster parents and homecare workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at a cost of ten dollars per covered worker per month.

(3)(a) Effective October 1997, the health care authority shall require organizations and individuals that are paid to deliver basic health plan services to contribute a minimum of thirty dollars per enrollee per month if the organization or individual chooses to sponsor an individual's enrollment in the subsidized basic health plan.

(b) Effective July 1998, the health care authority shall require organizations and individuals which are paid to deliver basic health plan services and which choose to sponsor enrollment in the subsidized basic health plan to pay the following: (i) A minimum of fifteen dollars per enrollee per month for persons below 100 percent of the federal poverty level; and (ii) a minimum of twenty dollars per enrollee per month for persons whose family income is 100 percent to 200 percent of the federal poverty level.

(4) \$150,000 of the health services account appropriation is provided solely to implement health care savings accounts. If legislation requiring a pilot project of such accounts is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.



~~((6))~~ (5) \$270,000 of the health services account appropriation is provided solely to pay commissions to agents and brokers in accordance with RCW 70.47.015(5) for application assistance provided to persons on the reservation list as of June 30, 1997, who enroll in the subsidized basic health plan on or after July 1, 1997.

(6) \$250,000 of the state health care authority administrative account appropriation is provided solely to process claims arising from the settlement in *Retired State Employees v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1).

(7) The health care authority administrator is directed to pay claims resulting from a court-approved stipulated settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1) using funds in the public employees' and retirees' insurance account. The legislature recognizes that payment of these claims may reduce premium stabilization reserves below target levels on an interim basis. It is the legislature's intent that the viability of health care authority-administered programs be preserved and that the benefit levels for health care authority-administered programs not be reduced in the event premium stabilization reserves are used to pay such claims.

(8) \$330,000 of the health services account appropriation is provided solely to implement Substitute House Bill No. 3109 (basic health plan enrollee income verification). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

Sec. 215. 1997 c 149 s 215 (uncodified) is amended to read as follows:

**FOR THE HUMAN RIGHTS COMMISSION**

General Fund--State Appropriation (FY 1998) \$	2,019,000
General Fund--State Appropriation (FY 1999) \$	<del>((2,036,000))</del>
	<u>2,538,000</u>
General Fund--Federal Appropriation \$	1,444,000
General Fund--Private/Local Appropriation \$	259,000
TOTAL APPROPRIATION \$	<del>((5,758,000))</del>
	<u>6,260,000</u>

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

(1) \$432,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for elimination of caseload backlog by January 1, 1999, and reduction of case processing time.

(2) \$70,000 of the general fund appropriation for fiscal year 1999 is provided solely to implement section 4 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If section 4 of the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

Sec. 216. 1997 c 149 s 217 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

General Fund--State Appropriation (FY 1998) \$	<u>15,000</u>
General Fund--State Appropriation (FY 1999) \$	<u>285,000</u>
General Fund--Federal Appropriation \$	100,000
Death Investigations Account Appropriation \$	38,000
Public Safety and Education Account Appropriation \$	<del>((13,434,000))</del>
	<u>13,341,000</u>
Violence Reduction and Drug Enforcement Account Appropriation \$	346,000

TOTAL APPROPRIATION \$

((13,918,000))

14,125,000

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

(1) \$80,000 of the public safety and education account appropriation is provided solely to continue the study of law enforcement and corrections training begun in 1996. In conducting the study, the criminal justice training commission shall consult with the appropriate policy and fiscal committees of the legislature. Specific elements to be addressed in the study include: (a) The feasibility and the rationale for increasing basic law enforcement training from 440 to 600 hours; (b) the feasibility and rationale for creating a certification process for law enforcement officers; (c) the feasibility and rationale for expanding the correctional officers academy; (d) the feasibility and rationale for expanding the juvenile service workers academy and/or the adult services academy; and (e) any other items considered relevant by the commission. Any recommendations made shall include a plan and timeline for how they would be implemented. The board on correctional training standards and education and the board on law enforcement training standards and education shall be actively involved in the study effort. Copies of the study shall be provided to the appropriate policy and fiscal committees of the legislature and the director of financial management by October 1, 1997.

(2) \$50,000 of the public safety and education account appropriation is provided solely to prepare a cost and fee study of the current and proposed criminal justice course offerings. The analysis shall identify total costs and major cost components for: (a) Any current training classes which are considered mandatory; and (b) any proposed or modified training courses which are considered mandatory. Mandatory classes include, but are not limited to, the following: Basic law enforcement academy, correctional officers academy, supervisory and management training of law enforcement officers, supervisory and management training of correctional officers, juvenile service workers academy, and the adult service academy. The study shall also recommend a methodology for estimating the future demand for these classes. The study shall also estimate the cost of implementing any recommendations made pursuant to subsection (1) of this section. The study shall be conducted by a private sector consultant selected by the office of financial management in consultation with the executive director of the criminal justice training commission. The final report shall be completed by January 1, 1998.

(3) \$92,000 of the public safety and education account appropriation is provided solely for the purpose of training law enforcement managers and supervisors.

(4) \$40,000 of the public safety and education account appropriation is provided solely to implement the provisions of Substitute House Bill No. 1423 (criminal justice training commission). If this bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(5) \$225,000 of the general fund--state fiscal year 1999 appropriation is provided solely for information technology upgrades and improvements for the criminal justice training commission.

(6) \$15,000 of the general fund--state fiscal year 1998 appropriation and \$25,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the relocation and new lease costs of the criminal justice training commission's headquarters in Thurston county.

(7) \$35,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for costs associated with the implementation of incident-based crime reporting.

Sec. 217, 1997 c 454 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund Appropriation (FY 1998) \$

6,805,000

General Fund Appropriation (FY 1999) \$

((6,848,000))

7,069,000

Public Safety and Education Account--

State Appropriation \$

((16,246,000))

16,082,000

Public Safety and Education Account--

Federal Appropriation \$

6,002,000

Public Safety and Education Account--

Private/Local Appropriation \$	((2,014,000))
	<u>2,178,000</u>
Electrical License Account Appropriation \$	22,542,000
Farm Labor Revolving Account Appropriation \$	28,000
Worker and Community Right-to-Know Account Appropriation \$	2,187,000
Public Works Administration Account Appropriation \$	((1,975,000))
	<u>1,975,000</u>
Accident Account--State Appropriation \$	((146,901,000))
	<u>151,634,000</u>
Accident Account--Federal Appropriation \$	9,112,000
Medical Aid Account--State Appropriation \$	((155,276,000))
	<u>154,142,000</u>
Medical Aid Account--Federal Appropriation \$	1,592,000
Plumbing Certificate Account Appropriation \$	947,000
Pressure Systems Safety Account Appropriation \$	2,106,000
TOTAL APPROPRIATION \$	((380,581,000))
	<u>384,401,000</u>

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

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "claims service delivery", "electrical permitting and inspection system", and "credentialing information system" are conditioned upon compliance with section 902 of this act.

(2) Pursuant to RCW 7.68.015, the department shall operate the crime victims compensation program within the public safety and education account funds appropriated in this section. In the event that cost containment measures are necessary, the department may (a) institute copayments for services; (b) develop preferred provider and managed care contracts; (c) coordinate with the department of social and health services to use the public safety and education account as matching funds for federal Title XIX reimbursement, to the extent this maximizes total funds available for services to crime victims.

(3) \$54,000 of the general fund appropriation for fiscal year 1998 and \$54,000 of the general fund appropriation for fiscal year 1999 are provided solely for an interagency agreement to reimburse the board of industrial insurance appeals for crime victims appeals.

(4) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1997, and every six months thereafter on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

(5) The expenditures of the elevator, factory assembled structures, and contractors' registration and compliance programs may not exceed the revenues generated by these programs.

(6) \$101,000 of the plumbing certificate account appropriation is provided solely for the implementation of Substitute Senate Bill No. 5749 (pipe installer). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

(7) \$56,000 of the medical aid account appropriation and \$52,000 of the accident account appropriation are provided solely for evaluating agency operational improvements.

(8) \$593,000 of nonappropriated funds from the medical aid account shall be provided solely for allocation to the joint legislative audit and review committee for a performance audit and operations review of the state workers' compensation system pursuant to Substitute Senate Bill No. 6030.

(9) \$170,000 of the accident account--state appropriation and \$170,000 of the medical aid account--state appropriation are provided solely for payment to the office of the attorney general for legal services provided in the 1995-97 biennium.

(10) \$686,000 of the accident account appropriation and \$686,000 of the medical aid account appropriation for fiscal year 1999 are provided solely to fund 24 claims manager positions in fiscal year 1999 (12 worker compensation adjudicator 2 and 12 worker compensation adjudicator 3 positions). With these new positions, the department is expected to reduce time-loss duration in claims by 5 percent by June 30, 2000, and an additional 2.5 percent by June 30, 2001. The average caseload for level 2 claims managers should also drop to approximately 190 by June 30, 2000. The director of the department shall report to the appropriate fiscal and policy committees of the legislature and the office of financial management by June 30, 1998, and every year thereafter, on the measurable progress made toward attaining these goals. The 1998 report shall indicate the baseline figures from July 1, 1997. If substantial progress has not been achieved by June 30, 2000, the 24 claims manager positions and the funding associated with these positions shall be discontinued.

(11) \$41,000 of the general fund appropriation for fiscal year 1999, \$160,000 of the accident account--state appropriation, and \$53,000 of the medical aid account--state appropriation are provided solely to implement sections 4 and 11 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If sections 4 and 11 of the bill are not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

**Sec. 218.** 1997 c 454 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

(1) HEADQUARTERS

General Fund Appropriation (FY 1998) \$	((1,409,000))
	<u>1,609,000</u>
General Fund Appropriation (FY 1999) \$	1,404,000
Industrial Insurance Premium Refund Account Appropriation \$	80,000
Charitable, Educational, Penal, and Reformatory Institutions Account Appropriation \$	4,000
TOTAL APPROPRIATION \$	((2,897,000))
	<u>3,097,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: \$200,000 of the general fund appropriation for fiscal year 1998 is provided solely as the state's contribution to the construction of a memorial on the state capitol grounds to the men and women who served in the nation's armed forces during the second world war. The department shall raise the remaining two-thirds of the memorial's cost from individual and corporate contributions.

(2) FIELD SERVICES

General Fund--State Appropriation (FY 1998) \$	2,418,000
General Fund--State Appropriation (FY 1999) \$	2,420,000
General Fund--Federal Appropriation \$	26,000
General Fund--Private/Local Appropriation \$	

TOTAL APPROPRIATION \$	85,000
	4,949,000
(3) INSTITUTIONAL SERVICES	
General Fund--State Appropriation (FY 1998) \$	((6,101,000))
	<u>6,576,000</u>
General Fund--State Appropriation (FY 1999) \$	((5,369,000))
	<u>5,522,000</u>
General Fund--Federal Appropriation \$	((19,556,000))
	<u>18,950,000</u>
General Fund--Private/Local Appropriation \$	((14,583,000))
	<u>14,561,000</u>
TOTAL APPROPRIATION \$	45,609,000
<b>Sec. 219.</b> 1997 c 454 s 212 (uncodified) is amended to read as follows:	
<b>FOR THE DEPARTMENT OF HEALTH</b>	
General Fund--State Appropriation (FY 1998) \$	((62,996,000))
	<u>63,189,000</u>
General Fund--State Appropriation (FY 1999) \$	((65,741,000))
	<u>73,170,000</u>
General Fund--Federal Appropriation \$	((259,139,000))
	<u>262,504,000</u>
General Fund--Private/Local Appropriation \$	((24,351,000))
	<u>23,578,000</u>
Hospital Commission Account Appropriation \$	3,089,000
Health Professions Account Appropriation \$	((36,038,000))
	<u>36,255,000</u>
Emergency Medical and Trauma Care Services Account Appropriation \$	21,042,000
Safe Drinking Water Account Appropriation \$	2,494,000
Death Investigations Account Appropriation \$	((1,000,000))

Drinking Water Assistance Account--Federal Appropriation \$	<u>650,000</u>
Waterworks Operator Certification Appropriation \$	5,385,000
Water Quality Account Appropriation \$	588,000
Violence Reduction and Drug Enforcement Account Appropriation \$	3,065,000
State Toxics Control Account Appropriation \$	469,000
Medical Test Site Licensure Account Appropriation \$	2,854,000
Youth Tobacco Prevention Account Appropriation \$	1,624,000
Health Services Account Appropriation \$	1,812,000
	<del>((12,474,000))</del>
	<u>6,115,000</u>
TOTAL APPROPRIATION \$	<del>((504,161,000))</del>
	<u>507,883,000</u>

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

(1) \$2,134,000 of the health professions account appropriation is provided solely for the development and implementation of a licensing and disciplinary management system. Expenditures are conditioned upon compliance with section 902 of this act. These funds shall not be expended without appropriate project approval by the department of information systems.

(2) Funding provided in this section for the drinking water program data management system shall not be expended without appropriate project approval by the department of information systems. Expenditures are conditioned upon compliance with section 902 of this act.

(3) The department or any successor agency is authorized to raise existing fees charged to the nursing professions and midwives~~((+))~~; chemical dependency counselors; by the pharmacy board~~((+))~~; and for boarding home; hospital; and home health, home care, and hospice agency licenses, in excess of the fiscal growth factor established by Initiative Measure No. 601, if necessary, to meet the actual costs of conducting business and the appropriation levels in this section.

(4) ~~\$(1,633,000))~~ 1,526,000 of the general fund--state fiscal year 1998 appropriation and ~~\$(1,634,000))~~ 1,741,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of the Puget Sound water work plan and agency action items, DOH-01, DOH-02, DOH-03, DOH-04, DOH-05, DOH-06, DOH-07, DOH-08, DOH-09, DOH-10, DOH-11, and DOH-12.

(5) \$10,000,000 of the health services account appropriation is provided solely for distribution to local health departments for distribution on a per capita basis. Prior to distributing these funds, the department shall adopt rules and procedures to ensure that these funds are not used to replace current local support for public health programs.

(6) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for operation of a youth suicide prevention program at the state level, including a state-wide public educational campaign to increase knowledge of suicide risk and ability to respond and provision of twenty-four hour crisis hotlines, staffed to provide suicidal youth and caregivers a source of instant help.

(7) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative

fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(8) \$259,000 of the health professions account appropriation is provided solely to implement Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(9) \$150,000 of the general fund--state fiscal year 1998 appropriation and \$150,000 of the general fund--state fiscal year 1999 appropriation are provided solely for community-based oral health grants that may fund sealant programs, education, prevention, and other oral health interventions. The grants may be awarded to state or federally funded community and migrant health centers, tribal clinics, or public health jurisdictions. Priority shall be given to communities with established oral health coalitions. Grant applications for oral health education and prevention grants shall include (a) an assessment of the community's oral health education and prevention needs; (b) identification of the population to be served; and (c) a description of the grant program's predicted outcomes.

(10) \$21,042,000 of the emergency medical and trauma care services account appropriation is provided solely for implementation of Substitute Senate Bill No. 5127 (trauma care services). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(11) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for family support and provider training services for children with special health care needs.

(12) \$300,000 of the general fund--federal appropriation is provided solely for an abstinence education program which complies with P.L. 104-193. \$400,000 of the general fund--federal appropriation is provided solely for abstinence education projects at the office of the superintendent of public instruction and shall be transferred to the office of the superintendent of public instruction for the 1998-99 school year. The department shall apply for abstinence education funds made available by the federal personal responsibility and work opportunity act of 1996 and implement a program that complies with the requirements of that act.

(13) \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Second Substitute House Bill No. 1191 (mandated health benefit review). If the bill is not enacted by June 30, 1997, the amounts provided in this section shall lapse.

(14) \$100,000 of the general fund--state appropriation for fiscal year 1998 and \$100,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the volunteer retired provider program. Funds shall be used to increase children's access to dental care services in rural and underserved communities by paying malpractice insurance and professional licensing fees for retired dentists participating in the program.

(15) \$852,000 of the drinking water assistance account--federal appropriation is provided solely for an interagency agreement with the department of community, trade, and economic development to administer, in cooperation with the public works board, loans to local governments and public water systems for projects and activities to protect and improve the state's drinking water facilities and resources.

(16) \$3,347,000 of the fiscal year 1998 general fund--state appropriation and \$3,347,000 of the fiscal year 1999 general fund--state appropriation are provided solely for the AIDS prescription drug program and HIV intervention program. The department shall operate the program within total appropriations. The department shall take such actions as are necessary to control expenditures, including administrative efficiencies such as reductions to provider reimbursement rates, modifications to financial eligibility, modifications to the scope of services, and client cost sharing mechanisms. The department shall identify program policy changes required to manage within the amounts provided.

(17) Funding provided in this section is sufficient to implement section 8 of Engrossed Substitute House Bill No. 2264 (eliminating the health care policy board).

(18) \$2,075,000 of the fiscal year 1998 general fund--state appropriation and \$2,075,000 of the fiscal year 1999 general fund--state appropriation are provided solely for the Washington poison center.

(19) ~~\$(1,000,000)~~ 650,000 of the death investigations account appropriation is provided solely for the implementation of state-wide child mortality reviews. Local health jurisdictions shall coordinate child mortality reviews for children from birth to eighteen years of age, develop local child mortality review protocols, and serve as the appointing authority and lead agency for local child death review teams. The department of health shall develop standard aggregate data elements, collect and analyze local child mortality review data, provide technical assistance to local child mortality review teams, and approve local child death review protocols. If House Bill No. 1269 (death investigations account) is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(20) \$1,125,000 of the fiscal year 1998 general fund--state appropriation and \$1,125,000 of the fiscal year 1999 general fund--state appropriation are provided solely for deposit in the county public health account.

(21) \$60,000 of the general fund--state appropriation for fiscal year 1998 and \$60,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for attorney general services and such other activities not covered by fee revenues as are necessary for implementation of Engrossed Substitute House Bill No. 2264 (health care policy). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(22) \$250,000 of the fiscal year 1998 general fund--state appropriation \$250,000 of the fiscal year 1999 general fund--state appropriation are provided solely for operation of a naturopathic health clinic constructed in 1996.

(23) \$60,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Second Substitute Senate Bill No. 6168 (temporary worker housing). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(24) \$250,000 of the general fund--federal appropriation is provided solely to conduct monitoring for thyroid diseases for eligible people exposed to radiation from Hanford between 1945 and 1951, and is contingent upon the execution of an agreement with the state of Oregon that the state of Washington will function as a subrecipient for the Hanford medical monitoring program grant. If such an agreement is not executed by September 30, 1998, the amount provided in this subsection shall lapse.

(25) \$730,000 of the health professions account appropriation is provided solely for the purposes of the impaired physician program. If Second Substitute House Bill No. 1618 (impaired physician program) or substantially similar legislation is enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(26) \$1,000,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the breast and cervical cancer screening program.

(27) Within existing resources, the department shall maintain funding support for neurodevelopmental centers and in no case shall that support in fiscal year 1999 be reduced below the total sum awarded by contract to neurodevelopmental centers in fiscal year 1998.

(28) \$37,000 of the general fund--state appropriation and \$3,000 of the health professions account appropriation for fiscal year 1999 are provided solely to implement sections 1, 4, and 11 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If sections 1, 4, and 11 of the bill are not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(29) \$300,000 of the general fund--state appropriation is provided solely for the implementation of a hepatitis A emergency vaccination program. This entire amount shall be passed through to county health districts that have employed a public education effort and have infection rates in excess of 100 per 100,000 population.

**Sec. 220.** 1997 c 454 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

The appropriations to the department of corrections in chapter 454, Laws of 1997, as amended, shall be expended for the programs and in the amounts specified therein. However, after April 1, 1998, unless specifically prohibited by this act, the department may transfer general fund--state appropriations for fiscal year 1998 between the institutional services and community corrections programs after approval by the director of financial management. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any deviations from appropriation levels.

**(1) ADMINISTRATION AND PROGRAM SUPPORT**

General Fund Appropriation (FY 1998) \$	13,926,000
General Fund Appropriation (FY 1999) \$	13,910,000
Violence Reduction and Drug Enforcement Account Appropriation \$	500,000
TOTAL APPROPRIATION \$	28,336,000

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

(a) \$187,000 of the general fund fiscal year 1998 appropriation and \$155,000 of the general fund fiscal year 1999 appropriation are provided solely for implementation of Substitute Senate Bill No. 5759 (risk classification). If the bill is not enacted by July 1, 1997, the amounts provided shall lapse.

(b) \$500,000 of the violence reduction and drug enforcement account appropriation is provided solely for a feasibility study regarding the replacement of the department's offender based tracking system. This appropriation is conditioned on the department satisfying the requirements of section 902, chapter 149, Laws of 1997.

**(2) INSTITUTIONAL SERVICES**

General Fund--State Appropriation (FY 1998) \$	((291,745,000))
	<u>289,665,000</u>
General Fund--State Appropriation (FY 1999) \$	((304,000,000))



General Fund--Federal Appropriation	\$	<u>303,830,000</u>
Industrial Insurance Premium Rebate Account Appropriation	\$	18,097,000
Violence Reduction and Drug Enforcement Account Appropriation	\$	673,000
TOTAL APPROPRIATION	\$	1,614,000
		<del>((616,129,000))</del>
		<u>613,879,000</u>

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

(a) The department shall provide funding for the pet partnership program at the Washington corrections center for women at a level at least equal to that provided in the 1995-97 biennium.

(b) ~~((4,839,000))~~ \$3,978,000 of the general fund--state fiscal year 1998 appropriation and ~~((6,481,000))~~ \$5,381,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the criminal justice costs associated with the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the amounts provided shall lapse.

(c) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

~~((e))~~ (d) \$296,000 of the general fund--state appropriation for fiscal year 1998 and \$297,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to increase payment rates for contracted education providers. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

~~((f))~~ (e) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. If any funds are generated in excess of actual costs, they shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as recovery of costs.

(f) \$70,000 of the general fund--state fiscal year 1999 appropriation is provided solely for the implementation of Senate Bill No. 6139 (amphetamine crimes). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(g) \$36,000 of the general fund--state fiscal year 1999 appropriation is provided solely for the implementation of House Bill No. 1172 (sex offender registration). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(h) \$8,000 of the general fund--state fiscal year 1999 appropriation is provided solely for the implementation of House Bill No. 2628 (methamphetamine manufacture). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(3) COMMUNITY CORRECTIONS

General Fund Appropriation (FY 1998)	\$	<del>((89,377,000))</del>
		<u>88,830,000</u>
General Fund Appropriation (FY 1999)	\$	<del>((90,495,000))</del>
TOTAL APPROPRIATION	\$	<u>90,670,000</u>
		<del>((179,872,000))</del>
		<u>179,500,000</u>

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

(a) \$27,000 of the general fund fiscal year 1998 appropriation and \$185,000 of the general fund fiscal year 1999 appropriation are provided solely for the criminal justice costs associated with the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the amounts provided shall lapse.

(b) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(c) \$467,000 of the general fund appropriation for fiscal year 1998 and \$505,000 of the general fund appropriation for fiscal year 1999 are provided solely to increase payment rates for contracted education providers and contracted work release facilities. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(d) \$45,000 of the general fund--state fiscal year 1999 appropriation is provided solely for the implementation of Substitute Senate Bill No. 5760 (mentally ill offenders). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(e) \$609,000 of the general fund--state fiscal year 1998 appropriation and \$226,000 of the general fund--state fiscal year 1999 appropriation are provided solely for costs associated with allowing community corrections officers to carry firearms.

(4) CORRECTIONAL INDUSTRIES

General Fund Appropriation (FY 1998) \$	4,055,000
General Fund Appropriation (FY 1999) \$	4,167,000
TOTAL APPROPRIATION \$	8,222,000

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

(a) \$100,000 of the general fund fiscal year 1998 appropriation and \$100,000 of the general fund fiscal year 1999 appropriation are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(b) \$50,000 of the general fund appropriation for fiscal year 1998 and \$50,000 of the general fund appropriation for fiscal year 1999 are provided solely for the correctional industries board of directors to hire one staff person, responsible directly to the board, to assist the board in fulfilling its duties.

(5) INTERAGENCY PAYMENTS

General Fund Appropriation (FY 1998) \$	<del>(6,945,000)</del>
	6,851,000
General Fund Appropriation (FY 1999) \$	<del>(6,444,000)</del>
TOTAL APPROPRIATION \$	6,538,000
	13,389,000

Sec. 221. 1997 c 149 s 224 (uncodified) is amended to read as follows:

**FOR THE SENTENCING GUIDELINES COMMISSION**

General Fund Appropriation (FY 1998) \$	714,000
General Fund Appropriation (FY 1999) \$	713,000
TOTAL APPROPRIATION \$	1,427,000

The appropriations in this section are subject to the following conditions and limitations: The commission shall study the feasibility and desirability of allowing certain older or physically infirm offenders to be released from institutional confinement, with the assumption that

these released offenders would remain on community custody for the remainder of their length of confinement. The study shall identify: (1) Groups who would be potential candidates for such a program; (2) how individual offenders in these groups could be screened to maintain public safety; (3) how these offenders, if released, could be supervised in such a way as to maintain public safety; (4) what statutory changes would be necessary to implement such a program; (5) how much savings such a program would generate; and (6) any other items the commission deems relevant. The study shall be transmitted to the chairs and ranking minority members of the appropriate policy and fiscal committees of the legislature not later than December 15, 1998.

Sec. 222. 1997 c 454 s 214 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

General Fund--State Appropriation (FY 1998) \$	1,260,000
General Fund--State Appropriation (FY 1999) \$	1,261,000
General Fund--Federal Appropriation \$	((173,595,000))
	<u>198,628,000</u>
General Fund--Private/Local Appropriation \$	((24,842,000))
	<u>28,650,000</u>
Unemployment Compensation Administration Account-- Federal Appropriation \$	((181,985,000))
	<u>182,312,000</u>
Administrative Contingency Account Appropriation \$	((12,579,000))
	<u>13,527,000</u>
Employment Service Administrative Account Appropriation \$	((13,176,000))
	<u>14,500,000</u>
Employment & Training Trust Account Appropriation \$	600,000
TOTAL APPROPRIATION \$	((409,298,000))
	<u>440,738,000</u>

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

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "claims and adjudication call centers", "data/wage quality initiative", and "one stop information connectivity" are conditioned upon compliance with section 902 of this act.

(2) \$600,000 of the employment and training trust account appropriation is provided solely for the account's share of unemployment insurance tax collection costs.

(3) \$1,126,000 of the general fund--federal appropriation is provided solely for the continuation of job placement centers collocated on community and technical college campuses. The department shall maintain the current level of service at all 32 colocation sites through the remainder of the 1997-99 biennium.

(4) The employment security department shall spend no more than \$25,049,511 of the unemployment compensation administration account--federal appropriation for the general unemployment insurance development effort (GUIDE) project, except that the department may

exceed this amount by up to \$2,600,000 to offset the cost associated with any vendor-caused delay. The additional spending authority is contingent upon the department fully recovering these moneys from any project vendors failing to perform in full. Authority to spend the amount provided by this subsection is conditioned on compliance with section 902 of this act.

(5) \$60,000 of the general fund--state fiscal year 1998 appropriation and \$61,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the King county reemployment support center.

(6) \$1,200,000 of the general fund--state fiscal year 1998 appropriation and \$1,200,000 of the general fund--state fiscal year 1999 appropriation are provided solely for labor market information and employer outreach activities.

(7) \$948,000 of the administrative contingency account appropriation and \$838,000 of the employment service administrative account appropriation are provided solely for the department to evaluate the tax determination system compared to other systems, improve the disclosure of information on the employer rate notice, and address deficiencies in the tax information system (TAXIS).

(8)(a) Within the amounts appropriated in this section, the commissioner shall improve the disclosure of information on the employer rate notice for 1999 rate year unemployment contributions. The information disclosed on the notice must be for the 1997 calendar year and for the period used to calculate the employer's experience rating for the 1999 rate year. The notice must include an explanation in plain language of the disclosed information and the disclosed information relationship to the employer's contributions. The information disclosed must include to the greatest extent possible:

- (i) The contributions paid by the employer;
- (ii) The benefits charged to the employer's experience rating account; and
- (iii) The dollar amount that represents the difference between (a)(i) and (ii) of this subsection.

(b) In addition, the commissioner shall include the following information paid from the trust fund for each of the three most recently completed calendar years for: (i) Total benefits paid; (ii) benefits paid that were in excess of one percent of the base year earnings of all claimants; (iii) benefits paid to claimants and not charged to any employer due to a voluntary quit; and (iv) benefits paid to a claimant but not charged to any employer because of marginal labor force attachment, along with a generic explanation of why these benefits were paid.

(9) \$20,156,000 of the general fund--federal appropriation is provided solely to implement the federal welfare-to-work program only if the governor successfully obtains an approved federal waiver for use of an alternative agency or agents to administer the welfare-to-work grants. If this waiver is not obtained, the amount provided in this subsection shall lapse.

(10) \$327,000 of the unemployment compensation administration account--federal appropriation and \$486,000 of the employment service administrative account appropriation are provided solely for the department to replace field office computers that are not compliant with Year 2000 conversion standards.

### PART III NATURAL RESOURCES

**Sec. 301.** 1997 c 454 s 301 (uncodified) is amended to read as follows:

**FOR THE COLUMBIA RIVER GORGE COMMISSION**

General Fund--State Appropriation (FY 1998) \$	213,000
General Fund--State Appropriation (FY 1999) \$	222,000
General Fund--Private/Local Appropriation \$	((435,000))
	<u>442,000</u>
TOTAL APPROPRIATION \$	((870,000))
	<u>877,000</u>

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

(1) \$120,000 of the general fund--state appropriation for fiscal year 1998(,) and \$120,000 of the general fund--state appropriation for fiscal year 1999(, and \$240,000 of the general fund--local appropriation) are provided solely for each Washington Columbia river gorge county to receive an \$80,000 grant for the purposes of implementing the scenic area management plan. If a Columbia river gorge county has not adopted an ordinance to implement the scenic area management plan in accordance with the national scenic area act (P.L. 99-663), then the grant funds for that county may be used by the commission to implement the plan for that county.

(2) \$30,000 of the general fund--state appropriation for fiscal year 1998 and \$30,000 of the general fund--state appropriation for fiscal year 1999 provided to Clark county under subsection (1) of this section shall be transferred through an inter-local agreement to Skamania county solely for implementing the national scenic area act.

Sec. 302. 1997 c 454 s 302 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund--State Appropriation (FY 1998) \$	((27,748,000))
	<u>26,013,000</u>
General Fund--State Appropriation (FY 1999) \$	((27,795,000))
	<u>25,860,000</u>
General Fund--Federal Appropriation \$	((45,315,000))
	<u>46,240,000</u>
General Fund--Private/Local Appropriation \$	((643,000))
	<u>1,200,000</u>
Special Grass Seed Burning Research Account Appropriation \$	((42,000))
	<u>71,000</u>
Reclamation Revolving Account Appropriation \$	2,441,000
Flood Control Assistance Account Appropriation \$	4,850,000
State Emergency Water Projects Revolving Account Appropriation \$	319,000
Waste Reduction/Recycling/Litter Control Appropriation \$	10,316,000
State and Local Improvements Revolving Account (Waste Facilities) Appropriation \$	601,000
State and Local Improvements Revolving Account (Water Supply Facilities) Appropriation \$	1,366,000
Basic Data Account Appropriation \$	182,000
Vehicle Tire Recycling Account Appropriation \$	((1,194,000))
	<u>357,000</u>

Water Quality Account Appropriation	\$	2,892,000
Wood Stove Education and Enforcement Account Appropriation	\$	<del>((1,055,000))</del>
		<u>848,000</u>
Worker and Community Right-to-Know Account Appropriation	\$	469,000
State Toxics Control Account Appropriation	\$	53,715,000
Local Toxics Control Account Appropriation	\$	<del>((4,342,000))</del>
		<u>4,759,000</u>
Water Quality Permit Account Appropriation	\$	20,378,000
Underground Storage Tank Account Appropriation	\$	<del>((2,443,000))</del>
		<u>2,638,000</u>
Solid Waste Management Account Appropriation	\$	<del>((1,021,000))</del>
		<u>971,000</u>
Hazardous Waste Assistance Account Appropriation	\$	3,615,000
Air Pollution Control Account Appropriation	\$	16,224,000
Oil Spill Administration Account Appropriation	\$	<del>((6,958,000))</del>
		<u>6,998,000</u>
Air Operating Permit Account Appropriation	\$	<del>((4,033,000))</del>
		<u>3,808,000</u>
Freshwater Aquatic Weeds Account Appropriation	\$	1,829,000
Oil Spill Response Account Appropriation	\$	7,078,000
Metals Mining Account Appropriation	\$	

Water Pollution Control Revolving Account--State Appropriation \$	42,000
Water Pollution Control Revolving Account--Federal Appropriation \$	349,000
Biosolids Permit Account Appropriation \$	1,726,000
Environmental Excellence Account Appropriation \$	567,000
TOTAL APPROPRIATION \$	247,000
	<del>((251,795,000))</del>
	<u>248,969,000</u>

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

(1) \$3,211,000 of the general fund--state appropriation for fiscal year 1998, \$3,211,000 of the general fund--state appropriation for fiscal year 1999, \$394,000 of the general fund--federal appropriation, \$2,017,000 of the oil spill administration account, \$819,000 of the state toxics control account appropriation, and \$3,591,000 of the water quality permit fee account are provided solely for the implementation of the Puget Sound work plan and agency action items DOE-01, DOE-02, DOE-03, DOE-04, DOE-05, DOE-06, DOE-07, DOE-08, and DOE-09.

(2) \$2,000,000 of the state toxics control account appropriation is provided solely for the following purposes:

(a) To conduct remedial actions for sites for which there are no potentially liable persons, for which potentially liable persons cannot be found, or for which potentially liable persons are unable to pay for remedial actions; and

(b) To provide funding to assist potentially liable persons under RCW 70.105D.070(2)(d)(xi) to pay for the cost of the remedial actions; and

(c) To conduct remedial actions for sites for which potentially liable persons have refused to conduct remedial actions required by the department; and

(d) To contract for services as necessary to support remedial actions.

~~((6))~~ (3) \$200,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for the implementation of Engrossed Substitute House Bill No. 1118 (reopening a water rights claim filing period). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((7))~~ (4) \$3,600,000 of the general fund--state appropriation for fiscal year 1998 and \$3,600,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the auto emissions inspection and maintenance program. Expenditures of the amounts provided in this subsection are contingent upon a like amount being deposited in the general fund from the auto emission inspection fees in accordance with RCW 70.120.170(4).

~~((8))~~ (5) \$170,000 of the oil spill administration account appropriation is provided solely for implementation of the Puget Sound work plan action item UW-02 through a contract with the University of Washington's Sea Grant program in order to develop an educational program that targets small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

~~((9))~~ (6) The merger of the office of marine safety into the department of ecology shall be accomplished in a manner that will maintain a priority focus on oil spill prevention, as well as maintain a strong oil spill response capability. The merged program shall be established to provide a high level of visibility and ensure that there shall not be a diminution of the existing level of effort from the merged programs.

~~((10))~~ (7) The entire environmental excellence account appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 1866 (environmental excellence). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse. In implementing the bill, the department shall organize the needed expertise to process environmental excellence applications after an application has been received.

~~((11))~~ (8) \$200,000 of the freshwater aquatic weeds account appropriation is provided solely to address saltcedar weed problems.

~~((12))~~ (9) \$4,498,000 of the waste reduction, recycling, and litter control account appropriation is provided for fiscal year 1998 and \$5,818,000 is provided for fiscal year 1999 to be expended in the following ratios: Fifty percent for a litter patrol program to employ youth and correctional work crews to remove litter from places that are most visible to the public; twenty percent for grants to local governments for litter cleanup under RCW 70.93.250; and thirty percent for public education and awareness programs and programs to foster local waste reduction and recycling efforts. From the amounts provided in this subsection, the department shall provide \$352,000 through an

interagency agreement to the department of corrections to hire correctional crews to remove litter in areas that are not accessible to youth crews.

~~((13))~~ (10) The entire biosolids permit account appropriation is provided solely for implementation of Engrossed Senate Bill No. 5590 (biosolids management). If the bill is not enacted by June 30, 1997, the entire appropriation is null and void.

~~((14))~~ (11) \$29,000 of the general fund--state appropriation for fiscal year 1998 and \$99,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((15))~~ (12) \$60,000 of the freshwater aquatic weeds account appropriation is provided solely for a grant to the department of fish and wildlife to control and eradicate purple loosestrife using the most cost-effective methods available, including chemical control where appropriate.

~~((16))~~ (13) \$250,000 of the flood control assistance account appropriation is provided solely as a reappropriation to complete the Skokomish valley flood reduction plan. The amount provided in this subsection shall be reduced by the amount expended from this account for the Skokomish valley flood reduction plan during the biennium ending June 30, 1997.

~~((18))~~ (14) \$600,000 of the flood control assistance account appropriation is provided solely to complete flood control projects that were awarded funds during the 1995-97 biennium. These funds shall be spent only to complete projects that could not be completed during the 1995-97 biennium due to delays caused by weather or delays in the permitting process.

~~((19))~~ (15) \$113,000 of the general fund--state appropriation for fiscal year 1998 and \$112,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5505 (assistance to water applicants). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((20))~~ (16) \$70,000 of the general fund--state appropriation for fiscal year 1998 and \$70,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5785 (consolidation of groundwater rights). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((21))~~ (17) \$20,000 of the general fund--state appropriation for fiscal year 1998 and \$20,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5276 (water right applications). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((23))~~ (18) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the continuation of the southwest Washington coastal erosion study and for coastal erosion project grants. Fifty percent of the amount for fiscal year 1999 shall be allocated to the department of community, trade, and economic development for coastal erosion project grants.

(19) It is the intent of the legislature that, within the general fund--state appropriations provided in this section, the department shall prioritize its resources to provide expedited assistance to businesses seeking permitting and technical assistance for rural economic development projects. Top priority shall be given to pending economic development projects which are located in rural counties and which have invoked the coordinated permit process pursuant to chapter 90.60 RCW, and the relative priority among such projects shall be based upon the date of execution of the project's coordinated permit agreement, with the earliest agreement having top priority.

(20) Within the amounts provided in this section, the department shall contract for a scientific review by a panel selected by the society of environmental toxicology and chemistry of the following documents: 1992 environmental impact statement on aquatic weeds; the KCM phase 1 study of Lake Steilacoom; the conditions and requirements of the first permit issued for the 1997 treatment season for Lake Steilacoom; and, studies done in respect to the listing of Lake Steilacoom as a possible model toxic control act site.

(21) \$195,000 of the underground storage tank account appropriation is provided solely for the implementation of Substitute Senate Bill No. 6130 (underground storage tanks). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(22) \$417,000 of the local toxics control account appropriation is provided solely to implement Substitute Senate Bill No. 6474 (fertilizer regulation). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(23) Using up to \$19,000 of the special grass seed burning research account appropriation the department shall provide funding to Washington State University to conduct a grass burning emissions study.

(24) Within the amounts provided in this section, the department shall conduct a demonstration project on the effectiveness of the state-registered herbicide "Navigate" for the control of Eurasian water milfoil in Loon Lake in Stevens county. The department shall provide a grant to the Stevens county weed board to cover fifty percent of the cost of application of the herbicide. A local match of fifty percent of the cost of application of the herbicide is required. Permits and approvals necessary to implement the demonstration project may be conditioned by the department to protect public health and the environment, but approval may not be withheld.

(25) Within the amounts provided in this section, the department shall provide funds to Yakima county superior court for staff and associated costs to support the Yakima river basin water rights adjudication.

NEW SECTION. Sec. 303. A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund--State Appropriation (FY 1998) \$



General Fund--State Appropriation (FY 1999) \$	1,700,000
General Fund--Federal Appropriation \$	4,420,000
Water Quality Permit Account Appropriation \$	18,000
Air Pollution Control Account Appropriation \$	9,000
TOTAL APPROPRIATION \$	9,000
	6,156,000

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

(1) \$1,400,000 of the general fund--state appropriation for fiscal year 1998 and \$3,600,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement sections 1 through 9 of Engrossed Substitute House Bill No. 2514 (integrated watershed management). If any of these sections of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse. Of the amounts in this subsection, \$1,400,000 of the general fund--state appropriation for fiscal year 1998 and \$2,500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for grants to local watershed planning units, and \$1,100,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for technical assistance to local watershed planning groups. The department may provide moneys to other state agencies that provide technical assistance to local watershed planning groups through an interagency agreement.

(2) \$400,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Substitute Senate Bill No. 6161 (dairy nutrient management). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(3) \$300,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for the department to conduct a preconstruction analysis of Pine Hollow, located near the communities of Wiley City and Tampico in Yakima county, regarding its suitability as a site for the construction of a retention dam and water storage reservoir and the reservoir site's potential to enhance and maintain anadromous fish and other aquatic life and agriculture. The analysis shall include, but is not limited to, a hydrologic and water rights assessment of the Ahtanum Creek watershed to determine water availability to Pine Hollow, an analysis of the geology and hydrology of the site and appropriate dam design and dynamics, its impact on water-related issues, and on Yakama Indian Nation and other water rights. Using amounts appropriated in this section and the associated local match, the department shall conduct portions of its analysis through contracts with private entities and through contracts with, or by providing grant moneys to, the Yakama Indian Nation and other public entities, which may include other state agencies, irrigation districts local to the area, cities, Yakima county, and federal agencies. The department shall consult with stakeholders before conducting this preconstruction analysis. The analysis shall be completed by June 30, 1999. The amount provided in this subsection is contingent upon the provision of an equal cash match from the Ahtanum irrigation district, and if such a match is not received the amount provided in this subsection shall lapse.

(4) \$200,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Engrossed Substitute Senate Bill No. 5703 (water right beneficial use). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(5) \$24,000 of the general fund--state appropriation for fiscal year 1999, \$18,000 of the general fund--federal appropriation, \$9,000 of the water quality permit account appropriation, and \$9,000 of the air pollution control account appropriation are provided solely to implement sections 1, 4, and 11 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If sections 1, 4, and 11 of the bill are not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(6) \$196,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Engrossed Second Substitute House Bill No. 2339 (wetlands mitigation banking). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

**Sec. 304.** 1997 c 454 s 303 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund--State Appropriation (FY 1998) \$	((20,526,000))
	<u>20,489,000</u>
General Fund--State Appropriation (FY 1999) \$	((20,335,000))
	<u>20,595,000</u>

General Fund--Federal Appropriation \$	((2,428,000))
	<u>3,122,000</u>
General Fund--Private/Local Appropriation \$	59,000
Winter Recreation Program Account Appropriation \$	((759,000))
	<u>779,000</u>
Off Road Vehicle Account Appropriation \$	251,000
Snowmobile Account Appropriation \$	((2,290,000))
	<u>3,260,000</u>
Aquatic Lands Enhancement Account Appropriation \$	321,000
Public Safety and Education Account Appropriation \$	48,000
Industrial Insurance Premium Refund Appropriation \$	10,000
Waste Reduction/Recycling/Litter Control Appropriation \$	34,000
Water Trail Program Account Appropriation \$	14,000
Parks Renewal and Stewardship Account Appropriation \$	((25,344,000))
	<u>25,894,000</u>
TOTAL APPROPRIATION \$	((72,419,000))
	<u>74,876,000</u>

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

(1) \$189,000 of the aquatic lands enhancement account appropriation is provided solely for the implementation of the Puget Sound work plan agency action items P&RC-01 and P&RC-03.

(2) \$264,000 of the general fund--federal appropriation is provided for boater programs state-wide and for implementation of the Puget Sound work plan.

(3) \$45,000 of the general fund--state appropriation for fiscal year 1998 is provided solely for a feasibility study of a public/private effort to establish a reserve for recreation and environmental studies in southwest Kitsap county.

(4) Within the funds provided in this section, the state parks and recreation commission shall provide to the legislature a status report on implementation of the recommendations contained in the 1994 study on the restructuring of Washington state parks. This status report shall include an evaluation of the campsite reservation system including the identification of any incremental changes in revenues associated with implementation of the system and a progress report on other enterprise activities being undertaken by the commission. The report may also include recommendations on other revenue generating options. In preparing the report, the commission is encouraged to work with interested parties to develop a long-term strategy to support the park system. The commission shall provide this report by December 1, 1997.

(5) ~~(\$85,000)~~ \$48,000 of the general fund--state appropriation for fiscal year 1998 and ~~(\$165,000)~~ \$202,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for development of underwater park programs and facilities. The department shall work with the underwater parks program task force to develop specific plans for the use of these funds.

(6) Fees approved by the state parks and recreation commission in 1997 for camping, snow parks, wood debris collection, and Fort Worden state park are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(7) \$20,000 of the winter recreation program account appropriation and \$20,000 of the snowmobile account appropriation are provided solely for a grant for the operation of the Northwest avalanche center.

Sec. 305. 1997 c 149 s 304 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Firearms Range Account Appropriation	\$	46,000
Recreation Resources Account-- <u>State</u>		
Appropriation	\$	2,352,000
<u>Recreation Resources Account--Federal</u>		
<u>Appropriation</u>	\$	11,000
NOVA Program Account Appropriation	\$	590,000
TOTAL APPROPRIATION	\$	<del>(2,988,000)</del>
		<u>2,999,000</u>

The appropriations in this section are subject to the following conditions and limitations: Any proceeds from the sale of the PRISM software system shall be deposited into the recreation resources account.

Sec. 306. 1997 c 149 s 306 (uncodified) is amended to read as follows:

**FOR THE CONSERVATION COMMISSION**

General Fund Appropriation (FY 1998)	\$	838,000
General Fund Appropriation (FY 1999)	\$	<del>(840,000)</del>
		<u>3,840,000</u>
Water Quality Account Appropriation	\$	440,000
TOTAL APPROPRIATION	\$	<del>(2,118,000)</del>
		<u>5,118,000</u>

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

(1) \$181,000 of the general fund appropriation for fiscal year 1998, \$181,000 of the general fund appropriation for fiscal year 1999, and \$130,000 of the water quality account appropriation are provided solely for the implementation of the Puget Sound work plan agency action item CC-01.

(2) \$1,000,000 of the general fund appropriation for fiscal year 1999 is provided solely for grants to conservation districts to provide technical assistance to landowners enrolling in the conservation reserve enhancement program.

(3) \$200,000 of the general fund appropriation for fiscal year 1999 is provided solely for technical assistance for dairy farmers to implement Substitute Senate Bill No. 6161 (dairy nutrient management). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(4) \$800,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to conduct limiting factor analysis in accordance with sections 7 through 10 of Engrossed Substitute House Bill No. 2496 (salmon recovery planning). If any of these sections of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse. To the extent possible, the commission shall

establish partnerships with the federal natural resources conservation service and other entities conducting watershed or limiting factor analysis. Of this amount, \$150,000 is provided for limiting factor analysis in the Snake river evolutionarily significant unit.

(5) \$1,000,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a contract with a nonprofit entity on a pilot program basis to develop and implement a volunteer habitat initiative. The initiative must include: A training program for volunteers; a public outreach and education program; and a program to encourage landowners and land managers to use volunteers in salmon habitat improvement projects.

Sec. 307. 1997 c 454 s 304 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

General Fund--State Appropriation (FY 1998) \$	((36,049,000))
	<u>35,857,000</u>
General Fund--State Appropriation (FY 1999) \$	((36,571,000))
	<u>44,998,000</u>
General Fund--Federal Appropriation \$	((73,015,000))
	<u>75,037,000</u>
General Fund--Private/Local Appropriation \$	((26,758,000))
	<u>26,983,000</u>
Off Road Vehicle Account Appropriation \$	488,000
Aquatic Lands Enhancement Account Appropriation \$	5,593,000
Public Safety and Education Account Appropriation \$	((590,000))
	<u>586,000</u>
Industrial Insurance Premium Refund Appropriation \$	120,000
Recreational Fisheries Enhancement Appropriation \$	2,387,000
Warm Water Game Fish Account Appropriation \$	2,419,000
Wildlife Account Appropriation \$	((52,372,000))
	<u>44,122,000</u>
Game Special Wildlife Account--State Appropriation \$	1,911,000
Game Special Wildlife Account--Federal Appropriation \$	10,844,000
Game Special Wildlife Account--Private/Local Appropriation \$	

Oil Spill Administration Account Appropriation \$	350,000
Environmental Excellence Account Appropriation \$	843,000
Eastern Washington Pheasant Enhancement Account Appropriation \$	20,000
<u>Regional Fisheries Enhancement--Federal Appropriation \$</u>	547,000
TOTAL APPROPRIATION \$	<u>750,000</u>
	<del>((250,877,000))</del>
	<u>253,855,000</u>

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

(1) \$1,181,000 of the general fund--state appropriation for fiscal year 1998 and \$1,181,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action items DFW-01, DFW-03, DFW-04, and DFW-8 through DFW-15.

(2) \$188,000 of the general fund--state appropriation for fiscal year 1998 and \$155,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for a maintenance and inspection program for department-owned dams. The department shall submit a report to the governor and the appropriate legislative committees by October 1, 1998, on the status of department-owned dams. This report shall provide a recommendation, including a cost estimate, on whether each facility should continue to be maintained or should be decommissioned.

(3) \$832,000 of the general fund--state appropriation for fiscal year 1998 and \$825,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement salmon recovery activities and other actions required to respond to federal listings of salmon species under the endangered species act.

(4) \$350,000 of the wildlife account appropriation, \$72,000 of the general fund--state appropriation for fiscal year 1998, and \$73,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for control and eradication of class B designate weeds on department owned and managed lands. The amounts from the general fund--state appropriations are provided solely for control of spartina.

(5) \$140,000 of the wildlife account appropriation is provided solely for a cooperative effort with the department of agriculture for research and eradication of purple loosestrife on state lands.

(6) In controlling weeds on state-owned lands, the department shall use the most cost-effective methods available, including chemical control where appropriate, and the department shall report to the appropriate committees of the legislature by January 1, 1998, on control methods, costs, and acres treated during the previous year.

~~(7) ((A maximum of \$1,000,000 is provided from the wildlife fund for fiscal year 1998. The amount provided in this subsection is for the emergency feeding of deer and elk that may be starving and that are posing a risk to private property due to severe winter conditions during the winter of 1997-98. The amount expended under this subsection must not exceed the amount raised pursuant to section 3 of Substitute House Bill No. 1478. Of the amount expended under this subsection, not more than fifty percent may be from fee revenue generated pursuant to section 3 of Substitute House Bill No. 1478. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.))~~

~~(8))~~ \$193,000 of the general fund--state appropriation for fiscal year 1998, \$194,000 of the general fund--state appropriation for fiscal year 1999, and \$300,000 of the wildlife account appropriation are provided solely for the design and development of an automated license system.

~~((9))~~ (8) The department is directed to offer for sale its Cessna 421 aircraft by June 30, 1998. Proceeds from the sale shall be deposited in the wildlife account.

~~((10))~~ (9) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to continue the department's habitat partnerships program during the 1997-99 biennium.

~~((11))~~ (10) \$350,000 of the general fund--state appropriation for fiscal year 1998 and \$350,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for purchase of monitoring equipment necessary to fully implement mass marking of coho salmon.

~~((12))~~ (11) \$238,000 of the general fund--state appropriation for fiscal year 1998 and \$219,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((13))~~ (12) \$150,000 of the general fund--state appropriation for fiscal year 1998 and \$150,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for a contract with the United States department of agriculture to carry out animal damage control projects throughout the state related to cougars, bears, and coyotes.

~~((14))~~ (13) \$97,000 of the general fund--state appropriation for fiscal year 1998 and \$98,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement animal damage control programs for Canada geese in the lower Columbia river basin.

~~((15))~~ (14) \$170,000 of the general fund--state appropriation for fiscal year 1998, \$170,000 of the general fund--state appropriation for fiscal year 1999, and \$360,000 of the wildlife account appropriation are provided solely to hire additional enforcement officers to address problem wildlife throughout the state.

~~((17))~~ (15) \$133,000 of the general fund--state appropriation for fiscal year 1998 and \$133,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5442 (flood control permitting). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((18))~~ (16) \$100,000 of the aquatic lands enhancement account appropriation is provided solely for grants to the regional fisheries enhancement groups.

~~((19))~~ (17) \$547,000 of the eastern Washington pheasant enhancement account appropriation is provided solely for implementation of Substitute Senate Bill No. 5104 (pheasant enhancement program). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

~~((20))~~ (18) \$150,000 of the general fund--state appropriation for fiscal year 1998 and \$150,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to hire Washington conservation corps crews to maintain department-owned and managed lands.

~~((21))~~ (19) The entire environmental excellence account appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1866 (environmental excellence). If the bill is not enacted by June 30, 1997, the entire appropriation is null and void.

~~((22))~~ (20) \$156,000 of the recreational fisheries enhancement appropriation is provided solely for Substitute Senate Bill No. 5102 (fishing license surcharge). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~((23))~~ (21) \$25,000 of the general fund--state appropriation for fiscal year 1998 and \$25,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for staffing and operation of the Tennant Lake interpretive center.

(22) It is the intent of the legislature that, within the general fund--state appropriations provided in this section, the department shall prioritize its resources to provide expedited assistance to businesses seeking permitting and technical assistance for rural economic development projects.

(23) \$750,000 of the regional fisheries enhancement--federal appropriation is provided solely for the regional fisheries enhancement groups. The amount in this section may be spent for project identification, design, permitting, and implementation; volunteer coordination; and administrative costs as approved under RCW 75.50.100 and 75.50.115(1)(d). All amounts not committed to approved project, volunteer coordination, or administrative costs by May 31, 1998, shall be made available to any of the regional fisheries enhancement groups that have submitted project approval requests that exceed their available funding from the regional fisheries enhancement group account and the regional fisheries enhancement salmonid recovery account. Redistribution of the moneys shall be based on the criteria established in RCW 75.50.115(1)(e), and shall ensure to the greatest extent possible that the funds are spent during the 1998 in-stream season.

(24) \$700,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for grants to habitat restoration lead entities formed in accordance with sections 7 through 10 of Engrossed Substitute House Bill No. 2496 (salmon recovery planning) for administrative activities and development of habitat-restoration project lists. If any of these sections of the bill are not enacted by June 30, 1998, the amounts provided in this subsection shall lapse. Of this amount, \$100,000 is provided as a grant to the regional committee lead entity for administrative activities in the Snake river evolutionarily significant unit.

(25) \$50,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for operation of the independent science panel in accordance with section 6 of Engrossed Substitute House Bill No. 2496 (salmon recovery planning). If this section of the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(26) \$450,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for fish passage technical assistance to local governments, volunteer groups, and regional fisheries enhancement groups in accordance with Engrossed Substitute House Bill No. 2496 (salmon recovery planning). The department shall also contract with the department of transportation to train staff at the department of transportation to become proficient in providing fish passage technical assistance. If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(27) \$250,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for excessive deer and elk damage claims.

(28) \$393,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the implementation of Substitute Senate Bill No. 6324 (fish remote site incubators). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(29) \$1,000,000 of the general fund--state appropriation for fiscal year 1999, \$400,000 of the general fund--federal appropriation, and \$225,000 of the general fund--local appropriation are provided solely to contract for the mass marking of all appropriate state-wide department chinook salmon hatchery production in accordance with Second Substitute Senate Bill No. 6264 (chinook salmon mass marking). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(30) \$3,500,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for salmon restoration projects funded according to sections 7 through 10 of Second Substitute House Bill No. 2496 (salmon recovery planning). Of this amount, \$500,000 is provided solely for a block grant to the conservation districts located in the Snake river evolutionarily significant unit for habitat restoration projects. If any of these sections of the bill are not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(31) \$1,170,000 of the general fund--state appropriation for fiscal year 1999 and \$3,500,000 of the general fund--federal appropriation are provided solely to implement a license buy-back program for commercial fishing licenses.

(32) \$5,000 of the general fund--state appropriation for fiscal year 1998 and \$40,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 6114 (nonindigenous aquatic species). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(33) \$1,000,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for purchasing computer equipment to support implementation of Second Substitute Senate Bill No. 6330 (fish and wildlife licenses). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(34) \$70,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement sections 1, 4, and 11 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If sections 1, 4, and 11 of the bill are not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

**Sec. 308.** 1997 c 454 s 305 (uncodified) is each amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund--State Appropriation (FY 1998) \$	23,767,000
General Fund--State Appropriation (FY 1999) \$	<del>((24,168,000))</del>
	<u>24,410,000</u>
General Fund--Federal Appropriation \$	1,156,000
General Fund--Private/Local Appropriation \$	422,000
Forest Development Account Appropriation \$	<del>((49,923,000))</del>
	<u>49,963,000</u>
Off Road Vehicle Account Appropriation \$	3,628,000
Surveys and Maps Account Appropriation \$	2,088,000
Aquatic Lands Enhancement Account Appropriation \$	4,869,000
Resource(s) Management Cost Account Appropriation \$	<del>((89,613,000))</del>
	<u>89,769,000</u>
Waste Reduction/Recycling/Litter Control Appropriation \$	

Surface Mining Reclamation Account Appropriation \$	450,000
Aquatic Land Dredged Material Disposal Site Account Appropriation \$	1,420,000
Natural Resources Conservation Areas Stewardship Account Appropriation \$	751,000
Air Pollution Control Account Appropriation \$	77,000
Metals Mining Account Appropriation \$	890,000
<u>Natural Resources Equipment Account</u> <u>Appropriation \$</u>	62,000
TOTAL APPROPRIATION \$	<u>750,000</u>
	((203,284,000))
	<u>204,472,000</u>

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

(1) \$7,017,000 of the general fund--state appropriation for fiscal year 1998 and \$6,900,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for emergency fire suppression.

(2) \$18,000 of the general fund--state appropriation for fiscal year 1998, \$18,000 of the general fund--state appropriation for fiscal year 1999, and \$957,000 of the aquatic lands enhancement account appropriation are provided solely for the implementation of the Puget Sound work plan agency action items DNR-01, DNR-02, and DNR-04.

(3) \$450,000 of the resource management cost account appropriation is provided solely for the control and eradication of class B designate weeds on state lands. The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1998, on control methods, costs, and acres treated during the previous year.

(4) \$1,332,000 of the general fund--state appropriation for fiscal year 1998 and \$1,713,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for fire protection activities.

(5) \$541,000 of the general fund--state appropriation for fiscal year 1998 and \$549,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the stewardship of natural area preserves, natural resource conservation areas, and the operation of the natural heritage program.

(6) \$2,300,000 of the aquatic lands enhancement account appropriation is provided for the department's portion of the Eagle Harbor settlement.

(7) \$195,000 of the general fund--state appropriation for fiscal year 1998 and \$220,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(8) \$600,000 of the general fund--state appropriation for fiscal year 1998 and \$600,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the cooperative monitoring, evaluation, and research projects related to implementation of the timber-fish-wildlife agreement.

(9) \$6,568,000 of the forest development account appropriation is provided solely for silviculture activities on forest board lands. To the extent that forest board counties apply for reconveyance of lands pursuant to Substitute Senate Bill No. 5325 (county land transfers), the amount provided in this subsection shall be reduced by an amount equal to the estimated silvicultural expenditures planned in each county that applies for reconveyance.

(10) The entire natural resources equipment account appropriation is provided solely for replacement of equipment and development of infrastructure necessary to meet new federal communications commission regulations.

(11) \$75,000 of the general fund--state appropriation for fiscal year 1999, \$35,000 from the resource management cost account appropriation, and \$40,000 from the forest development account appropriation are provided solely to implement sections 1, 4, and 11 of



Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If sections 1, 4, and 11 of the bill are not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(12) \$71,000 of the resource management cost account appropriation is provided solely for a study of the current method for determining water-dependent rents in accordance with Second Substitute Senate Bill No. 6156 (state aquatic lands leases). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(13) \$117,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a geographic information systems inventory of Washington sand, gravel, and construction rock resources.

(14) \$50,000 of the resource management cost account appropriation is provided solely for a field study of biological control methods for eradication of spartina.

(15) \$50,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a study of potential finfish net-pen aquaculture sites in the Strait of Juan de Fuca and along the Pacific coast.

**Sec. 309.** 1997 c 149 s 309 (uncodified) is each amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund--State Appropriation (FY 1998) \$	((7,596,000))
	<u>7,605,000</u>
General Fund--State Appropriation (FY 1999) \$	((7,008,000))
	<u>8,285,000</u>
General Fund--Federal Appropriation \$	((4,716,000))
	<u>5,077,000</u>
General Fund--Private/Local Appropriation \$	405,000
Aquatic Lands Enhancement Account Appropriation \$	806,000
Industrial Insurance Premium Refund Appropriation \$	184,000
State Toxics Control Account Appropriation \$	1,338,000
<u>Local Toxics Control Account Appropriation \$</u>	<u>258,000</u>
TOTAL APPROPRIATION \$	((22,053,000))
	<u>23,958,000</u>

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

(1) \$35,000 of the general fund--state appropriation for fiscal year 1998 and \$36,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for technical assistance on pesticide management including the implementation of the Puget Sound work plan agency action item DOA-01.

(2) \$461,000 of the general fund--state appropriation for fiscal year 1998, ~~\$421,000 of the general fund--state appropriation for fiscal year 1999,~~ and ~~((361,000))~~ \$722,000 of the general fund--federal appropriation are provided solely to monitor and eradicate the Asian gypsy moth.

(3) \$138,000 of the general fund--state appropriation for fiscal year 1998 and \$138,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for two additional staff positions in the plant protection program.

(4) \$12,000 of the general fund--state appropriation for fiscal year 1998 and \$13,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute Senate Bill No. 5077 (integrated pest management). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(5) \$258,000 of the local toxics control account appropriation is provided solely to implement Senate Bill No. 6474 (fertilizer regulation). The amount provided in this subsection shall be used to conduct a comprehensive study of plant uptake of metals and to implement new fertilizer registration requirements. If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(6) \$50,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement section 11 of Engrossed Second Substitute House Bill No. 2345 (revising administrative law). If section 11 of the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(7) \$95,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for deposit into the livestock identification account to implement sections 2 and 98 of Engrossed Substitute Senate Bill No. 6204 (livestock identification). If either of these sections of the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

**Sec. 310.** 1997 c 149 s 310 (uncodified) is each amended to read as follows:

**FOR THE WASHINGTON POLLUTION LIABILITY REINSURANCE PROGRAM**

Pollution Liability Insurance Program Trust Account

Appropriation \$

((909,000))

1,009,000

**PART IV  
TRANSPORTATION**

**Sec. 401.** 1997 c 149 s 401 (uncodified) is each amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

General Fund Appropriation (FY 1998) \$

((4,536,000))

4,686,000

General Fund Appropriation (FY 1999) \$

((4,409,000))

4,717,000

Architects' License Account Appropriation \$

((857,000))

829,000

Cemetery Account Appropriation \$

((188,000))

197,000

Professional Engineers' Account Appropriation \$

((2,674,000))

2,700,000

Real Estate Commission Account Appropriation \$

((6,708,000))

7,062,000

Master License Account Appropriation \$

((6,998,000))

6,963,000

Uniform Commercial Code Account Appropriation \$

((4,291,000))

3,521,000

Real Estate Education Account Appropriation	\$	606,000
Funeral Directors And Embalmers Account Appropriation	\$	((409,000))
		<u>418,000</u>
TOTAL APPROPRIATION	\$	((31,676,000))
		<u>31,699,000</u>

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

(1) \$21,000 of the general fund fiscal year 1998 appropriation and \$22,000 of the general fund fiscal year 1999 appropriation are provided solely to implement House Bill No. 1827 or Senate Bill No. 5754 (boxing, martial arts, wrestling). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(2) \$40,000 of the master license account appropriation is provided solely to implement Substitute Senate Bill No. 5483 (whitewater river outfitters). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(3) \$229,000 of the general fund fiscal year 1998 appropriation and \$195,000 of the general fund fiscal year 1999 appropriation are provided solely for the implementation of Senate Bill No. 5997 (cosmetology inspections). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(4) \$31,000 of the general fund fiscal year 1998 appropriation, \$1,000 of the general fund fiscal 1999 appropriation, \$7,000 of the architects' license account appropriation, \$18,000 of the professional engineers' account appropriation, \$14,000 of the real estate commission account appropriation, \$40,000 of the master license account appropriation, and \$3,000 of the funeral directors and embalmers account appropriation are provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(5) \$17,000 of the professional engineers' account appropriation is provided solely to implement Senate Bill No. 5266 (engineers/land surveyors). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(6) \$110,000 of the general fund fiscal year 1998 appropriation is provided solely to implement Senate Bill No. 5998 (cosmetology advisory board). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

~~(7) (\$74,000 of the uniform commercial code account appropriation is provided solely to implement Engrossed Senate Bill No. 5163 (UCC filing). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.~~

~~(8))~~ \$11,000 of the general fund fiscal year 1998 appropriation and \$2,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Substitute House Bill No. 1748 or Substitute Senate Bill No. 5513 (vessel registration). If neither bill is enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(8)(a) Pursuant to RCW 43.135.055, during the 1997-99 fiscal biennium, the department may increase fees in excess of the fiscal growth factor in the appraisers and camp resorts programs; however, such increases shall not exceed an annual increase of eight percent.

(b) Pursuant to RCW 43.135.055, during the 1997-99 fiscal biennium, the department may increase fees in excess of the fiscal growth factor in the professional athletics, employment agencies, and security guards programs to the extent necessary to defray the costs of the administration of these programs as set forth in RCW 43.24.086.

(c) Before raising fees in excess of the fiscal growth factor pursuant to this subsection, the department shall notify the chairs and ranking minority members of the appropriate fiscal committees of the legislature.

(9) Within the amounts provided in this section, the department shall provide information detailing each specific component of the overhead costs allocated to each program within the business and professions division. The department shall establish procedures to allow each program within the business and professions division to review and modify its business processes in order to reduce administrative costs. The department of licensing shall provide a report to the fiscal committees of the legislature by October 1, 1998, detailing the specific procedures established pursuant to the requirements of this subsection.

(10) \$110,000 of the general fund fiscal year 1999 appropriation is provided solely for the implementation of the Substitute Senate Bill No. 6507 (cosmetology advisory board). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(11) \$75,000 of the general fund fiscal year 1999 appropriation is provided solely for costs associated with fully implementing chapter 178, Laws of 1997 (cosmetology inspections).

**Sec. 402.** 1997 c 149 s 402 (uncodified) is each amended to read as follows:

**FOR THE STATE PATROL**

General Fund--State Appropriation (FY 1998) \$

	((7,712,000))
	<u>8,312,000</u>
General Fund--State Appropriation (FY 1999) \$	((7,850,000))
	<u>21,791,000</u>
General Fund--Federal Appropriation \$	((3,990,000))
	<u>5,784,000</u>
General Fund--Private/Local Appropriation \$	341,000
Public Safety and Education Account Appropriation \$	((4,652,000))
	<u>4,483,000</u>
County Criminal Justice Assistance Account Appropriation \$	3,905,000
Municipal Criminal Justice Assistance Account Appropriation \$	1,573,000
Fire Service Trust Account Appropriation \$	92,000
Fire Service Training Account Appropriation \$	((1,762,000))
	<u>2,295,000</u>
State Toxics Control Account Appropriation \$	439,000
Violence Reduction and Drug Enforcement Account Appropriation \$	((310,000))
	<u>570,000</u>
Fingerprint Identification Account Appropriation \$	((3,082,000))
	<u>3,220,000</u>
TOTAL APPROPRIATION \$	((35,708,000))
	<u>52,805,000</u>

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

(1) \$254,000 of the fingerprint identification account appropriation is provided solely for an automated system that will facilitate the access of criminal history records remotely by computer or telephone for preemployment background checks and other non-law enforcement purposes. The agency shall submit an implementation status report to the office of financial management and the legislature by September 1, 1997.

(2) \$264,000 of the general fund--federal appropriation is provided solely for a feasibility study to develop a criminal investigation computer system. The study will report on the feasibility of developing a system that uses incident-based reporting as its foundation,

consistent with FBI standards. The system will have the capability of connecting with local law enforcement jurisdictions as well as fire protection agencies conducting arson investigations. The study will report on the system requirements for incorporating case management, intelligence data, imaging, and geographic information. The system will also provide links to existing crime information databases such as WASIS and WACIC. The agency shall submit a copy of the proposed study workplan to the office of financial management and the department of information services for approval prior to expenditure. A final report shall be submitted to the appropriate committees of the legislature, the office of financial management, and the department of information services no later than June 30, 1998.

(3) Pursuant to chapter 43.135 RCW, during the 1997-99 fiscal biennium, the Washington state patrol is authorized to raise existing fees charged for background fingerprint checks on current and potential school district and educational service district employees by six dollars.

(4) \$166,000 of the general fund--state appropriation for fiscal year 1998 and \$499,000 of the general fund--state appropriation for fiscal year 1999 are provided solely as state matching funds required to complete changes to the WACIC and WASIS systems.

(5) To address year 2000 concerns about the automated fingerprint identification system (AFIS), the Washington state patrol may contract with an intergovernmental consortium for the use of a year 2000 compatible AFIS system. Under this approach, the state patrol would begin paying a monthly usage fee starting in fiscal year 2000.

(6) \$58,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement House Bill No. 1172 (sex offender registration). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

## PART V EDUCATION

NEW SECTION. Sec. 501. A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR A STUDY OF K-12 FINANCE.** A study of the system of finance of the Washington common schools shall be conducted by the joint legislative audit and review committee subject to the following conditions and limitations:

(1) The study shall address:

(a) The revenue and expenditure practices of local school districts. To the extent data is available, the study shall identify patterns of resource allocations to selected districts, buildings, and classrooms. The study shall document the extent to which meaningful analysis of resource allocations is limited by data currently available and shall identify means necessary to obtain information necessary to analyze the efficiency and effectiveness of common school expenditures. The study shall also seek to identify districts that have financial data available in a form that facilitates understanding by persons without specialized expertise in public finance.

(b) The ratio of students to teachers and other personnel in selected districts, buildings, and classrooms. To the extent data is obtainable, class-size shall include analysis of the use of certificated and noncertificated classroom instructors and assistants, the education and experience of instructional staff, the composition of students in classrooms by status including students who qualify for special education, learning assistance, bilingual education, gifted education, free and reduced-price lunch and other characteristics, including educational outcomes relevant to understanding the nature of class-size and the nature of students and teachers in those classes.

(2) The final report shall be presented no later than June 30, 1999. Before the final report is presented, an interim briefing shall be presented to the fiscal committees of the legislature for review and comment.

(3) Funds appropriated to the joint legislative audit and review committee for the study specified in this section may be used for consulting services as deemed necessary, including, but not limited to, review of studies of a similar nature and consultation with experts in the field of public school finance on the feasibility and best approaches to a state fiscal study with the objectives specified in this section.

**Sec. 502.** 1997 c 454 s 501 (uncodified) is each amended to read as follows:

### **FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR STATE ADMINISTRATION**

General Fund--State Appropriation (FY 1998) \$

((20,758,000))

20,423,000

General Fund--State Appropriation (FY 1999) \$

((40,775,000))

58,171,000

General Fund--Federal Appropriation \$

49,439,000

Public Safety and Education Account

Appropriation	\$	2,598,000
Violence Reduction and Drug Enforcement Account		
Appropriation	\$	3,672,000
Education Savings Account Appropriation	\$	39,312,000
TOTAL APPROPRIATION	\$	<del>((156,554,000))</del>
		<u>173,615,000</u>

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

(1) AGENCY OPERATIONS

(a) \$394,000 of the general fund--state appropriation for fiscal year 1998 and \$394,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(b)(i) \$250,000 of the general fund--state appropriation for fiscal year 1998 and \$250,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for enhancing computer systems and support in the office of superintendent of public instruction. These amounts shall be used to: Make a database of school information available electronically to schools, state government, and the general public; reduce agency and school district administrative costs through more effective use of technology; and replace paper reporting and publication to the extent feasible with electronic media. The superintendent, in cooperation with the commission on student learning, shall develop a state student record system including elements reflecting student achievement. The system shall be made available to the office of financial management and the legislature with suitable safeguards of student confidentiality. The superintendent shall report to the office of financial management and the legislative fiscal committees by December 1 of each year of the biennium on the progress and plans for the expenditure of these amounts.

(ii) The superintendent, in cooperation with the commission on student learning, shall develop a feasibility plan for a state student record system, including elements reflecting student academic achievement on goals 1 and 2 under RCW 28A.150.210. The feasibility plan shall be made available to the office of financial management and the fiscal and education committees of the legislature for approval before a student records database is established, and shall identify data elements to be collected and suitable safeguards of student confidentiality and proper use of database records, with particular attention to eliminating unnecessary and intrusive data about nonacademic related information.

(c) \$348,000 of the public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

(d) \$50,000 of the general fund--state appropriation for fiscal year 1998 and \$50,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5394 (school audit resolutions).

(e) The superintendent shall conduct a study and make recommendations to the 1999 legislature regarding a definition of and standards for skills centers. The standards shall be related to the cost differential of skills centers as compared to secondary vocational education allocations provided in the appropriations act and other relevant factors. The study shall also address proposals for new skills centers known as of August 31, 1998, and compare and analyze, insofar as possible, the proposals with the recommended standards. The study shall be submitted to the governor and the appropriate committees of the legislature by November 25, 1998.

(f) The superintendent shall prepare a study which compares the state's administrative and statutory requirements to provide special education with the requirements of federal law. A preliminary report shall be provided to the policy and fiscal committees of the legislature by October 15, 1998, and a final report shall be provided by December 15, 1998.

(2) STATE-WIDE PROGRAMS

(a) \$2,174,000 of the general fund--state appropriation is provided for in-service training and educational programs conducted by the Pacific Science Center.

(b) \$63,000 of the general fund--state appropriation is provided for operation of the Cispus environmental learning center.

(c) \$2,754,000 of the general fund--state appropriation is provided for educational centers, including state support activities. \$100,000 of this amount is provided to help stabilize funding through distribution among existing education centers that are currently funded by the state at an amount less than \$100,000 a biennium.

(d) \$100,000 of the general fund--state appropriation is provided for an organization in southwest Washington that received funding from the Spokane educational center in the 1995-97 biennium and provides educational services to students who have dropped out.

(e) (~~(\$2,500,000)~~) \$2,148,000 of the general fund--state fiscal year 1998 appropriation and (~~(\$2,500,000)~~) \$2,151,000 of the general fund--state fiscal year 1999 appropriation are provided solely for implementation of reading initiatives to improve reading in early grades as enacted by the 1997 legislature. Of this amount(~~(--(---))~~), \$4,300,000 is provided solely to implement Engrossed Substitute House Bill No. 2042. Funds shall be used solely for the selection and purchase of the second grade reading tests in accordance with section 2 of the bill, scoring costs associated with the administration of the tests in the 1998-99 school year in accordance with section 5 of the bill, and grants to school districts in accordance with sections 4 and 7 of the bill.

(f) \$3,672,000 of the violence reduction and drug enforcement account appropriation and \$2,250,000 of the public safety education account appropriation are provided solely for matching grants to enhance security in schools. Not more than seventy-five percent of a district's total expenditures for school security in any school year may be paid from a grant under this subsection. The grants shall be expended solely for the costs of employing or contracting for building security monitors in schools during school hours and school events. Of the amount provided in this subsection, at least \$2,850,000 shall be spent for grants to districts that, during the 1988-89 school year, employed or contracted for security monitors in schools during school hours. However, these grants may be used only for increases in school district expenditures for school security over expenditure levels for the 1988-89 school year.

(g) \$200,000 of the general fund--state appropriation for fiscal year 1998, \$200,000 of the general fund--state appropriation for fiscal year 1999, and \$400,000 of the general fund--federal appropriation transferred from the department of health are provided solely for a program that provides grants to school districts for media campaigns promoting sexual abstinence and addressing the importance of delaying sexual activity, pregnancy, and childbearing until individuals are ready to nurture and support their children. Grants to the school districts shall be for projects that are substantially designed and produced by students. The grants shall require a local private sector match equal to one-half of the state grant, which may include in-kind contribution of technical or other assistance from consultants or firms involved in public relations, advertising broadcasting, and graphics or video production or other related fields.

(h) \$1,500,000 of the general fund--state appropriation for fiscal year 1998 and \$1,500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for school district petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. Allocation of this money to school districts shall be based on the number of petitions filed.

(i) \$300,000 of the general fund--state appropriation is provided for alcohol and drug prevention programs pursuant to RCW 66.08.180.

(j)(i) \$19,656,000 of the education savings account appropriation for fiscal year 1998 and \$19,656,000 of the education savings account appropriation for fiscal year 1999 are provided solely for matching grants and related state activities to provide school district consortia with programs utilizing technology to improve learning. A maximum of (~~(\$100,000)~~) \$150,000 each fiscal year of this amount is provided for administrative support and oversight of the K-20 network by the superintendent of public instruction. The superintendent of public instruction shall convene a technology grants committee representing private sector technology, school districts, and educational service districts to recommend to the superintendent grant proposals that have the best plans for improving student learning through innovative curriculum using technology as a learning tool and evaluating the effectiveness of the curriculum innovations. After considering the technology grants committee recommendations, the superintendent shall make matching grant awards, including granting at least fifteen percent of funds on the basis of criteria in (ii)(A) through (C) of this subsection (2)(j).

(ii) Priority for award of funds will be to (A) school districts most in need of assistance due to financial limits, (B) school districts least prepared to take advantage of technology as a means of improving student learning, and (C) school districts in economically distressed areas. The superintendent of public instruction, in consultation with the technology grants committee, shall propose options to the committee for identifying and prioritizing districts according to criteria in (i) and (ii) of this subsection (2)(j).

(iii) Options for review criteria to be considered by the superintendent of public instruction include, but are not limited to, free and reduced lunches, levy revenues, ending fund balances, equipment inventories, and surveys of technology preparedness. An "economically distressed area" is (A) a county with an unemployment rate that is at least twenty percent above the state-wide average for the previous three years; (B) a county that has experienced sudden and severe or long-term and severe loss of employment, or erosion of its economic base resulting in decline of its dominant industries; or (C) a district within a county which (I) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (II) has an unemployment rate which is at least forty percent higher than the county's unemployment rate.

(k) \$50,000 of the general fund--state appropriations is provided as matching funds for district contributions to provide analysis of the efficiency of school district business practices. The superintendent of public instruction shall establish criteria, make awards, and provide a report to the fiscal committees of the legislature by December 15, 1997, on the progress and details of analysis funded under this subsection (2)(k).

(l) (~~(\$19,977,000)~~) \$19,797,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for the purchase of classroom instructional materials and supplies. The superintendent shall allocate the funds at a maximum rate of \$20.82 per full-time equivalent student, beginning September 1, 1998, and ending June 30, 1999. The expenditure of the funds shall be determined at each school site by the (~~(school building staff, parents, and the community)~~) individual teacher. School districts shall distribute all funds received to school buildings without deduction.

(m) \$15,000 of the general fund--state appropriation is provided solely to assist local districts vocational education programs in applying for low frequency FM radio licenses with the federal communications commission.

(n) \$35,000 of the general fund--state appropriation is provided solely to the state board of education to design a program to encourage high school students and other adults to pursue careers as vocational education teachers in the subject matter of agriculture.

(o) \$25,000 of the general fund--state appropriation for fiscal year 1998 and \$25,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for allocation to the primary coordinators of the state geographic alliance to improve the teaching of geography in schools.

(p) \$1,000,000 of the general fund--state appropriation is provided for state administrative costs and start-up grants for alternative programs and services that improve instruction and learning for at-risk and expelled students consistent with the objectives of Engrossed House Bill No. 1581 (disruptive students/offenders). Each grant application shall contain proposed performance indicators and an evaluation plan to measure the success of the program and its impact on improved student learning. Applications shall contain the applicant's plan for maintaining the program and/or services after the grant period, shall address the needs of students who cannot be accommodated within the framework of existing school programs or services and shall address how the applicant will serve any student within the proposed program's target age range regardless of the reason for truancy, suspension, expulsion, or other disciplinary action. Up to \$50,000 per year may be used by the superintendent of public instruction for grant administration. The superintendent shall submit an evaluation of the alternative program start-up grants provided under this section, and section 501(2)(q), chapter 283, Laws of 1996, to the fiscal and education committees of the legislature by November 15, 1998. Grants shall be awarded to applicants showing the greatest potential for improved student learning for at-risk students including:

- (i) Students who have been suspended, expelled, or are subject to other disciplinary actions;
- (ii) Students with unexcused absences who need intervention from community truancy boards or family support programs;
- (iii) Students who have left school; and
- (iv) Students involved with the court system.

The office of the superintendent of public instruction shall prepare a report describing student recruitment, program offerings, staffing practices, and available indicators of program effectiveness of alternative education programs funded with state and, to the extent information is available, local funds. The report shall contain a plan for conducting an evaluation of the educational effectiveness of alternative education programs.

(q) \$1,600,000 of the general fund--state appropriation is provided for grants for magnet schools to be distributed as recommended by the superintendent of public instruction pursuant to chapter 232, section 516(13), Laws of 1992.

(r) \$4,300,000 of the general fund--state appropriation is provided for complex need grants. Grants shall be provided according to amounts shown in LEAP Document 30C as developed on April 27, 1997, at 03:00 hours.

(s) \$17,000,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to implement Engrossed Second Substitute Senate Bill No. 6509 (successful readers act). Of this amount, \$9,000,000 is provided solely for beginning reading instructional programs pursuant to section 2(1) of the bill and \$8,000,000 is provided solely for volunteer tutor and mentor programs pursuant to section 2(2) of the bill. The superintendent shall notify districts of the availability of the funds by April 15th, 1998, and shall include in the notification limitations on rates for stipends and other cost factors. Stipends authorized under section 2(5) of the bill shall not exceed five days per program at a rate not to exceed \$222 per five-hour day, including fringe benefits. The superintendent shall establish allocation guidelines for other cost factors associated with providing the programs. If the bill is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

(t) \$15,000 of the general fund--state appropriation for fiscal year 1998 and \$100,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for a study and recommendations related to education of offenders prosecuted as adults in accordance with Engrossed Substitute Senate Bill No. 6600 (correctional facilities education program). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(u) \$375,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for increased costs of providing a norm-referenced test to all third grade students and retests of certain third grade students and other costs in accordance with Second Substitute House Bill No. 2849 (student achievement). If the bill is not enacted by June 30, 1998, the amount provided in this subsection shall lapse.

(v) \$50,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for development and operation of a skills center in Port Angeles, contingent on meeting the standard for qualifying for skills center funding as developed by the superintendent of public instruction in subsection (1)(e) of this section.

(w) \$400,000 of the fiscal year 1999 general fund--state appropriation is provided solely for matching funds to improve the fiscal and student data capabilities of the Washington school information processing cooperative. The funds shall be allocated only if at least 267 school districts remain members of the cooperative for the 1998-99 school year.

**Sec. 503.** 1997 c 149 s 502 (uncodified) is each amended to read as follows:

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

General Fund Appropriation (FY 1998) \$



	((3,429,727,000))
	<u>3,405,645,000</u>
General Fund Appropriation (FY 1999) \$	((3,511,157,000))
	<u>3,473,603,000</u>
TOTAL APPROPRIATION \$	((6,940,884,000))
	<u>6,879,248,000</u>

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

(1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) Allocations for certificated staff salaries for the 1997-98 and 1998-99 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (d) through (f) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) 49 certificated instructional staff units per thousand full-time equivalent students in grades K-3;

(iii) An additional 5.3 certificated instructional staff units for grades K-3. Any funds allocated for these additional certificated units shall not be considered as basic education funding;

(A) Funds provided under this subsection (2)(a)(iii) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-3 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-3 may dedicate up to 1.3 of the 54.3 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-3. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3 may use allocations generated under this subsection (2)(a)(iii) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 4-6. Funds allocated under this subsection (2)(a)(iii) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants; and

(iv) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12;

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

(c) On the basis of full-time equivalent enrollment in:

(i) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 18.3 full-time equivalent vocational students for the 1997-98 school year and for each 19.5 full-time equivalent vocational students in the 1998-99 school year. Beginning with the 1998-99 school year, districts documenting staffing ratios of less than 1 certificated staff per ~~((48.3))~~ 19.5 students shall be allocated the greater of the total ratio in subsections (2)(a)(i) and (iv) of this section or the actual documented ratio;

(ii) Skills center programs approved by the superintendent of public instruction for skills centers approved prior to September 1, 1997, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(iii) Indirect cost charges, as defined by the superintendent of public instruction, to vocational-secondary programs shall not exceed 10 percent; and

(iv) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support.

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students.

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

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

(3) Allocations for classified salaries for the 1997-98 and 1998-99 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each sixty average annual full-time equivalent students; and

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

(4) Fringe benefit allocations shall be calculated at a rate of 20.22 percent in the 1997-98 and 1998-99 school years for certificated salary allocations provided under subsection (2) of this section, and a rate of 18.65 percent in the 1997-98 and 1998-99 school years for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$7,950 per certificated staff unit in the 1997-98 school year and a maximum of ~~(\$8,165)~~ \$8,053 per certificated staff unit in the 1998-99 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i) of this section, there shall be provided a maximum of \$15,147 per certificated staff unit in the 1997-98 school year and a maximum of ~~(\$15,556)~~ \$19,775 per certificated staff unit in the 1998-99 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(ii) of this section, there shall be provided a maximum of \$15,147 per certificated staff unit in the 1997-98 school year and a maximum of \$15,344 per certificated staff unit in the 1998-99 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$354.64 per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported state-wide for the 1996-97 school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) The superintendent may distribute a maximum of ~~(\$6,124,000)~~ \$6,114,000 outside the basic education formula during fiscal years 1998 and 1999 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$447,000 may be expended in fiscal year 1998 and a maximum of ~~(\$459,000)~~ \$453,000 may be expended in fiscal year 1999;

(b) For summer vocational programs at skills centers, a maximum of \$1,948,000 may be expended each fiscal year;

(c) A maximum of ~~(\$321,000)~~ \$318,000 may be expended for school district emergencies; and

(d) A maximum of \$500,000 per fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(10) For the purposes of RCW 84.52.0531, the increase per full-time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 2.5 percent from the 1996-97 school year to the 1997-98 school year, and 1.1 percent from the 1997-98 school year to the 1998-99 school year.

(11) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

**Sec. 504.** 1997 c 454 s 503 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

General Fund Appropriation (FY 1998) \$ ~~(79,966,000)~~

79,412,000

General Fund Appropriation (FY 1999) \$ ~~(116,310,000)~~

115,187,000

TOTAL APPROPRIATION \$ ~~(196,276,000)~~

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

(1) ~~(\$176,525,000)~~ \$174,999,000 is provided for a cost of living adjustment of 3.0 percent effective September 1, 1997, for state formula staff units. The appropriations include associated incremental fringe benefit allocations at rates of 19.58 percent for certificated staff and 15.15 percent for classified staff.

(a) The appropriations in this section include the increased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Salary adjustments for state employees in the office of superintendent of public instruction and the education reform program are provided in part VII of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in section 502 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in section 502 of this act.

(b) The appropriations in this section provide salary increase and incremental fringe benefit allocations based on formula adjustments as follows:

(i) For pupil transportation, an increase of \$0.60 per weighted pupil-mile for the 1997-98 school year and maintained for the 1998-99 school year;

(ii) For education of highly capable students, an increase of \$6.81 per formula student for the 1997-98 school year and maintained for the 1998-99 school year; and

(iii) For transitional bilingual education, an increase of \$17.69 per eligible bilingual student for the 1997-98 school year and maintained for the 1998-99 school year; and

(iv) For learning assistance, an increase of \$8.74 per entitlement unit for the 1997-98 school year and maintained for the 1998-99 school year.

(c) The appropriations in this section include ~~(\$912,000)~~ \$903,000 for salary increase adjustments for substitute teachers at a rate of \$10.64 per unit in the 1997-98 school year and maintained in the 1998-99 school year.

(2) ~~(\$19,751,000)~~ \$19,600,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$314.51 per month for the 1997-98 and 1998-99 school years. The appropriations in this section provide ~~(increases of \$2.83)~~ for a rate increase to \$317.34 per month for the 1997-98 school year and ~~(\$18.41)~~ \$335.75 per month for the 1998-99 school year at the following rates:

(a) For pupil transportation, an increase of \$0.03 per weighted pupil-mile for the 1997-98 school year and \$0.19 for the 1998-99 school year;

(b) For education of highly capable students, an increase of \$0.20 per formula student for the 1997-98 school year and \$1.35 for the 1998-99 school year;

(c) For transitional bilingual education, an increase of \$.46 per eligible bilingual student for the 1997-98 school year and \$3.44 for the 1998-99 school year; and

(d) For learning assistance, an increase of \$.36 per funded unit for the 1997-98 school year and \$2.70 for the 1998-99 school year.

(3) The rates specified in this section are subject to revision each year by the legislature.

(4) ~~((a))~~ For the 1997-98 school year, the superintendent shall prepare a report showing the allowable derived base salary for certificated instructional staff in accordance with RCW 28A.400.200 and LEAP Document 12D, and the actual derived base salary paid by each school district as shown on the S-275 report and shall make the report available to the fiscal committees of the legislature no later than February 15, 1998.

**Sec. 505.** 1997 c 149 s 505 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PUPIL TRANSPORTATION**

General Fund Appropriation (FY 1998) \$ ~~((174,344,000))~~

175,168,000

General Fund Appropriation (FY 1999) \$ ~~((179,560,000))~~

179,439,000

TOTAL APPROPRIATION \$ ~~((353,904,000))~~

354,607,000

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

(1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) A maximum of ~~(\$1,451,000)~~ \$1,441,000 may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) \$30,000 of the fiscal year 1998 appropriation and \$40,000 of the fiscal year 1999 appropriation are provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(4) Allocations for transportation of students shall be based on reimbursement rates of \$34.47 per weighted mile in the 1997-98 school year and ~~(\$34.76)~~ \$34.61 per weighted mile in the 1998-99 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction times the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school times the per mile reimbursement rate for the school year times 1.29.

**Sec. 506.** 1997 c 149 s 506 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL FOOD SERVICE PROGRAMS**

General Fund--State Appropriation (FY 1998) \$	3,075,000
General Fund--State Appropriation (FY 1999) \$	<del>((3,075,000))</del>
	<u>3,100,000</u>
General Fund--Federal Appropriation \$	194,483,000
TOTAL APPROPRIATION \$	<del>((200,633,000))</del>
	<u>200,658,000</u>

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

(1) \$6,000,000 of the general fund--state appropriations are provided for state matching money for federal child nutrition programs.

(2) ~~(\$150,000)~~ \$175,000 of the general fund--state appropriations are provided for summer food programs for children in low-income areas.

**Sec. 507.** 1997 c 149 s 507 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SPECIAL EDUCATION PROGRAMS**

General Fund--State Appropriation (FY 1998) \$	<del>((370,486,000))</del>
	<u>371,687,000</u>
General Fund--State Appropriation (FY 1999) \$	<del>((374,327,000))</del>
	<u>378,405,000</u>
General Fund--Federal Appropriation \$	<del>((135,106,000))</del>
TOTAL APPROPRIATION \$	<del>((879,919,000))</del>
	<u>893,198,000</u>

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

(1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) The superintendent of public instruction shall distribute state funds to school districts based on two categories, the optional birth through age two program for special education eligible developmentally delayed infants and toddlers, and the mandatory special education program for special education eligible students ages three to twenty-one. A "special education eligible student" means a student receiving specially designed instruction in accordance with a properly formulated individualized education program.

(3) For the 1997-98 and 1998-99 school years, the superintendent shall distribute state funds to each district based on the sum of:

(a) A district's annual average headcount enrollment of developmentally delayed infants and toddlers ages birth through two, times the district's average basic education allocation per full-time equivalent student, times 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment times the funded enrollment percent determined pursuant to subsection (4)(c) of this section, times the district's average basic education allocation per full-time equivalent student times 0.9309.

(4) The definitions in this subsection apply throughout this section.

(a) "Average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 (i.e., 49/1000 certificated instructional staff in grades K-3, and 46/1000 in grades 4-12) and shall not include enhancements for K-3, secondary vocational education, or small schools.

(b) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(c) "Enrollment percent" means the district's resident special education annual average enrollment including those students counted under the special education demonstration projects, excluding the birth through age two enrollment, as a percent of the district's annual average full-time equivalent basic education enrollment. For the 1997-98 and the 1998-99 school years, each district's funded enrollment percent shall be:

(i) For districts whose enrollment percent for 1994-95 was at or below 12.7 percent, the lesser of the district's actual enrollment percent for the school year for which the allocation is being determined or 12.7 percent.

(ii) For districts whose enrollment percent for 1994-95 was above 12.7 percent, the lesser of:

(A) The district's actual enrollment percent for the school year for which the special education allocation is being determined; or

(B) The district's actual enrollment percent for the school year immediately prior to the school year for which the special education allocation is being determined if greater than 12.7 percent; or

(C) For 1997-98, the 1994-95 enrollment percent reduced by 75 percent of the difference between the district's 1994-95 enrollment percent and 12.7 percent and for 1998-99, 12.7 percent.

(5) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be 12.7, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection (4) of this section, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(6) A maximum of \$12,000,000 of the general fund--state appropriation for fiscal year 1998 and a maximum of \$12,000,000 of the general fund--state appropriation for fiscal year 1999 are provided as safety net funding for districts with demonstrated needs for state special education funding beyond the amounts provided in subsection (3) of this section. Safety net funding shall be awarded by the state safety net oversight committee.

(a) The safety net oversight committee shall first consider the needs of districts adversely affected by the 1995 change in the special education funding formula. Awards shall be based on the amount required to maintain the 1994-95 state special education excess cost allocation to the school district in aggregate or on a dollar per funded student basis.

(b) The committee shall then consider unusual needs of districts due to a special education population which differs significantly from the assumptions of the state funding formula. Awards shall be made to districts that convincingly demonstrate need due to the concentration and/or severity of disabilities in the district. Differences in program costs attributable to district philosophy or service delivery style are not a basis for safety net awards.

(7) Prior to June 1st of each year, the superintendent shall make available to each school district from available data the district's maximum funded enrollment percent for the coming school year.

(8) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules in place for the 1996-97 school year, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(9) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) Staff of the office of superintendent of public instruction;

(b) Staff of the office of the state auditor;  
(c) Staff from the office of the financial management; and  
(d) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(10) A maximum of \$4,500,000 of the general fund--federal appropriation shall be expended for safety net funding to meet the extraordinary needs of one or more individual special education students.

(11) A maximum of \$678,000 may be expended from the general fund--state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(12) A maximum of \$1,000,000 of the general fund--federal appropriation is provided for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

(13) A school district may carry over up to 10 percent of general fund--state funds allocated under this program; however, carry over funds shall be expended in the special education program.

(14) Beginning in the 1997-98 school year, the superintendent shall increase the percentage of federal flow-through to school districts to at least 84 percent. In addition to other purposes, school districts may use increased federal funds for high cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(15) Up to one percent of the general fund--federal appropriation shall be expended by the superintendent for projects related to use of inclusion strategies by school districts for provision of special education services. The superintendent shall prepare an information database on laws, best practices, examples of programs, and recommended resources. The information may be disseminated in a variety of ways, including workshops and other staff development activities.

(16) Amounts appropriated within this section are sufficient to fund ~~((section 5 of Second Substitute House Bill No. 1709 (mandate on school districts)))~~ the provisions of House Bill No. 2682 (school medicaid incentive payments).

**Sec. 508.** 1997 c 149 s 508 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR TRAFFIC SAFETY EDUCATION PROGRAMS**

Public Safety and Education Account

Appropriation	\$	
		((17,179,000))
		<u>16,883,000</u>

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

- (1) The appropriation includes such funds as are necessary for the remaining months of the 1996-97 school year.
- (2) A maximum of \$507,000 shall be expended for regional traffic safety education coordinators.
- (3) The maximum basic state allocation per student completing the program shall be \$137.16 in the 1997-98 and 1998-99 school years.
- (4) Additional allocations to provide tuition assistance for students from low-income families who complete the program shall be a maximum of \$66.81 per eligible student in the 1997-98 and 1998-99 school years.

**Sec. 509.** 1997 c 454 s 504 (uncodified) is each amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR LOCAL EFFORT ASSISTANCE**

General Fund Appropriation (FY 1998)	\$	
		((84,347,000))
		<u>82,079,000</u>
General Fund Appropriation (FY 1999)	\$	
		((89,605,000))
		<u>86,272,000</u>
TOTAL APPROPRIATION	\$	
		((173,952,000))
		<u>168,351,000</u>

**Sec. 510.** 1997 c 454 s 505 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund--State Appropriation (FY 1998) \$		((18,026,000))
		<u>16,897,000</u>
General Fund--State Appropriation (FY 1999) \$		((18,983,000))
		<u>18,596,000</u>
General Fund--Federal Appropriation \$		8,548,000
TOTAL APPROPRIATION \$		((45,557,000))
		<u>44,041,000</u>

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

(1) The general fund--state appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) ~~(((\$341,000 of the general fund--state fiscal year 1998 appropriation and \$407,000 of the general fund--state fiscal year 1999 appropriation are provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code).))~~ \$1,196,000 of the fiscal year 1999 general fund--state appropriation is provided to implement Engrossed Substitute Senate Bill No. 6600 (correctional facilities education programs). If Engrossed Substitute Senate Bill No. 6600 is enacted, beginning in the 1998-99 school year, the funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided for education programs in delinquent institutions under the department of social and health services. If the bill is not enacted by June 30, ~~((1997)) 1998~~, the amounts provided in this subsection shall lapse.

**Sec. 511.** 1997 c 149 s 513 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund Appropriation (FY 1998) \$		((5,752,000))
		<u>5,701,000</u>
General Fund Appropriation (FY 1999) \$		((6,176,000))
		<u>6,121,000</u>
TOTAL APPROPRIATION \$		((11,928,000))
		<u>11,822,000</u>

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

(1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$311.12 per funded student for the 1997-98 school year and ~~(((\$311.58))~~ \$311.35 per funded student for the 1998-99 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of two percent of each district's full-time equivalent basic education enrollment.

(3) \$350,000 of the appropriation is for the centrum program at Fort Worden state park.



(4) \$186,000 of the appropriation is for the odyssey of the mind and future problem-solving programs.

Sec. 512. 1997 c 454 s 506 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--EDUCATION REFORM PROGRAMS**

General Fund Appropriation (FY 1998) \$

((18,905,000))

18,605,000

General Fund Appropriation (FY 1999) \$

((21,868,000))

22,017,000

TOTAL APPROPRIATION \$

((40,773,000))

40,622,000

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

(1) ((~~\$18,103,000~~)) \$17,153,000 is provided for the operation of the commission on student learning and the development and implementation of student assessments. The commission shall cooperate with the superintendent of public instruction in defining measures of student achievement to be included in the student record system developed by the superintendent pursuant to section 501(1)(b) of this act.

(2) \$2,190,000 is provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.

(3) \$2,970,000 is provided for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260. Funds for the teacher assistance program shall be allocated to school districts based on the number of beginning teachers.

(4) \$4,050,000 is provided for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW.

(5) \$7,200,000 is provided for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(6) \$5,000,000 is provided solely for the meals for kids program under RCW 28A.235.145 through 28A.235.155.

(7) \$1,260,000 is provided for technical assistance related to education reform through the office of the superintendent of public instruction, in consultation with the commission on student learning, as specified in RCW 28A.300.130 (center for the improvement of student learning).

(8) \$799,000 of the fiscal year 1999 appropriation is provided solely for the leadership internship program for superintendents, principals, and program administrators. The purpose of the program is to provide funds to school districts to provide partial release time for district employees in an internship with an appropriate mentor. The funds shall be distributed by the superintendent to school districts subject to the following conditions and limitations:

(i) The superintendent with the assistance of an advisory board that includes school administrators and higher education representatives shall select internship participants giving priority to candidates who intend to serve in school districts where finding qualified applicants has been difficult.

(ii) Candidates if accepted in the internship program must agree to seek employment in Washington after receiving certification, participate in education improvement training activities, and participate in evaluations of the effectiveness of the internship program.

(iii) The maximum amount of state funding for each internship shall not exceed the daily rate of providing a substitute teacher for the equivalent of up to forty-five days and the funds shall be used to pay for partial release time while the school district employee is completing the internship.

(iv) The superintendent may withhold a maximum of seven percent of the funds for costs of implementing the program.

Sec. 513. 1997 c 454 s 507 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund Appropriation (FY 1998) \$

((31,146,000))

30,711,000

General Fund Appropriation (FY 1999) \$	((33,414,000))
	<u>32,185,000</u>
TOTAL APPROPRIATION \$	((64,560,000))
	<u>62,896,000</u>

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

- (1) The appropriation for fiscal year 1998 provides such funds as are necessary for the remaining months of the 1996-97 school year.
- (2) The superintendent of public instruction shall study the formula components proposed for the 1998-99 school year and prepare a report to the legislature no later than January 15, 1998.
- (3) The superintendent shall distribute a maximum of \$643.78 per eligible bilingual student in the 1997-98 and 1998-99 school years, exclusive of salary and benefit adjustments provided in section 503 of this act.

**Sec. 514.** 1997 c 149 s 516 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund Appropriation (FY 1998) \$	((60,309,000))
	<u>60,224,000</u>
General Fund Appropriation (FY 1999) \$	((60,862,000))
	<u>61,000,000</u>
TOTAL APPROPRIATION \$	((121,171,000))
	<u>121,224,000</u>

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

- (1) The appropriation for fiscal year 1998 provides such funds as are necessary for the remaining months of the 1996-97 school year.
- (2) For making the calculation of the percentage of students scoring in the lowest quartile as compared with national norms, beginning with the 1991-92 school year, the superintendent shall multiply each school district's 4th and 8th grade test results by 0.86.
- (3) Funding for school district learning assistance programs shall be allocated at maximum rates of \$378.33 per funded unit for the 1997-98 school year and ((~~\$379.47~~) \$378.88) per funded unit for the 1998-99 school year exclusive of salary and benefit adjustments provided in section 504 of this act. School districts may carryover up to 10 percent of funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.
  - (a) A school district's funded units for the 1997-98 and 1998-99 school years shall be the sum of the following:
    - (i) The district's full-time equivalent enrollment in kindergarten through 6th grade, times the 5-year average 4th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and
    - (ii) The district's full-time equivalent enrollment in grades 7 through 9, times the 5-year average 8th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and
    - (iii) If in the prior school year the district's percentage of October headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeded the state average, subtract the state average percentage of students eligible for free and reduced price lunch from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the current school year times 22.30 percent.

**Sec. 515.** 1997 c 454 s 508 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--LOCAL ENHANCEMENT FUNDS**

General Fund Appropriation (FY 1998) \$	((49,815,000))
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General Fund Appropriation (FY 1999) \$	<u>49,493,000</u>
	((56,962,000))
TOTAL APPROPRIATION \$	<u>55,659,000</u>
	((106,777,000))
	<u>105,152,000</u>

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

(1) A maximum of ~~((50,841,000))~~ \$50,418,000 is provided for learning improvement allocations to school districts to enhance the ability of instructional staff to teach and assess the essential academic learning requirements for reading, writing, communication, and math in accordance with the timelines and requirements established under RCW 28A.630.885. However, special emphasis shall be given to the successful teaching of reading. Allocations under this section shall be subject to the following conditions and limitations:

(a) In accordance with the timetable for the implementation of the assessment system by the commission on student learning, the allocations for the 1997-98 and 1998-99 school years shall be at a maximum annual rate per full-time equivalent student of \$36.69 for students enrolled in grades K-4, \$30.00 for students enrolled in grades 5-7, and \$22.95 for students enrolled in grades 8-12. Allocations shall be made on the monthly apportionment schedule provided in RCW 28A.510.250.

(b) A district receiving learning improvement allocations shall:

(i) Develop and keep on file at each building a student learning improvement plan to achieve the student learning goals and essential academic learning requirements and to implement the assessment system as it is developed. The plan shall delineate how the learning improvement allocations will be used to accomplish the foregoing. The plan shall be made available to the public upon request;

(ii) Maintain a policy regarding the involvement of school staff, parents, and community members in instructional decisions;

(iii) File a report by October 1, 1998, and October 1, 1999, with the office of the superintendent of public instruction, in a format developed by the superintendent that: Enumerates the activities funded by these allocations; the amount expended for each activity; describes how the activity improved understanding, teaching, and assessment of the essential academic learning requirements by instructional staff; and identifies any amounts expended from this allocation for supplemental contracts; and

(iv) Provide parents and the local community with specific information on the use of this allocation by including in the annual performance report required in RCW 28A.320.205, information on how funds allocated under this subsection were spent and the results achieved.

(c) The superintendent of public instruction shall compile and analyze the school district reports and present the results to the office of financial management and the appropriate committees of the legislature no later than November 15, 1998, and November 15, 1999.

(2) ~~((55,937,000))~~ \$54,734,000 is provided for local education program enhancements to meet educational needs as identified by the school district, including alternative education programs. This amount includes such amounts as are necessary for the remainder of the 1996-97 school year. Allocations for the 1997-98 ~~((and 1998-99))~~ school year shall be at a maximum annual rate of \$29.86 per full-time equivalent student and \$28.81 per full-time equivalent student for the 1998-99 school year as determined pursuant to subsection (3) of this section. Allocations shall be made on the monthly apportionment payment schedule provided in RCW 28A.510.250.

(3) Allocations provided under this section shall be based on school district annual average full-time equivalent enrollment in grades kindergarten through twelve: PROVIDED, That for school districts enrolling not more than one hundred average annual full-time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be as follows:

(a) Enrollment of not more than 60 average annual full-time equivalent students in grades kindergarten through six shall generate funding based on sixty full-time equivalent students;

(b) Enrollment of not more than 20 average annual full-time equivalent students in grades seven and eight shall generate funding based on twenty full-time equivalent students; and

(c) Enrollment of not more than 60 average annual full-time equivalent students in grades nine through twelve shall generate funding based on sixty full-time equivalent students.

(4) Funding provided pursuant to this section does not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(5) Receipt by a school district of one-fourth of the district's allocation of funds under this section, shall be conditioned on a finding by the superintendent that:

(a) The district is enrolled as a medicaid service provider and is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to RCW 74.09.5241 through 74.09.5256 (Title XIX funding); and

(b) The district is filing truancy petitions as required under chapter 312, Laws of 1995 and RCW 28A.225.030.

**PART VI  
HIGHER EDUCATION**

**Sec. 601.** 1997 c 454 s 601 (uncodified) is amended to read as follows:

The appropriations in sections 603 through 609 of this act are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 603 through 609 of this act.

(2)(a) The salary increases provided or referenced in this subsection shall be the allowable salary increases provided at institutions of higher education, excluding increases associated with normally occurring promotions and increases related to faculty and professional staff retention, and excluding increases associated with employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015.

(b) Each institution of higher education shall provide to each classified staff employee as defined by the office of financial management a salary increase of 3.0 percent on July 1, 1997. Each institution of higher education shall provide to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants as classified by the office of financial management, and all other nonclassified staff, including those employees under RCW 28B.16.015, an average salary increase of 3.0 percent on July 1, 1997. For employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015, distribution of the salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated. To collect consistent data for use by the legislature, the office of financial management, and other state agencies for policy and planning purposes, institutions of higher education shall report personnel data to be used in the department of personnel's human resource data warehouse in compliance with uniform reporting procedures established by the department of personnel.

(c) Each institution of higher education receiving appropriations under sections 604 through 609 of this act may provide to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015, an additional average salary increase of 1.0 percent on July 1, 1997, and an average salary increase of 2.0 percent on July 1, 1998. Any salary increases authorized under this subsection (2)(c) shall not be included in an institution's salary base. It is the intent of the legislature that general fund--state support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (2)(c).

(d) Specific salary increases authorized in sections 603 through 609 of this act are in addition to any salary increase provided in this subsection.

(3)(a) Each institution receiving appropriations under sections 604 through 609 of this act shall submit plans for achieving measurable and specific improvements in academic years 1997-98 and 1998-99 to the higher education coordinating board. The plans, to be prepared at the direction of the board, shall be submitted by August 15, 1997 (for academic year 1997-98) and June 30, 1998 (for academic year 1998-99). The following measures and goals will be used for the 1997-99 biennium:

	Goal
(i) Undergraduate graduation efficiency index:	
For students beginning as freshmen	95
For transfer students	90
(ii) Undergraduate student retention, defined as the percentage of all undergraduate students who return for the next year at the same institution, measured from fall to fall:	
Research universities	95%
Comprehensive universities and college	90%
(iii) Graduation rates, defined as the percentage of an entering freshmen class at each institution that graduates within five years:	

Research universities	65%
Comprehensive universities and college	55%

(iv) A measure of faculty productivity, with goals and targets in accord with the legislative intent to achieve measurable and specific improvements, to be determined by the higher education coordinating board, in consultation with the institutions receiving appropriations under sections 604 through 609 of this act.

(v) An additional measure and goal to be selected by the higher education coordinating board for each institution, in consultation with each institution.

(b) Academic year 1995-96 shall be the baseline year against which performance in academic year 1997-98 shall be measured. Academic year 1997-98 shall be the baseline year against which performance in academic year 1998-99 shall be measured. The difference between each institution's baseline year and the state-wide performance goals shall be calculated and shall be the performance gap for each institution for each measure for each year. The higher education coordinating board shall set performance targets for closing the performance gap for each measure for each institution. Performance targets shall be set at levels that reflect meaningful and substantial progress towards the state-wide performance goals. Each institution shall report to the higher education coordinating board on its actual performance achievement for each measure for academic year 1997-98 by ~~((June 30, 1998, except that performance reporting for the student retention measure shall be completed by October 15, 1998))~~ November 1, 1998.

(4) The state board for community and technical colleges shall develop an implementation plan for measurable and specific improvements in productivity, efficiency, and student retention in academic years 1997-98 and 1998-99 consistent with the performance management system developed by the work force training and education coordinating board and for the following long-term performance goals:

	Goal
(a) Hourly wages for vocational graduates	\$12/hour
(b) Academic students transferring to Washington higher education institutions	67%
(c) Core course completion rates	85%
(d) Graduation efficiency index	95

(5) The state's public institutions of higher education increasingly are being called upon to become more efficient in conducting the business operations necessary to support the carrying out of their academic missions. The legislature recognizes that state laws and regulations may have the unintended effect of acting as barriers to efficient operation in some instances, and desires to encourage the institutions of higher education to think beyond the constraints of current law in identifying opportunities for improved efficiency. Accordingly, the legislature requests that the institutions of higher education, working together through the council of presidents' office and the state board for community and technical colleges, identify opportunities for changes in state law that would form the basis for a new efficiency compact with the state, for consideration no later than the 1999 legislative session.

(6) Pursuant to RCW 43.135.055, institutions of higher education receiving appropriations under sections 603 through 609 of this act are authorized to increase summer term tuition in excess of the fiscal growth factor during the 1997-99 fiscal biennium. Tuition levels increased pursuant to this subsection shall not exceed the per credit hour rate calculated from the academic year tuition levels established by the legislature in RCW 28B.15.067.

**Sec. 602.** 1997 c 454 s 602 (uncodified) is amended to read as follows:

~~((+))~~ The appropriations in sections 603 through 609 of this act provide state general fund support or employment and training trust account support for full-time equivalent student enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institution assumed in this act.

1997-98

1998-99

Annual

	Average	Annual Average
University of Washington		
Main campus	31,297	
		31,527
Bothell branch	775	
		895
Tacoma branch	847	
		992
Washington State University		
Main campus	17,403	
		((17,723))
		<u>17,272</u>
Spokane branch	352	
		442
Tri-Cities branch	754	
		((814))
		<u>754</u>
Vancouver branch	851	
		971
Central Washington University	7,346	
		7,446
Eastern Washington University	7,739	
		7,739
The Evergreen State College	3,496	
		3,576
Western Washington University	10,188	
		10,338
State Board for Community and Technical Colleges	116,426	
		118,526
Higher Education Coordinating Board	50	
		50
<b>Sec. 603.</b> 1997 c 454 s 603 (uncodified) is amended to read as follows:		
<b>FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES</b>		
General Fund--State Appropriation (FY 1998)	\$	((382,891,000))
		<u>380,445,000</u>
General Fund--State Appropriation (FY 1999)	\$	((420,961,000))
		<u>421,647,000</u>
General Fund--Federal Appropriation	\$	11,404,000

Employment and Training Trust Account

Appropriation \$

((26,346,000))

29,114,000

TOTAL APPROPRIATION \$

((841,602,000))

842,610,000

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

(1) \$2,718,000 of the general fund--state appropriation for fiscal year 1998 and \$4,079,000 of the general fund--state appropriation for fiscal year 1999 shall be held in reserve by the board. These funds are provided for improvements in productivity, efficiency, and student retention. The board may approve the fiscal year 1998 allocation of funds under this subsection upon completion of an implementation plan. The implementation plan shall be submitted by the board to the appropriate legislative committees and the office of financial management in accordance with section 601(4) of this act by September 1, 1997. The board may approve the fiscal year 1999 allocation of funds under this subsection based on the board's evaluation of:

(a) College performance compared to the goals for productivity, efficiency, and student retention as submitted in the plan required in section 601(4) of this act; and

(b) The quality and effectiveness of the strategies the colleges propose to achieve continued improvement in quality and efficiency during the 1998-99 academic year.

(2) (~~(\$2,553,000 of the general fund--state appropriation for fiscal year 1998, \$28,761,000)~~ \$28,546,000 of the general fund--state appropriation for fiscal year 1999(~~(=)~~) and the entire employment and training trust account appropriation are provided solely as special funds for training and related support services, including financial aid, child care, and transportation, as specified in chapter 226, Laws of 1993 (employment and training for unemployed workers) and Substitute House Bill No. 2214.

(a) Funding is provided to support up to 7,200 full-time equivalent students in each fiscal year.

(b) The state board for community and technical colleges shall submit a plan for the allocation of the full-time equivalent students provided in this subsection to the workforce training and education coordinating board for review and approval.

(3) \$1,441,000 of the general fund--state appropriation for fiscal year 1998 and \$1,441,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for 500 FTE enrollment slots to implement RCW 28B.50.259 (timber-dependent communities).

(4) \$1,862,500 of the general fund--state appropriation for fiscal year 1998 and \$1,862,500 of the general fund--state appropriation for fiscal year 1999 are provided solely for assessment of student outcomes at community and technical colleges.

(5) \$706,000 of the general fund--state appropriation for fiscal year 1998 and \$706,000 of general fund--state appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(6) Up to \$1,035,000 of the general fund--state appropriation for fiscal year 1998 and up to \$2,102,000 of the general fund--state appropriation for fiscal year 1999 may be used in combination with salary and benefit savings from faculty turnover to provide faculty salary increments and associated benefits. To the extent general salary increase funding is used to pay faculty increments, the general salary increase shall be reduced by the same amount.

(7) To address part-time faculty salary disparities and to increase the ratio of full-time to part-time faculty instructors, the board shall provide salary increases to part-time instructors or hire additional full-time instructional staff under the following conditions and limitations: (a) The amount used for such purposes shall not exceed an amount equivalent to an additional salary increase of 1.0 percent on July 1, 1997, and an additional salary increase of 2.0 percent on July 1, 1998, for instructional faculty as classified by the office of financial management; and (b) at least \$2,934,000 shall be spent for the purposes of this subsection.

(8) \$83,000 of the general fund--state appropriation for fiscal year 1998 and (~~(\$1,567,000)~~ \$867,000) of the general fund--state appropriation for fiscal year 1999 are provided for personnel and expenses to develop curricula, library resources, and operations of Cascadia Community College. It is the legislature's intent to use the opportunity provided by the establishment of the new institution to conduct a pilot project of budgeting based on instructional standards and outcomes. The college shall use a portion of the available funds to develop a set of measurable standards and outcomes as the basis for budget development in the 1999-01 biennium.

(9) The technical colleges may increase tuition and fees to conform with the percentage increase in community college operating fees enacted by the 1997 legislature. The community colleges may charge up to the maximum level authorized for services and activities fees in RCW 28B.15.069.

(10) Community and technical colleges with below-average faculty salaries may use funds identified by the state board in the 1997-98 and 1998-99 operating allocations to increase faculty salaries no higher than the system-wide average.

(11) \$1,000,000 of the general fund--state appropriation for fiscal year 1998 and \$1,000,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for tuition support for students enrolled in work-based learning programs.

(12) \$700,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for a technology equipment matching program for community and technical colleges. Each college district shall match its allocation of this appropriation with an equal amount of cash donations from private sources.

(13) \$125,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8), as referenced in section 707(1)(c) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

(14) \$669,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1), as referenced in section 707(1)(d) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

**Sec. 604.** 1997 c 454 s 604 (uncodified) is amended to read as follows:

**FOR UNIVERSITY OF WASHINGTON**

General Fund Appropriation (FY 1998) \$	283,923,000
General Fund Appropriation (FY 1999) \$	((289,807,000))
	<u>293,988,000</u>
Death Investigations Account Appropriation \$	((1,810,000))
	<u>2,162,000</u>
Industrial Insurance Premium Refund Account Appropriation \$	514,000
Accident Account Appropriation \$	4,969,000
Medical Aid Account Appropriation \$	4,989,000
TOTAL APPROPRIATION \$	((586,012,000))
	<u>590,545,000</u>

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

(1) \$2,019,000 of the general fund appropriation for fiscal year 1998 and \$3,029,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$800,000 of the general fund appropriation for fiscal year 1998 and \$1,896,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Tacoma branch campus above the 1996-97 budgeted FTE level.

(3) \$593,000 of the general fund appropriation for fiscal year 1998 and \$1,547,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Bothell branch campus above the 1996-97 budgeted FTE level.

(4) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(5) \$324,000 of the general fund appropriation for fiscal year 1998 and \$324,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(6) \$130,000 of the general fund appropriation for fiscal year 1998 and \$130,000 of the general fund appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action item UW-01.



(7) \$1,200,000 of the general fund appropriation for fiscal year 1998 and \$1,200,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(8) \$47,000 of the fiscal year 1998 general fund appropriation and \$47,000 of the fiscal year 1999 general fund appropriation are provided solely to employ a fossil preparator/educator in the Burke Museum. The entire amounts provided in this subsection shall be provided directly to the Burke Museum.

(9) \$75,000 of the general fund appropriation for fiscal year 1998 and \$75,000 of the general fund appropriation for fiscal year 1999 are provided solely for enhancements to research capabilities at the Olympic natural resources center.

(10) \$150,000 of the general fund appropriation for fiscal year 1999 is provided solely for remodeling and equipment necessary to accommodate enrollment growth at the Bothell branch campus.

(11) \$560,000 of the general fund appropriation for fiscal year 1999 is provided solely for the disabilities, opportunities, internetworking, and technology program.

(12) \$3,000,000 of the general fund appropriation for fiscal year 1999 is provided solely to establish a high speed internet-2 hub.

(13) \$150,000 of the general fund appropriation for fiscal year 1999 is provided solely to support the physicians assistant program in Spokane.

(14) \$352,000 of the death investigations account appropriation is provided solely for staff and equipment for the state toxicology laboratory to support implementation of quality control procedures and laboratory certification, and for enhanced screening of sexual assault victims, blood alcohol and volatile intoxicants analysis, and blood tests for marijuana in driving cases.

(15) \$74,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in Burbage et al. v. State of Washington (Thurston county superior court cause no. 94-2-02560-8), as referenced in section 707(1)(c) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

(16) \$397,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in Retired State Employees et al. v. State of Washington (Thurston county superior court cause no. 92-2-01294-1), as referenced in section 707(1)(d) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

**Sec. 605.** 1997 c 454 s 605 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

General Fund Appropriation (FY 1998) \$	((166,644,000))
	<u>169,894,000</u>
General Fund Appropriation (FY 1999) \$	((172,819,000))
	<u>171,125,000</u>
Air Pollution Control Account Appropriation \$	206,000
TOTAL APPROPRIATION \$	((339,669,000))
	<u>341,225,000</u>

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

(1) \$1,204,000 of the general fund appropriation for fiscal year 1998 and \$1,807,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$1,059,000 of the general fund appropriation for fiscal year 1999 is provided solely to support additional upper-division and graduate level enrollments at the Vancouver branch campus above the 1996-97 budgeted FTE level.

(3) \$263,000 of the general fund appropriation for fiscal year 1998 and ~~(\$789,000)~~ \$263,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Tri-Cities branch campus above the 1996-97 budgeted FTE level.

(4) \$971,000 of the general fund appropriation for fiscal year 1999 is provided solely to support additional upper-division and graduate level enrollments at the Spokane branch campus above the 1996-97 budgeted FTE level.

(5) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(6) \$140,000 of the general fund appropriation for fiscal year 1998 and \$140,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(7) \$157,000 of the general fund appropriation for fiscal year 1998 and \$157,000 of the general fund appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action item WSU-01.

(8) \$600,000 of the general fund appropriation for fiscal year 1998 and \$600,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(9) \$50,000 of the general fund appropriation for fiscal year 1998 and \$50,000 of the general fund appropriation for fiscal year 1999 are provided solely for yellow star thistle research.

(10) \$55,000 of the general fund appropriation for fiscal year 1998 and \$55,000 of the general fund appropriation for fiscal year 1999 are provided solely for the Goldendale distance learning center.

(11) \$3,250,000 of the general fund appropriation for fiscal year 1998 is provided solely for legal costs and settlement payments associated with construction claims for the Vancouver branch campus and the veterinary teaching hospital capital projects.

(12) \$590,000 of the general fund appropriation for fiscal year 1999 is provided solely for the management of the Spokane riverpoint campus as provided in Substitute Senate Bill No. 6655.

(13) \$100,000 of the fiscal year 1999 general fund appropriation is provided solely for the aquatic animal health diagnostic center to accommodate an unanticipated caseload increase.

(14) \$43,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8), as referenced in section 707(1)(c) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

(15) \$228,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1), as referenced in section 707(1)(d) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

**Sec. 606.** 1997 c 454 s 606 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998) \$	39,211,000
General Fund Appropriation (FY 1999) \$	<del>((39,489,000))</del>
	<u>39,563,000</u>
TOTAL APPROPRIATION \$	<del>((78,700,000))</del>
	<u>78,774,000</u>

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

(1) \$285,000 of the general fund appropriation for fiscal year 1998 and \$428,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$93,000 of the general fund appropriation for fiscal year 1998 and \$93,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$53,000 of the general fund--state appropriation for fiscal year 1998 and \$54,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall

provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(5) \$3,188,000 of the general fund appropriation for fiscal year 1998 and \$3,188,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve pending attainment of budgeted enrollments of 6,942 FTEs. The office of financial management shall approve the allotment of funds under this subsection at the annual rate of \$4,000 for annual student FTEs in excess of 6,942 based on tenth day quarterly enrollment and the office of financial management's quarterly budget driver report. In addition, allotments of reserve funds in this section shall be approved by the office of financial management upon approval by the higher education coordinating board for (a) actions that will result in additional enrollment growth, and (b) contractual obligations in fiscal year 1998 to the extent such funds are required.

(6) Pursuant to section 904 of this act and within current appropriation levels, the waiver limit for Eastern Washington University is increased from 11 percent to 14 percent during the 1997-99 fiscal biennium. Eastern Washington University shall report by December 15, 1998, to the appropriate committees of the legislature, the office of financial management, and the higher education coordinating board on its implementation of the increased waiver limit.

(7) \$12,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8), as referenced in section 707(1)(c) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

(8) \$62,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1), as referenced in section 707(1)(d) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

Sec. 607. 1997 c 454 s 607 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998) \$	((37,214,000))
	<u>37,244,000</u>
General Fund Appropriation (FY 1999) \$	((38,616,000))
	<u>38,749,000</u>
TOTAL APPROPRIATION \$	((75,830,000))
	<u>75,993,000</u>

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

(1) \$269,000 of the general fund appropriation for fiscal year 1998 and \$403,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$70,000 of the general fund appropriation for fiscal year 1998 and \$70,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$51,000 of the general fund appropriation for fiscal year 1998 and \$51,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The college shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(5) \$11,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8), as referenced in section 707(1)(c) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

(6) \$62,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-

01294-1), as referenced in section 707(1)(d) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

Sec. 608. 1997 c 454 s 608 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund Appropriation (FY 1998) \$	((20,151,000))
	<u>20,401,000</u>
General Fund Appropriation (FY 1999) \$	((20,518,000))
	<u>20,596,000</u>
TOTAL APPROPRIATION \$	((40,669,000))
	<u>40,997,000</u>

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

(1) \$144,000 of the general fund appropriation for fiscal year 1998 and \$217,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$47,000 of the general fund appropriation for fiscal year 1998 and \$47,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$29,000 of the general fund appropriation for fiscal year 1998 and \$29,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The college shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(5) \$35,000 of the general fund appropriation for fiscal year 1999 is provided solely for the Washington institute for public policy to conduct a study of college students' employment. The study shall include, but need not be limited to, matching student enrollment information with unemployment insurance information. The office of financial management, higher education coordinating board, state board for community and technical colleges, and the employment security department shall assist the institute in the performance of the study. Results of the study are to be reported to the legislature by January 15, 1999.

(6) \$250,000 of the general fund appropriation for fiscal year 1998 is provided solely for equipment and expenses necessary to accommodate enrollment growth.

(7) \$7,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8), as referenced in section 707(1)(c) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

(8) \$36,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1), as referenced in section 707(1)(d) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

Sec. 609. 1997 c 454 s 609 (uncodified) is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998) \$	47,822,000
General Fund Appropriation (FY 1999) \$	((48,855,000))
	<u>48,951,000</u>
TOTAL APPROPRIATION \$	((96,677,000))

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

(1) \$342,000 of the general fund appropriation for fiscal year 1998 and \$514,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$93,000 of the general fund appropriation for fiscal year 1998 and \$93,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$66,000 of the general fund appropriation for fiscal year 1998 and \$67,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(5) \$15,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8), as referenced in section 707(1)(c) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

(6) \$81,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1), as referenced in section 707(1)(d) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

Sec. 610. 1997 c 454 s 610 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD--POLICY COORDINATION AND ADMINISTRATION**

General Fund--State Appropriation (FY 1998) \$	((2,734,000))
	<u>2,809,000</u>
General Fund--State Appropriation (FY 1999) \$	((2,615,000))
	<u>3,604,000</u>
General Fund--Federal Appropriation \$	((693,000))
	<u>704,000</u>
TOTAL APPROPRIATION \$	((6,042,000))
	<u>7,117,000</u>

The appropriations in this section are provided to carry out the accountability, performance measurement, policy coordination, planning, studies and administrative functions of the board and are subject to the following conditions and limitations:

(1) The board shall set performance targets, review, recommend changes if necessary, and approve plans defined in section 601(3)(a) of this act for achieving measurable and specific improvements in academic years 1997-98 and 1998-99. By October 1, 1997, the board shall notify the office of financial management to allot institutions' fiscal year 1998 performance funds held in reserve, based upon the adequacy of plans prepared by the institutions.

(2) The board shall develop criteria to assess institutions' performance and shall use those criteria in determining the allotment of performance and accountability funds. The board shall evaluate each institution's achievement of performance targets for the 1997-98 academic year and, by ~~((August 1))~~ November 15, 1998, the board shall notify the office of financial management to allot institutions' fiscal year 1999 performance funds held in reserve, based upon each institution's performance ~~((, except for performance funds held for achievement of the student retention measure. For the student retention measure, the board shall notify the office of financial management by November 1, 1998, to allot institutions' fiscal year 1999 performance funds held in reserve, based upon each institution's performance))~~.

(3) By January, 1999, the board shall recommend to the office of financial management and appropriate legislative committees any recommended additions, deletions, or revisions to the performance and accountability measures in sections 601(3) of this act as part of the next master plan for higher education. The recommendations shall be developed in consultation with the institutions of higher education and may include additional performance indicators to measure successful student learning and other student outcomes for possible inclusion in the 1999-01 operating budget. The recommendations shall include measures of performance demonstrating specific and measurable improvements related to distance education and education provided primarily through technology, to be determined by the board, in consultation with the institutions of higher education.

(4) \$280,000 of the general fund--state appropriation for fiscal year 1998 and \$280,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for enrollment to implement RCW 28B.80.570 through 28B.80.585 (rural natural resources impact areas). The number of students served shall be 50 full-time equivalent students per fiscal year. The board shall ensure that enrollments reported under this subsection meet the criteria outlined in RCW 28B.80.570 through 28B.80.585.

(5) \$70,000 of the general fund--state appropriation for fiscal year 1998 and \$70,000 of the general fund--state appropriation for fiscal year 1999 are provided to develop a competency based admissions system for higher education institutions. The board shall complete the competency based admissions system and issue a report outlining the competency based admissions system by January 1999.

(6) \$500,000 of the general fund--state appropriation for fiscal year 1998 and \$500,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for activities related to higher education facilities planning, project monitoring, and access issues related to capital facilities. Of this amount, \$50,000 is provided for a study of higher education needs of Okanogan county and surrounding communities with consideration given to alternative approaches to educational service delivery, facility expansion, relocation or partnership, and long-term growth and future educational demands of the region.

(7) \$150,000 of the general fund--state appropriation for fiscal year 1998 is provided solely as one-time funding for computer upgrades.

(8) \$75,000 of the general fund--state appropriation for fiscal year 1998 and \$175,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to conduct a higher education and economic assessment of the Spokane area as described in Substitute Senate Bill No. 6655.

(9) \$810,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to complete the cooperative library project for the four-year public higher education institutions. Funds shall be transferred to the University of Washington for one-time equipment acquisition, ongoing support of the system, and acquisition of shared electronic journals for use by all the member institutions.

(10) \$1,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8), as referenced in section 707(1)(c) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

(11) \$3,000 of the general fund--state appropriation for fiscal year 1999 is provided solely to pay the increased employer funding rate resulting from the settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1), as referenced in section 707(1)(d) of this act. If the stipulated settlement is not approved by the court by August 1, 1998, the amount provided in this subsection shall lapse.

**Sec. 611.** 1997 c 454 s 611 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD--FINANCIAL AID AND GRANT PROGRAMS**

General Fund--State Appropriation (FY 1998) \$	((89,369,000))
	<u>89,606,000</u>
General Fund--State Appropriation (FY 1999) \$	((96,209,000))
	<u>97,232,000</u>
General Fund--Federal Appropriation \$	((8,255,000))
	<u>8,278,000</u>
<u>Advanced College Tuition Payment Program Account</u>	
<u>Appropriation \$</u>	<u>1,198,000</u>
TOTAL APPROPRIATION \$	((193,833,000))

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

(1) \$527,000 of the general fund--state appropriation for fiscal year 1998 and \$526,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the displaced homemakers program.

(2) \$216,000 of the general fund--state appropriation for fiscal year 1998 and \$220,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the western interstate commission for higher education.

(3) \$118,000 of the general fund--state appropriation for fiscal year 1998 and \$118,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the health personnel resources plan.

(4) \$1,000,000 of the general fund--state appropriation for fiscal year 1998 and \$1,000,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the scholarships and loans program under chapter 28B.115 RCW, the health professional conditional scholarship program. This amount shall be deposited to the health professional loan repayment and scholarship trust fund to carry out the purposes of the program.

(5) \$86,783,000 of the general fund--state appropriation for fiscal year 1998 and \$93,728,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for student financial aid, including all administrative costs. The amounts in (a), (b), and (c) of this subsection are sufficient to implement Second Substitute House Bill No. 1851 (higher education financial aid). Of these amounts:

(a) \$67,266,000 of the general fund--state appropriation for fiscal year 1998 and \$73,968,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the state need grant program. ~~(((((~~) After April 1 of each fiscal year, up to one percent of the annual appropriation for the state need grant program may be transferred to the state work study program.

(b) \$15,350,000 of the general fund--state appropriation for fiscal year 1998 and \$15,350,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the state work study program. After April 1 of each fiscal year, up to one percent of the annual appropriation for the state work study program may be transferred to the state need grant program;

(c) \$2,420,000 of the general fund--state appropriation for fiscal year 1998 and \$2,420,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for educational opportunity grants. For the purpose of establishing eligibility for the equal opportunity grant program for placebound students under RCW 28B.101.020, Thurston county lies within the branch campus service area of the Tacoma branch campus of the University of Washington;

(d) A maximum of 2.1 percent of the general fund--state appropriation for fiscal year 1998 and 2.1 percent of the general fund--state appropriation for fiscal year 1999 may be expended for financial aid administration, excluding the four percent state work study program administrative allowance provision;

(e) \$230,000 of the general fund--state appropriation for fiscal year 1998 and \$201,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the educator's excellence awards. Any educator's excellence moneys not awarded by April 1st of each year may be transferred by the board to either the Washington scholars program or, in consultation with the workforce training and education coordinating board, to the Washington award for vocational excellence;

(f) \$1,011,000 of the general fund--state appropriation for fiscal year 1998 and \$1,265,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement the Washington scholars program. Any Washington scholars program moneys not awarded by April 1st of each year may be transferred by the board to either the educator's excellence awards or, in consultation with the workforce training and education coordinating board, to the Washington award for vocational excellence;

(g) \$456,000 of the general fund--state appropriation for fiscal year 1998 and \$474,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Washington award for vocational excellence program. Any Washington award for vocational program moneys not awarded by April 1st of each year may be transferred by the board to either the educator's excellence awards or the Washington scholars program;

(h) \$51,000 of the general fund--state appropriation for fiscal year 1998 and \$51,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for community scholarship matching grants of \$2,000 each. To be eligible for the matching grant, a nonprofit community organization organized under section 501(c)(3) of the internal revenue code must demonstrate that it has raised \$2,000 in new moneys for college scholarships after the effective date of this act. No organization may receive more than one \$2,000 matching grant; and

(6) ~~(((\$175,000 of the general fund--state appropriation for fiscal year 1998 and \$175,000 of the general fund--state appropriation for fiscal year 1999 are provided solely to implement Engrossed Second Substitute House Bill No. 1372 or Second Substitute Senate Bill No. 5106 (Washington advanced college tuition payment program). If neither Engrossed Second Substitute House Bill No. 1372 nor Second Substitute Senate Bill No. 5106 is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.))~~ \$412,000 of the general fund--state appropriation for fiscal year 1998 and \$1,198,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for working capital for the advanced tuition payment program. The funds provided in this subsection may be expended only to the extent that revenue from application fees and interest earnings deposited in the advanced college tuition payment program account are insufficient to

support program operation. Prior to the end of fiscal year 1999, expenditures shall be transferred between funds to the extent that program application fees and interest earnings are available to minimize the expenditure from the general fund.

(7) \$187,000 of the general fund--state appropriation for fiscal year 1998 and \$188,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for a demonstration project in the 1997-99 biennium to provide undergraduate fellowships based upon the graduate fellowship program.

(8) Funding is provided in this section for the development of three models for tuition charges for distance learning programs. Institutions involved in distance education or extended learning shall provide information to the board on the usage, cost, and revenue generated by such programs.

**Sec. 612.** 1997 c 149 s 612 (uncodified) is amended to read as follows:

**FOR THE JOINT CENTER FOR HIGHER EDUCATION**

General Fund Appropriation (FY 1998) \$	1,469,000
<del>((General Fund Appropriation (FY 1999) -- \$</del>	<del>1,470,000))</del>
TOTAL APPROPRIATION \$	<del>((2,939,000))</del>
	<u>1,469,000</u>

**Sec. 613.** 1997 c 149 s 614 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE LIBRARY**

General Fund--State Appropriation (FY 1998) \$	<del>((7,483,000))</del>
	<u>7,533,000</u>
General Fund--State Appropriation (FY 1999) \$	<del>((7,281,000))</del>
	<u>7,631,000</u>
General Fund--Federal Appropriation \$	<del>((4,847,000))</del>
	<u>6,817,000</u>
TOTAL APPROPRIATION \$	<del>((19,611,000))</del>
	<u>21,981,000</u>

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

(1) At least \$2,524,000 shall be expended for a contract with the Seattle public library for library services for the Washington book and braille library.

(2) \$198,000 of the general fund--state appropriation for fiscal year 1998 ~~((is))~~ and \$200,000 of the general fund--state appropriation for fiscal year 1999 are provided solely for the state library to continue the government information locator service in accordance with chapter 171, Laws of 1996. The state library, in consultation with interested parties, shall prepare an evaluation of the government information locator service by October 1, 1997. The evaluation shall include a cost-benefit analysis, a determination of fiscal impacts to the state, and programmatic information. The evaluation report shall be provided to the appropriate legislative fiscal committees.

(3) \$100,000 of the general fund--state appropriation for fiscal year 1999 is provided solely for enhancement of the state library's collection.

**Sec. 614.** 1997 c 149 s 616 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation (FY 1998) \$	<del>((2,502,000))</del>
	<u>2,658,000</u>
General Fund Appropriation (FY 1999) \$	



	((2,531,000))
	<u>2,745,000</u>
TOTAL APPROPRIATION \$	((5,033,000))
	<u>5,403,000</u>

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

(1) \$216,200 of the general fund appropriation for fiscal year 1998 and \$216,200 of the general fund appropriation for fiscal year 1999 are provided solely for exhibit and educational programming.

(2) \$156,000 of the general fund appropriation for fiscal year 1998 and \$164,000 of the general fund appropriation for fiscal year 1999 are provided solely for the temporary relocation of research center operations.

(3) \$50,000 of the general fund appropriation for fiscal year 1999 is provided solely for activities related to the Lewis and Clark Bicentennial.

**Sec. 615.** 1997 c 149 s 618 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE BLIND**

General Fund--State Appropriation (FY 1998) \$	((3,714,000))
	<u>3,723,000</u>
General Fund--State Appropriation (FY 1999) \$	((3,738,000))
	<u>3,747,000</u>
General Fund--Private/Local Appropriation \$	((192,000))
	<u>418,000</u>
TOTAL APPROPRIATION \$	((7,644,000))
	<u>7,888,000</u>

**Sec. 616.** 1997 c 149 s 619 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE DEAF**

General Fund Appropriation (FY 1998) \$	((6,458,000))
	<u>6,467,000</u>
General Fund Appropriation (FY 1999) \$	((6,459,000))
	<u>6,468,000</u>
TOTAL APPROPRIATION \$	((12,917,000))
	<u>12,935,000</u>

**PART VII  
SPECIAL APPROPRIATIONS**

**Sec. 701.** 1997 c 149 s 701 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL FUND BOND DEBT**

General Fund Appropriation (FY 1998) \$

	((447,283,000))
	<u>448,355,000</u>
General Fund Appropriation (FY 1999) \$	((485,077,000))
	<u>484,005,000</u>
General Fund Bonds Subject to the Limit Bond Retirement Account Appropriation \$	932,360,000
TOTAL APPROPRIATION \$	\$1,864,720,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the general fund bonds subject to the limit bond retirement account.

**Sec. 702.** 1997 c 149 s 703 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE**

General Fund Appropriation (FY 1998) \$	((23,096,000))
	<u>23,186,000</u>
General Fund Appropriation (FY 1999) \$	((25,603,000))
	<u>25,642,000</u>
General Fund Bonds Excluded from the Limit Bond Retirement Account Appropriation \$	((48,699,000))
	<u>48,828,000</u>
Reimbursable Bonds Excluded from the Limit Bond Retirement Account Appropriation \$	104,933,000
Reimbursable Bonds Subject to the Limit Bond Retirement Account Appropriation \$	((402,000))
	<u>2,264,000</u>
TOTAL APPROPRIATION \$	((202,733,000))
	<u>204,853,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the general fund bonds excluded from the limit bond retirement account.

**Sec. 703.** 1997 c 149 s 705 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES**

General Fund Appropriation (FY 1998) \$	475,000
General Fund Appropriation (FY 1999) \$	475,000
Higher Education Construction Account	

Appropriation	\$	((215,000))
		<u>440,000</u>
State Building Construction Account		
Appropriation	\$	((6,374,000))
		<u>7,683,000</u>
Public Safety Reimbursable Bond Account		
Appropriation	\$	((8,000))
		<u>23,000</u>
TOTAL APPROPRIATION	\$	((7,547,000))
		<u>9,096,000</u>
Total Bond Retirement and Interest Appropriations		
contained in sections 701 through 705 of this act	\$	((2,121,748,000))
		<u>2,125,417,000</u>
<b>Sec. 704.</b> 1997 c 149 s 710 (uncodified) is amended to read as follows:		
<b>FOR THE OFFICE OF FINANCIAL MANAGEMENT--YEAR 2000 ALLOCATIONS</b>		
<del>((General Fund--State Appropriation (FY 1998) --</del>	\$	3,380,000
<del>(General Fund--State Appropriation (FY 1999) --</del>		<del>1,9960,000))</del>
General Fund--Federal Appropriation	\$	2,883,000
Liquor Revolving Account Appropriation	\$	131,000
Health Care Authority Administrative Account		
Appropriation	\$	631,000
Accident Account Appropriation	\$	1,102,000
Medical Aid Account Appropriation	\$	1,102,000
Unemployment Compensation Administration Account--		
Federal Appropriation	\$	1,313,000
<del>((Administrative Contingency Account</del>		
<del>Appropriation --</del>	\$	<del>948,000))</del>
Employment Services Administrative Account		
Appropriation	\$	((500,000))
		<u>461,000</u>

Forest Development Account Appropriation \$	156,000
Off Road Vehicle Account Appropriation \$	7,000
Surveys and Maps Account Appropriation \$	1,000
Aquatic Lands Enhancement Account Appropriation \$	8,000
Resource Management Cost Account Appropriation \$	348,000
TOTAL APPROPRIATION \$	<del>((14,470,000))</del>
	<u>8,143,000</u>

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

(1) The appropriations will be allocated by the office of financial management to agencies to complete Year 2000 date conversion maintenance on their computer systems. Agencies shall submit their estimated costs of conversion to the office of financial management by July 1, 1997.

(2) Up to \$10,000,000 of the cash balance of the data processing revolving account may be expended on agency Year 2000 date conversion costs. The \$10,000,000 will be taken from the cash balances of the data processing revolving account's two major users, as follows: \$7,000,000 from the department of information services and \$3,000,000 from the office of financial management. The office of financial management in consultation with the department of information services shall allocate these funds as needed to complete the date conversion projects.

(3) Agencies receiving these allocations shall report at a minimum to the information services board and to the governor every six months on the progress of Year 2000 maintenance efforts.

**NEW SECTION. Sec. 705.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--YEAR 2000 CONVERSION**

General Fund Appropriation (FY 1998) \$	233,000
General Fund Appropriation (FY 1999) \$	33,000
Hospital Commission Account Appropriation \$	115,000
Architects' License Account Appropriation \$	3,000
Professional Engineers' Account Appropriation \$	9,000
Real Estate Commission Account Appropriation \$	24,000
Health Professions Account Appropriation \$	275,000
Master License Account Appropriation \$	70,000
Safe Drinking Water Account Appropriation \$	50,000
Uniform Commercial Code Account Appropriation \$	11,000
Unemployment Compensation Administration Account-- Federal Appropriation \$	3,245,000
Department of Retirement Systems Expense Account Appropriation \$	890,000

Health Services Account Appropriation	\$	254,000
TOTAL APPROPRIATION		5,212,000

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

- (1) The appropriations will be allocated by the office of financial management to agencies to perform Year 2000 date conversion maintenance on their computer systems and are provided solely for these purposes.
- (2) Agencies receiving these allocations shall report at a minimum to the information services board and to the governor every six months on the progress of Year 2000 maintenance efforts.

**NEW SECTION. Sec. 706.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--YEAR 2000 CONTINGENCY POOL**

General Fund Appropriation (FY 1998)	\$	800,000
General Fund Appropriation (FY 1999)	\$	4,200,000
Year 2000 Contingency Revolving Account Appropriation	\$	5,000,000
TOTAL APPROPRIATION		10,000,000

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

- (1) The appropriations will be allocated by the office of financial management, in consultation with the department of information systems, to agencies to perform Year 2000 maintenance on their computer systems and are provided solely for these purposes.
- (2) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the Year 2000 contingency revolving account, hereby created in the state treasury, in accordance with schedules provided by the office of financial management for additional Year 2000 maintenance on their computer systems.
- (3) All agencies that receive these allocations will report upon request throughout the biennium to the information services board and to the governor on the progress of Year 2000 maintenance efforts.

**Sec. 707.** 1997 c 149 s 712 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR--COMPENSATION--INSURANCE BENEFITS**

General Fund--State Appropriation (FY 1998)	\$	823,000
General Fund--State Appropriation (FY 1999)	\$	((6,257,000))
		<u>8,355,000</u>
General Fund--Federal Appropriation	\$	((2,431,000))
		<u>3,152,000</u>
General Fund--Private/Local Appropriation	\$	((146,000))
		<u>190,000</u>
Salary and Insurance Increase Revolving Account Appropriation	\$	((5,465,000))
TOTAL APPROPRIATION		7,081,000
		((45,122,000))
		<u>19,601,000</u>

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

(1)(a) The monthly ~~((contribution))~~ employer funding rate for insurance benefit premiums shall not exceed \$312.35 per eligible employee for fiscal year 1998, and \$331.31 for fiscal year 1999.

(b) The monthly ~~((contribution))~~ employer funding rate for the operating costs of the health care authority shall not exceed \$4.99 per eligible employee for fiscal year 1998, and ~~((4.44))~~ \$4.67 for fiscal year 1999.

(c) An additional \$1.12 per eligible employee shall be included in the employer funding rate for fiscal year 1999 to increase life insurance coverage in accordance with the stipulated settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8). \$330,000 of the fiscal year 1999 general fund--state appropriation, \$113,000 of the general fund--federal appropriation, \$7,000 of the general fund--private/local appropriation, and \$254,000 of the salary and insurance increase revolving account appropriation are provided solely for the additional \$1.12 employer funding rate. If the stipulated settlement is not approved by August 1, 1998, these amounts shall lapse.

(d) An additional \$5.77 per eligible employee shall be included in the employer funding rate for fiscal year 1999 to begin repaying the public employees' and retirees' insurance account for any claims paid as a result of a court-approved stipulated settlement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1). \$1,768,000 of the fiscal year 1999 general fund--state appropriation, \$608,000 of the general fund--federal appropriation, \$37,000 of the general fund--private/local appropriation, and \$1,362,000 of the salary and insurance increase revolving account appropriation are provided solely for the additional \$5.77 employer funding rate. If the stipulated settlement is not approved by August 1, 1998, these amounts shall lapse.

(e) Surplus moneys accruing to the public employees' and retirees' insurance account due to lower-than-projected insurance costs may not be reallocated by the health care authority to increase the actuarial value of public employee insurance plans. Such funds shall be held in reserve in the public employees' and retirees' insurance account and may not be expended without prior legislative authorization.

~~((d))~~ (f) In order to achieve the level of funding provided for health benefits, the public employees' benefits board may require employee premium co-payments, increase point-of-service cost sharing, and/or implement managed competition.

(2) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special fund salary and insurance contribution increase revolving fund in accordance with schedules provided by the office of financial management.

(3) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for parts A and B of medicare, pursuant to RCW 41.05.085. From January 1, 1998, through December 31, 1998, the subsidy shall be \$41.26 per month. Starting January 1, 1999, the subsidy shall be \$43.16 per month.

(4) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit in the public employees' and retirees' insurance account established in RCW 41.05.120:

(a) For each full-time employee, \$14.80 per month beginning September 1, 1997;

(b) For each part-time employee who, at the time of the remittance, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$14.80 each month beginning September 1, 1997, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives.

The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

(5) The salary and insurance increase revolving account appropriation includes amounts sufficient to fund health benefits for ferry workers at the premium levels specified in subsection (1) of this section, consistent with the 1997-99 transportation appropriations act.

**NEW SECTION. Sec. 708.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE STATE TREASURER--FOR THE PUBLIC EMPLOYEES' AND RETIREES' INSURANCE ACCOUNT**

Pension Funding Account Appropriation (FY 1998) \$

25,000,000

The appropriation in this section shall be deposited in the public employees' and retirees' insurance account and is provided solely to pay claims resulting from a court-approved stipulated agreement in *Retired State Employees et al. v. State of Washington* (Thurston county superior court cause no. 92-2-01294-1).

**NEW SECTION. Sec. 709.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**COMMUNITY AND TECHNICAL COLLEGES CAPITAL PROJECTS ACCOUNT**

General Fund Appropriation (FY 1999) \$

5,200,000

The appropriation in this section is provided solely for deposit in the community and technical colleges capital projects account.

**Sec. 710.** 1997 c 454 s 704 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--COMPENSATION ACTIONS OF PERSONNEL RESOURCES BOARD**

General Fund-- <u>State</u> Appropriation (FY 1998) \$	5,289,000
General Fund-- <u>State</u> Appropriation (FY 1999) \$	10,642,000
<u>General Fund--Federal Appropriation</u> \$	<u>2,777,000</u>
Salary and Insurance Increase Revolving Account Appropriation \$	((8,862,000))
	<u>6,085,000</u>

TOTAL APPROPRIATION \$

24,793,000

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations in this section.

(1) Funding is provided to fully implement the recommendations of the Washington personnel resources board consistent with the provisions of chapter 319, Laws of 1996.

(2) Implementation of the salary adjustments for the various clerical classes, physicians, dental classifications, pharmacists, maintenance custodians, medical records technicians, fish/wildlife biologists, fish/wildlife enforcement, habitat technicians, and fiscal technician classifications will be effective July 1, 1997. Implementation of the salary adjustments for safety classifications, park rangers, park aides, correctional officers/sergeants, community corrections specialists, tax information specialists, industrial relations specialists, electrical classifications at the department of labor and industries, fingerprint technicians, some labor relations classifications, health benefits specialists, foresters/land managers, and liquor enforcement officers will be effective July 1, 1998.

**NEW SECTION. Sec. 711. LEOFF RETIREMENT STUDY.** The joint committee on pension policy shall study (1) providing additional benefits to members of the law enforcement officers' and fire fighters' plan II retirement system and funding those benefit increases through the member contribution rate rather than the state and employer contribution rates, and (2) creating a new law enforcement officers' and fire fighters' retirement plan that includes a defined benefit portion and a defined contribution portion. The joint committee on pension policy shall report its findings to the legislature by January 15, 1999.

**NEW SECTION. Sec. 712.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR SUNDRY CLAIMS.** The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of general administration, except as otherwise provided, as follows:

(1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110:

(a) Steven M. Lauritz, claim number SCJ 97-11 \$	2,534
(b) George Greenland, claim number SCJ 97-13 \$	16,235
(c) Edwin H. Evans, claim number SCJ 97-14 \$	3,997
(d) Bryan E. Vance, claim number SCJ 97-16 \$	14,866
(e) Jesse L. Smith, claim number SCJ 97-17 \$	23,027
(f) Thomas N. Klein, claim number SCJ 97-18 \$	14,338
(g) John F. Richards, claim number SCJ 97-19 \$	7,335
(h) Anthony C. Otto, claim number SCJ 97-09 \$	16,962
(i) Eric C. Swanson, claim number SCJ 97-21 \$	86,152
(j) Mark J. Campbell, claim number SCJ 98-01 \$	7,218

(2) Payment from the state wildlife account for damage to crops by wildlife, pursuant to RCW 77.36.040:

(a) D.F. Spurgeon, claim number SCG 97-03 \$

980

(b) Kenneth Kunes, claim number SCG 97-06 \$

2,288

**NEW SECTION. Sec. 713.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE STATE TREASURER--FOR THE COUNTY CRIMINAL JUSTICE ASSISTANCE ACCOUNT**

Impaired Driving Safety Account Appropriation \$

720,000

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed in accordance with RCW 82.14.310. \$360,000 of the appropriation shall be distributed in January 1999 and the remaining \$360,000 of the appropriation shall be distributed in April 1999. This funding is provided to counties for the costs of implementing criminal justice legislation including, but not limited to, Substitute House Bill No. 2885 (drunk driving penalties), Second Substitute House Bill No. 3070 (DUI penalties), Second Substitute House Bill No. 3089 (deferred prosecution), Engrossed Senate Bill No. 6142 (DUI/license suspension), Engrossed Substitute Senate Bill No. 6165 (ignition interlock violations), Engrossed Substitute Senate Bill No. 6166 (DUI penalties), Engrossed Substitute Senate Bill No. 6187 (DUI penalties), Engrossed Senate Bill No. 6257 (intoxication levels lowered), and Engrossed Second Substitute Senate Bill No. 6293 (DUI penalties).

**NEW SECTION. Sec. 714.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**FOR THE STATE TREASURER--FOR THE MUNICIPAL CRIMINAL JUSTICE ASSISTANCE ACCOUNT**

Impaired Driving Safety Account Appropriation \$

480,000

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed in accordance with RCW 82.14.320. \$240,000 of the appropriation shall be distributed in January 1999 and the remaining \$240,000 of the appropriation shall be distributed in April 1999. This funding is provided to cities for the costs of implementing criminal justice legislation including, but not limited to, Substitute House Bill No. 2885 (drunk driving penalties), Second Substitute House Bill No. 3070 (DUI penalties), Second Substitute House Bill No. 3089 (deferred prosecution), Engrossed Senate Bill No. 6142 (DUI/license suspension), Engrossed Substitute Senate Bill No. 6165 (ignition interlock violations), Engrossed Substitute Senate Bill No. 6166 (DUI penalties), Engrossed Substitute Senate Bill No. 6187 (DUI penalties), Engrossed Senate Bill No. 6257 (intoxication levels lowered), and Engrossed Second Substitute Senate Bill No. 6293 (DUI penalties).

**NEW SECTION. Sec. 715.** A new section is added to 1997 c 149 (uncodified) to read as follows:

**TRANSPORTATION FUND.** (1) The sum of three million dollars is appropriated from the general fund to the transportation fund for fiscal year 1998.

(2) The sum of nine million six hundred fifty thousand dollars is appropriated from the general fund to the transportation fund for fiscal year 1999.

**Sec. 716.** 1997 c 149 s 717 (uncodified) is amended to read as follows:

**INCENTIVE SAVINGS--FY 1998.** The sum of seventy-five million dollars or so much thereof as may be available on June 30, 1998, from the total amount of unspent fiscal year 1998 state general fund appropriations is appropriated for the purposes of House Bill No. 2240 or Substitute Senate Bill No. 6045 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed seventy million dollars, is appropriated to the education savings account (~~for the purpose of common school construction projects and education technology~~).

(3) For purposes of this section, the total amount of unspent state general fund appropriations does not include the appropriations made in this section or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

**Sec. 717.** 1997 c 149 s 718 (uncodified) is amended to read as follows:

**INCENTIVE SAVINGS--FY 1999.** The sum of seventy-five million dollars or so much thereof as may be available on June 30, 1999, from the total amount of unspent fiscal year 1999 state general fund appropriations is appropriated for the purposes of House Bill No. 2240 or Substitute Senate Bill No. 6045 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.



(2) The remainder of the total amount, not to exceed seventy million dollars, is appropriated to the education savings account (~~for the purpose of common school construction projects and education technology~~).

(3) For purposes of this section, the total amount of unspent state general fund appropriations does not include the appropriations made in this section or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

**PART VIII  
OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 801.** 1997 c 454 s 801 (uncodified) is amended to read as follows:  
**FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance premiums distribution \$	6,617,250
General Fund Appropriation for public utility district excise tax distribution \$	35,183,803
General Fund Appropriation for prosecuting attorneys salaries \$	2,960,000
General Fund Appropriation for motor vehicle excise tax distribution \$	84,721,573
General Fund Appropriation for local mass transit assistance \$	383,208,166
General Fund Appropriation for camper and travel trailer excise tax distribution \$	3,904,937
General Fund Appropriation for boating safety/education and law enforcement distribution \$	3,616,000
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution \$	142,000
Liquor Excise Tax Account Appropriation for liquor excise tax distribution \$	22,287,746
Liquor Revolving Fund Appropriation for liquor profits distribution \$	36,989,000
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties \$	107,146,000
Municipal Sales and Use Tax Equalization Account Appropriation \$	66,860,014
County Sales and Use Tax Equalization Account Appropriation \$	11,843,224
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies \$	1,266,000

County Criminal Justice Account Appropriation	\$		((80,634,471))
			<u>81,354,471</u>
Municipal Criminal Justice Account Appropriation	\$		((32,042,450))
			<u>32,522,450</u>
County Public Health Account Appropriation	\$		((43,773,588))
			<u>44,279,086</u>
TOTAL APPROPRIATION	\$		((923,196,222))
			<u>924,901,720</u>

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**NEW SECTION. Sec. 802. WILDLIFE ACCOUNT LOAN.** On June 30, 1998, the state treasurer shall lend three million five hundred thousand dollars from the state general fund to the wildlife account. Expenditure of funds is dependent upon the following conditions:

(1) By April 17, 1998, the department of fish and wildlife shall submit an expenditure reduction plan for the 1997-99 biennium for the state wildlife account to the office of financial management, the senate ways and means committee, and the house of representatives appropriations committee. The plan shall specify positions to be eliminated by program. The reductions shall be limited to activities currently funded by the wildlife account.

(2) By April 17, 1998, the department of fish and wildlife shall submit a list of properties proposed for sale, with a site description of each property, to the office of financial management, the senate ways and means committee, and the house of representatives appropriations committee.

(3) Beginning with the fourth quarter of fiscal year 1998, the department of fish and wildlife shall submit quarterly revenue and expenditure reports for the wildlife account to the office of financial management, the senate ways and means committee, and the house of representatives appropriations committee.

(4) The department of fish and wildlife shall develop, with the office of financial management and the department of revenue, a model for forecasting revenues to the state wildlife account. This forecast shall be incorporated into the quarterly revenue and expenditure reports.

(5) By November 1, 1998, the department of fish and wildlife shall submit a six-year financial plan for the state wildlife account for fiscal years 1999-05 to the office of financial management, the senate ways and means committee, and the house of representatives appropriations committee. The plan shall include repayment of this loan by June 30, 2001.

Failure to comply with the terms and conditions of this section shall cause the loan to be immediately payable.

**Sec. 803.** 1997 c 454 s 802 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--TRANSFERS**

General Fund: For transfer to the Water Quality Account	\$		((26,607,000))
			<u>28,595,900</u>
General Fund: For transfer to the Flood Control Assistance Account	\$		4,000,000
State Convention and Trade Center Account: For transfer to the State Convention and Trade Center Operations Account	\$		3,877,000

Water Quality Account: For transfer to the Water Pollution Control Account. Transfers shall be made at intervals coinciding with deposits of federal capitalization grant money into the account. The amounts transferred shall not exceed the match required for each federal deposit \$	21,688,000
State Treasurer's Service Account: For transfer to the general fund on or before June 30, 1999 an amount up to \$3,600,000 in excess of the cash requirements of the State Treasurer's Service Account \$	3,600,000
Public Works Assistance Account: For transfer to the Drinking Water Assistance Account \$	9,949,000
County Sales and Use Tax Equalization Account: For transfer to the County Public Health Account \$	((1,686,000))
	<u>2,191,498</u>

**Sec. 804.** 1997 c 235 s 676 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES  
Clover Park Technical College--Aviation trades complex: Design (96-2-998)**

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

- (1) The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.
- (2) The new appropriation in this section is provided for permits and site work, installation of metal buildings and the completion of aviation hangars.

As used in this section, "CTC Cap Proj Acct" means Community and Technical Colleges Capital Projects Account.

**Reappropriation:**

St Bldg Constr Acct--State \$	573,307
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**Appropriation:**

<u>CTC Cap Proj Acct--State \$</u>	<u>5,200,000</u>
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Prior Biennia (Expenditures) \$	1,947,693
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Future Biennia (Projected Costs) \$	((8,866,700))
-------------------------------------	---------------

3,866,700

TOTAL \$

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11,387,700

**Sec. 805.** 1997 c 235 s 108 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT  
Housing assistance, weatherization, and affordable housing program (88-5-015)**

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

(1) \$3,000,000 of the new appropriation from the state building construction account is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(2) \$2,000,000 of the reappropriation from the state building construction account is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(3) \$1,000,000 of the new appropriation from the state building construction account is provided solely for the development of housing for low-income temporary or migrant farm workers through grants awarded after the effective date of this act. The legislature finds that providing farm worker housing for low-income temporary or migrant workers is a public purpose. The department shall prioritize grants and shall award grants on a competitive basis to local governments, nonprofit corporations, or other nonprofit entities. Grant moneys awarded by the department under this subsection may be matched by nonstate sources on a dollar-for-dollar basis, in cash or in-kind. The amount in this subsection is contingent upon enactment of sections 1 through 8 of Second Substitute Senate Bill No. 6168. If any of these sections of the bill are not enacted by June 30, 1998, this subsection is null and void.

**Reappropriation:**

St Bldg Constr Acct--State \$	25,000,000
Washington Housing Trust Acct--State \$	400,000
	-----
Subtotal Reappropriation \$	25,400,000

**Appropriation:**

St Bldg Constr Acct--State \$	50,000,000
Prior Biennia (Expenditures) \$	125,116,142
Future Biennia (Projected Costs) \$	200,000,000
	-----
TOTAL \$	400,516,142

**PART IX  
MISCELLANEOUS**

**Sec. 901.** RCW 50.24.014 and 1994 c 187 s 3 are each amended to read as follows:

(1)(a) A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, at a basic rate of two one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

(b) For the first calendar quarter of 1994 only, the basic two one-hundredths of one percent contribution payable under (a) of this subsection shall be increased by one-hundredth of one percent to a total rate of three one-hundredths of one percent. The proceeds of this incremental one-hundredth of one percent shall be used solely for the purposes described in section 22, chapter 483, Laws of 1993, and for the purposes described in RCW 50.40.060. During the 1997-1999 fiscal biennium, any surplus from contributions payable under this

subsection (b) ~~((with))~~ may be deposited in the unemployment compensation trust fund, used to support tax and wage automated systems projects that simplify and streamline employer reporting, or both.

(2)(a) Contributions under this section shall become due and be paid by each employer under rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

(b) In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) If the commissioner determines that federal funding has been increased to provide financing for the services specified in chapter 50.62 RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st.

**Sec. 902.** 1997 c 149 s 902 (uncodified) is amended to read as follows:

**INFORMATION SYSTEMS PROJECTS.** Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by this act.

~~((1) The agency shall produce a feasibility study for each information systems project in accordance with published department of information services instructions. In addition to department of information services requirements, the study shall examine and evaluate the costs and benefits of maintaining the status quo and the costs and benefits of the proposed project. The study shall identify when and in what amount any fiscal savings will accrue, and what programs or fund sources will be affected.~~

~~(2) The agency shall produce a project management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information systems project is intended to address; a statement of project objectives and assumptions; definition of phases, tasks, and activities to be accomplished and the estimated cost of each phase; a description of how the agency will facilitate responsibilities of oversight agencies; a description of key decision points in the project life cycle; a description of variance control measures; a definitive schedule that shows the elapsed time estimated to complete the project and when each task is to be started and completed; and a description of resource requirements to accomplish the activities within specified time, cost, and functionality constraints.~~

~~(3) A copy of each feasibility study and project management plan shall be provided to the department of information services, the office of financial management, and legislative fiscal committees. Authority to expend any funds for individual information systems projects is conditioned on approval of the relevant feasibility study and project management plan by the department of information services and the office of financial management.~~

~~(4) A project status report shall be submitted to the department of information services, the office of financial management, and legislative fiscal committees for each project prior to reaching key decision points identified in the project management plan. Project status reports shall examine and evaluate project management, accomplishments, budget, action to address variances, risk management, costs and benefits analysis, and other aspects critical to completion of a project.~~

~~Work shall not commence on any task in a subsequent phase of a project until the status report for the preceding key decision point has been approved by the department of information services and the office of financial management.~~

~~(5) If a project review is requested in accordance with department of information services policies, the reviews shall examine and evaluate: System requirements specifications; scope; system architecture; change controls; documentation; user involvement; training; availability and capability of resources; programming languages and techniques; system inputs and outputs; plans for testing, conversion, implementation, and postimplementation; and other aspects critical to successful construction, integration, and implementation of automated systems. Copies of project review written reports shall be forwarded to the office of financial management and appropriate legislative committees by the agency.~~

~~(6) A written postimplementation review report shall be prepared by the agency for each information systems project in accordance with published department of information services instructions. In addition to the information requested pursuant to the department of information services instructions, the postimplementation report shall evaluate the degree to which a project accomplished its major objectives including, but not limited to, a comparison of original cost and benefit estimates to actual costs and benefits achieved. Copies of the postimplementation review report shall be provided to the department of information services, the office of financial management, and appropriate legislative committees.)~~

(1) Agency planning and decisions concerning information technology shall be made in the context of its information technology portfolio. "Information technology portfolio" means a strategic management approach in which the relationships between agency missions and information technology investments can be seen and understood, such that: Technology efforts are linked to agency objectives and business plans; the impact of new investments on existing infrastructure and business functions are assessed and understood before implementation; and agency activities are consistent with the development of an integrated, nonduplicative state-wide infrastructure.

(2) Agencies shall use their information technology portfolios in making decisions on matters related to the following:

(a) System refurbishment, acquisitions, and development efforts;

(b) Setting goals and objectives for using information technology in meeting legislatively-mandated missions and business needs;

(c) Assessment of overall information processing performance, resources, and capabilities;

(d) Ensuring appropriate transfer of technological expertise for the operation of any new systems developed using external resources; and

(e) Progress toward enabling electronic access to public information.

(3) The agency shall produce a feasibility study for information technology projects at the direction of the information services board and in accordance with published department of information services policies and guidelines. At a minimum, such studies shall include a statement of: (a) The purpose or impetus for change; (b) the business value to the agency, including an examination and evaluation of benefits, advantages, and cost; (c) a comprehensive risk assessment based on the proposed project's impact on both citizens and state operations, its visibility, and the consequences of doing nothing; (d) the impact on agency and state-wide information infrastructure; and (e) the impact of the proposed enhancements to an agency's information technology capabilities on meeting service delivery demands.

(4) The agency shall produce a comprehensive management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan(s) shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information technology project is intended to address; a statement of project objectives and assumptions; a definition and schedule of phases, tasks, and activities to be accomplished; and the estimated cost of each phase. The planning for the phased approach shall be such that the business case justification for a project needs to demonstrate how the project recovers cost or adds measurable value or positive cost benefit to the agency's business functions within each development cycle.

(5) The agency shall produce quality assurance plans for information technology projects. Consistent with the direction of the information services board and the published policies and guidelines of the department of information services, the quality assurance plan shall address all factors critical to successful completion of the project and successful integration with the agency and state information technology infrastructure. At a minimum, quality assurance plans shall provide time and budget benchmarks against which project progress can be measured, a specification of quality assurance responsibilities, and a statement of reporting requirements. The quality assurance plans shall set out the functionality requirements for each phase of a project.

(6) A copy of each feasibility study, project management plan, and quality assurance plan shall be provided to the department of information services, the office of financial management, and legislative fiscal committees. The plans and studies shall demonstrate a sound business case that justifies the investment of taxpayer funds on any new project, an assessment of the impact of the proposed system on the existing information technology infrastructure, the disciplined use of preventative measures to mitigate risk, and the leveraging of private-sector expertise as needed. Authority to expend any funds for individual information systems projects is conditioned on the approval of the relevant feasibility study, project management plan, and quality assurance plan by the department of information services and the office of financial management.

(7) Quality assurance status reports shall be submitted to the department of information services, the office of financial management, and legislative fiscal committees at intervals specified in the project's quality assurance plan.

**Sec. 903.** 1997 c 149 s 905 (uncodified) is amended to read as follows:

**STATUTORY APPROPRIATIONS.** In addition to the amounts appropriated in this act for revenues for distribution, state contributions to the law enforcement officers' and fire fighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under chapters 39.94 and 39.96 RCW or any proper bond covenant made under law.

**Sec. 904.** RCW 28B.15.910 and 1997 c 433 s 5 are each amended to read as follows:

(1) Except for revenue waived under programs listed in subsection (3) of this section, and unless otherwise expressly provided in the omnibus state appropriations act, the total amount of operating fees revenue waived, exempted, or reduced by a state university, a regional university, The Evergreen State College, or the community colleges as a whole, shall not exceed the percentage of total gross authorized operating fees revenue set forth below. As used in this section, "gross authorized operating fees revenue" means the estimated gross operating fees revenue as estimated under RCW 82.33.020 or as revised by the office of financial management, before granting any waivers. This limitation applies to all tuition waiver programs established before or after July 1, 1992.

- |                                   |            |
|-----------------------------------|------------|
| (a) University of Washington      | 21 percent |
| (b) Washington State University   | 20 percent |
| (c) Eastern Washington University | 11 percent |
| (d) Central Washington University | 8 percent  |
| (e) Western Washington University | 10 percent |
| (f) The Evergreen State College   |            |

6 percent

(g) Community colleges as a whole

35 percent

(2) The limitations in subsection (1) of this section apply to waivers, exemptions, or reductions in operating fees contained in the following:

- (a) RCW 28B.10.265;
- (b) RCW 28B.15.014;
- (c) RCW 28B.15.100;
- (d) RCW 28B.15.225;
- (e) RCW 28B.15.380;
- (f) ~~((Ungraded courses under RCW 28B.15.502(4);~~
- ~~((g))~~ RCW 28B.15.520;
- ~~((h))~~ ~~((g))~~ RCW 28B.15.526;
- ~~((i))~~ ~~((h))~~ RCW 28B.15.527;
- ~~((j))~~ ~~((i))~~ RCW 28B.15.543;
- ~~((k))~~ ~~((j))~~ RCW 28B.15.545;
- ~~((l))~~ ~~((k))~~ RCW 28B.15.555;
- ~~((m))~~ ~~((l))~~ RCW 28B.15.556;
- ~~((n))~~ ~~((m))~~ RCW 28B.15.615;
- ~~((o))~~ ~~((n))~~ RCW 28B.15.620;
- ~~((p))~~ ~~((o))~~ RCW 28B.15.628;
- ~~((q))~~ ~~((p))~~ RCW 28B.15.730;
- ~~((r))~~ ~~((q))~~ RCW 28B.15.740;
- ~~((s))~~ ~~((r))~~ RCW 28B.15.750;
- ~~((t))~~ ~~((s))~~ RCW 28B.15.756;
- ~~((u))~~ ~~((t))~~ RCW 28B.50.259;
- ~~((v))~~ ~~((u))~~ RCW 28B.70.050; ~~((and~~
- ~~((w))~~ ~~((v))~~ RCW 28B.80.580; ~~and~~

(w) During the 1997-99 fiscal biennium, the western interstate commission for higher education undergraduate exchange program for students attending Eastern Washington University.

(3) The limitations in subsection (1) of this section do not apply to waivers, exemptions, or reductions in services and activities fees contained in the following:

- (a) RCW 28B.15.522;
- (b) ~~((RCW 28B.15.535;~~
- ~~((c))~~ RCW 28B.15.540; and
- ~~((d))~~ ~~((c))~~ RCW 28B.15.558.

**Sec. 905.** RCW 70.105D.070 and 1997 c 406 s 5 are each amended to read as follows:

- (1) The state toxics control account and the local toxics control account are hereby created in the state treasury.
- (2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:
  - (i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;
  - (ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;
  - (iii) The hazardous waste cleanup program required under this chapter;
  - (iv) State matching funds required under the federal cleanup law;
  - (v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;
  - (vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;
  - (vii) Hazardous materials emergency response training;
  - (viii) Water and environmental health protection and monitoring programs;

- (ix) Programs authorized under chapter 70.146 RCW;
- (x) A public participation program, including regional citizen advisory committees;
- (xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and
- (xii) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority: (i) Remedial actions; (ii) hazardous waste plans and programs under chapter 70.105 RCW; and (iii) solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW. Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW. During the 1997-1999 fiscal biennium, moneys in the account may also be used for the following activities: Conducting a study of whether dioxins occur in fertilizers, soil amendments, and soils; reviewing applications for registration of fertilizers; and conducting a study of plant uptake of metals.

(b) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation.

(7) The department shall adopt rules for grant or loan issuance and performance.

**NEW SECTION. Sec. 906.** During the 1997-99 fiscal biennium, the lottery commission shall conduct at least two, but not more than four, scratch games with agricultural fair themes per year. These games are intended to generate additional moneys sufficient to cover the distributions under RCW 67.70.240(6).

**Sec. 907.** RCW 67.70.240 and 1997 c 220 s 206 are each amended to read as follows:

The moneys in the state lottery account shall be used only:

(1) For the payment of prizes to the holders of winning lottery tickets or shares;

(2) For purposes of making deposits into the reserve account created by RCW 67.70.250 and into the lottery administrative account created by RCW 67.70.260;

(3) For purposes of making deposits into the state's general fund;

(4) For distribution to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs. Three million dollars shall be distributed under this subsection during calendar year 1996. During subsequent years, such distributions shall equal the prior year's distributions increased by four percent. Distributions under this subsection shall cease when the bonds issued for the construction of the baseball stadium are retired, but not more than twenty years after the tax under RCW 82.14.0485 is first imposed;

(5) For distribution to the stadium and exhibition center account, created in RCW 43.99N.060. Subject to the conditions of RCW 43.99N.070, six million dollars shall be distributed under this subsection during the calendar year 1998. During subsequent years, such distribution shall equal the prior year's distributions increased by four percent. No distribution may be made under this subsection after December 31, 1999, unless the conditions for issuance of the bonds under RCW 43.99N.020(2) are met. Distributions under this subsection shall cease when the bonds are retired, but not later than December 31, 2020;

(6) For distribution to the fair fund, created in chapter 15.76 RCW. Five hundred sixty-five thousand dollars shall be distributed under this subsection during the remainder of fiscal year 1998. Two million dollars shall be distributed under this subsection during fiscal year 1999.

(7) For the purchase and promotion of lottery games and game-related services; and



~~((7))~~ (8) For the payment of agent compensation.

The office of financial management shall require the allotment of all expenses paid from the account and shall report to the ways and means committees of the senate and house of representatives any changes in the allotments.

**NEW SECTION. Sec. 908.** If Engrossed Second Substitute Senate Bill No. 6562 is not enacted by June 30, 1998, sections 906 and 907 of this act are null and void.

**Sec. 909.** RCW 69.50.520 and 1997 c 451 s 2 and 1997 c 338 s 69 are each reenacted and amended to read as follows:

The violence reduction and drug enforcement account is created in the state treasury. All designated receipts from RCW 9.41.110(8), 66.24.210(4), 66.24.290(2), 69.50.505(h)(1), 82.08.150(5), 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989 shall be deposited into the account. Expenditures from the account may be used only for funding services and programs under chapter 271, Laws of 1989 and chapter 7, Laws of 1994 sp. sess., including state incarceration costs. Funds from the account may also be appropriated to reimburse local governments for costs associated with implementing criminal justice legislation including chapter 338, Laws of 1997. During the 1997-1999 biennium, funds from the account may also be used for costs associated with conducting a feasibility study of the department of corrections' offender-based tracking system, providing grants to local governments in accordance with chapter 338, Laws of 1997, and for multijurisdictional narcotics task forces. After July 1, 1999, at least seven and one-half percent of expenditures from the account shall be used for providing grants to community networks under chapter 70.190 RCW by the family policy council.

**Sec. 910.** RCW 43.88.030 and 1997 c 168 s 5 and 1997 c 96 s 4 are each reenacted and amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the interagency revenue task force. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity, and ~~((object))~~ agency;

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

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions

shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

- (q) Such other information bearing upon capital projects as the governor deems to be useful;
- (r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;
- (s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

**NEW SECTION. Sec. 911.** Sections 27, 50, and 57, chapter . . . (Second Substitute Senate Bill No. 6214), Laws of 1998 are each repealed.

**NEW SECTION. Sec. 912.** This act shall not be construed as affecting any right or cause of action asserted in *Washington State Legislature v. State of Washington* (Thurston county superior court cause no. 98-2-00105-1).

**NEW SECTION. Sec. 913.** A new section is added to 1997 c 149 (uncodified) to read as follows:

Amounts provided in this act are sufficient to implement Engrossed Senate Bill No. 6325 (ferry vessels authorized). If the bill is not enacted by June 30, 1998, this section is null and void.

**Sec. 914.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**Sec. 915.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "matters;" strike the remainder of the title and insert "amending RCW 50.24.014, 28B.15.910, 70.105D.070, and 67.70.240; amending 1997 c 149 ss 101, 102, 104, 110, 111, 112, 113, 114, 116, 117, 120, 121, 122, 123, 124, 129, 130, 134, 136, 141, 142, 145, 146, 147, 152, 201, 204, 205, 206, 209, 210, 215, 217, 224, 304, 306, 309, 310, 401, 402, 502, 505, 506, 507, 508, 513, 516, 612, 614, 616, 618, 619, 701, 703, 705, 710, 712, 717, 718, 902, and 905 (uncodified); amending 1997 c 454 ss 101, 103, 104, 105, 202, 203, 204, 205, 206, 207, 208, 210, 211, 209, 212, 213, 214, 301, 302, 303, 304, 305, 501, 503, 504, 505, 506, 507, 508, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 704, 801, and 802 (uncodified); amending 1997 c 235 ss 676 and 108 (uncodified); reenacting and amending RCW 69.50.520 and 43.88.030; adding new sections to 1997 c 149 (uncodified); creating new sections; repealing 1998 c . . . (Second Substitute Senate Bill No. 6214) ss 27, 50, and 57; making appropriations; and declaring an emergency.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators West, Strannigan; Representatives Huff, Alexander.

#### MOTION

Senator West moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6108 be adopted.

Debate ensued.

#### POINT OF INQUIRY

Senator Wood: "Senator West, I understand the appropriation to the Employment Security Department includes twenty million dollars in federal funding to implement the federal Welfare-To-Work Program. The language of the budget requires the Governor to obtain a federal waiver to allow the money to be allocated to entities other than private industry councils to implement this program. Would this language preclude any of this money going to the private industry councils?"

Senator West: "No, Senator Wood. The purpose of the language is to allow the money to be distributed to both private industry councils, as well as other organizations. The purpose of the language and the purpose of asking the Governor to request the waiver is to allow the Governor to have maximum flexibility with this new federal money in distribution to make sure that we can serve these hard-to-serve people."

Senator Wood: "Thank you."  
Further debate ensued.

#### POINT OF ORDER

Senator Brown: "A point of order. Mr. President, I am confused. The gentlemen does not appear to be speaking to the matter that is before us, which is the supplemental budget. I am hearing talk of tax cuts; there are not tax cuts in this budget. I am hearing talk about the transportation budget. I am just wondering what he is referring to. I think we have the supplemental budget in front of us at this point."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Swecker, be sure your remarks are directed at the issue before us."

#### PARLIAMENTARY INQUIRY

Senator Swecker: "A point of inquiry, Mr. President. I believe the idea of the transportation budget and the transportation package was mentioned on the other side of the aisle first."

#### REPLY BY THE PRESIDENT

President Owen: "I think that the discussion here really is relatively irrelevant at this point. If you keep your remarks relative to the matter before us, it would be appropriate."

Further debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the motion by Senator West that the Senate adopt the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6108.

#### ROLL CALL

The Secretary called the roll and the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6108 was adopted by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6108, as recommended by the Conference Committee.

Debate ensued.

#### PARLIAMENTARY INQUIRY

Senator Snyder: "A point of parliamentary inquiry, Mr. President. Under the Constitution, it takes sixty percent to pass a measure that expands gambling. If we have added another lottery game in this bill, I think, absolutely, we are expanding gambling and this will take thirty votes on final passage."

Debate ensued.

#### REPLY BY THE PRESIDENT

President Owen: "The President doesn't believe that he is prepared to rule on this at this point. Senator West, I do remember that there was a ruling, but we do need a moment to check that out."

Further debate ensued.

#### MOTION

On motion of Senator Johnson, further consideration of Engrossed Substitute Senate Bill No. 6108 was deferred.

MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House refuses to adopt the Report of the Conference Committee on ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439 and asks the Senate for a second conference thereon. The Speaker appointed the following members as conferees: Representatives D. Sommers, Mitchell and Wood.

TIMOTHY A. MARTIN, Chief Clerk

EDITOR'S NOTE: The Senate had adopted the Report of the Conference Committee on Engrossed Substitute House Bill No. 2439 earlier today.

MOTION

Senator Johnson moved that the Senate grant the request of the House for a Second Conference on Engrossed Substitute House Bill No. 2439.

Debate ensued.

Senator Johnson demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the motion by Senator Johnson to grant the request of the House for a Second Conference on Engrossed Substitute House Bill No. 2439.

ROLL CALL

The Secretary called the roll and the motion to grant the request for a second conference carried by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Second Conference Committee on Engrossed Substitute House Bill No. 2439: Senators Benton, Haugen and Prince.

MOTION

On motion of Senator Johnson, the Conference Committee appointments were confirmed.

MOTION

On motion of Senator Johnson, the first Report of the Conference Committee on Engrossed Substitute House Bill No. 2439 was returned to the Conference Committee.

There being no objection, the Senate resumed consideration of the Report of the Conference Committee on Substitute Senate Bill No. 6108, deferred earlier today.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Snyder concerning whether Engrossed Substitute Senate Bill No. 6108 is a measure that expands gambling and therefore requires a sixty percent vote on final passage, the President finds that Section 906 of the measure directs the Lottery Commission to conduct two to four scratch games with agriculture fair themes. The measure does not require that these be additional lotteries. Even if they are additional lotteries, the Lottery Commission already maintains authority under RCW 67.70.040 to determine the total number

of drawings. The measure does not expand that authority. Therefore, the President rules that Engrossed Substitute Senate Bill No. 6108 requires only a simple majority vote on final passage."

Engrossed Substitute Senate Bill No. 6108, as recommended by the Conference Committee, takes a majority vote for final passage.

#### POINT OF ORDER

Senator Snyder: "Thank you, Mr. President. A couple of weeks ago, I raised a point of order if there could be more than one subject in a bill and I think we have been referring to this lottery--I won't use the word expansion--additional lottery as a tax in an appropriations bill and I would raise my point and give the same arguments that I did a couple of weeks ago, that there is more than one subject in the bill and, therefore, it is not properly before the Senate, according to the Constitution and the Senate Rules."

Debate ensued.

#### RULING BY THE PRESIDENT

President Owen: "The President believes that in looking at his prior ruling on the same matter, it was stated that all that is required is that there be some rational unity between the general subject and the incidental subdivisions, as are in the case in this bill. It would not be a violation of the Constitution or the Senate Rules and the point of order is not well taken."

Further debate ensued.

#### CALL FOR THE PREVIOUS QUESTION

Senators McCaslin, Johnson and Hale demanded the previous question and the demand was sustained.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on shall the main question be now put.

#### ROLL CALL

The Secretary called the roll and the demand for the previous question carried by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6108, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6108, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6108, as recommended by the Conference Committee, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### NOTICE FOR PROPOSED RULE CHANGE

Under Rule 35 of the Senate, Senator Hargrove gave one day's notice of a proposed change in Rule 43.

#### REPLY BY THE PRESIDENT

President Owen: "Message received. Senator Hargrove, there is one little additional issue here. You have to provide the rule change. to us."

Senator Hargrove: "Mr. President, my reading of Rule 35, says that I have to provide one day's notice of the motion, not of the change. Am I incorrect?"

President Owen: "Senator Hargrove, in reviewing the rule, Rule 35, the President believes that the purpose of the rule is so that the members may have a day to review the motion that you are going to make for the change in the rule. Therefore, the rule change that you are proposing needs to be with your notice."

Senator Hargrove: "Thank you, Mr. President. Can I do that orally?"

President Owen: "With the permission of the Senate."

Senator Hargrove: "Well, I would like to change the words 'Rules Committee' to 'Standing Committee' for subpoena powers under Rule 43. It is a pretty simple change."

#### MOTION

Senator Johnson moved that Senator Hargrove's motion be deferred.

#### REMARKS BY SENATOR HARGROVE

Senator Hargrove: "Mr. President, I am giving notice of a motion, not making a motion. Can you defer a motion that has not been made?"

#### REPLY BY THE PRESIDENT

President Owen: "The President believes you are correct, Senator Hargrove."

#### OBJECTION TO NOTICE OF ORAL RULE CHANGE

Senator McDonald objected to the oral notice for the change of rules and asked that the change be in written form.

#### REPLY BY THE PRESIDENT

President Owen: "Senator Hargrove, your motion must be in written form."

#### MOTION

Senator Johnson moved that Engrossed Substitute Senate Bill No. 6108, as recommended by the Conference Committee, be immediately transmitted to the Office of the Governor.

#### REPLY BY THE PRESIDENT:

President Owen: "Senator Johnson, the President believes that the motion is actually out of order. I have to sign the bill first and then it has to go to the House for the signing by the Speaker of the House."

#### SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6108.

#### MOTION

On motion of Senator Johnson, Engrossed Substitute Senate Bill No. 6108 was immediately transmitted to the House of Representatives.

#### MOTION

At 9:29 p.m., Senator Johnson moved that the Senate adjourn until 9:00 a.m., Thursday, March 12, 1998.

Senator Hargrove demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the motion by Senator Johnson that the Senate adjourn until 9:00 a.m., Thursday, March 12, 1998.

#### ROLL CALL

The Secretary called the roll and the motion to adjourn carried by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23.

#### ADJOURNMENT

At 9:35 p.m., the Senate adjourned until 9:00 a.m., Thursday, March 12, 1998.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

#### JOURNAL OF THE SENATE

FIFTY-NINTH DAY, MARCH 11, 1998



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**SIXTIETH DAY**

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**MORNING SESSION**  
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Senate Chamber, Olympia, Thursday, March 12, 1998

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all

Senators were present except Senators Brown, McDonald, Patterson and Sellar. On motion of Senator Franklin, Senator Patterson was excused. On motion of Senator Prentice, Senator Brown was excused. On motion of Senator Hale, Senators McDonald and Sellar were excused.

The Sergeant at Arms Color Guard, consisting of Pages Katie Lindstrom and Nick Staiger, presented the Colors. Reverend Howard Alar, pastor of the Lacey Community Church, offered the prayer.

**MOTION**

On motion of Senator Johnson, the reading of the Journal of the previous day was dispensed with and it was approved.

**MESSAGES FROM THE HOUSE**

March 11, 1998

**MR. PRESIDENT:**

The House grants the request of the Senate for a conference on SUBSTITUTE SENATE BILL NO. 6240. The Speaker has appointed the following members as conferees: Representatives Sheahan, Sterk and Costa.

TIMOTHY A. MARTIN, Chief Clerk

March 11, 1998

**MR. PRESIDENT:**

The House concurred in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1541 and passed the bill as amended by the Senate.

TIMOTHY A. MARTIN, Chief Clerk

March 11, 1998

**MR. PRESIDENT:**

The House concurred in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2417 and passed the bill as amended by the Senate.

TIMOTHY A. MARTIN, Chief Clerk

March 11, 1998

**MR. PRESIDENT:**

The Speaker has signed:

ENGROSSED HOUSE BILL NO. 1042,  
SUBSTITUTE HOUSE BILL NO. 1043,  
SUBSTITUTE HOUSE BILL NO. 1083,  
HOUSE BILL NO. 1165,  
SUBSTITUTE HOUSE BILL NO. 1184,  
ENGROSSED HOUSE BILL NO. 1254,  
HOUSE BILL NO. 1297,  
HOUSE BILL NO. 1309,  
ENGROSSED HOUSE BILL NO. 1408,  
SUBSTITUTE HOUSE BILL NO. 1692,  
SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1746,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2313,  
HOUSE BILL NO. 2402,  
SUBSTITUTE HOUSE BILL NO. 2459,  
HOUSE BILL NO. 2500,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2551,  
SUBSTITUTE HOUSE BILL NO. 2826,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2831,  
ENGROSSED HOUSE BILL NO. 3003,  
SUBSTITUTE HOUSE BILL NO. 3015,  
SECOND SUBSTITUTE HOUSE BILL NO. 3089, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5703,  
SUBSTITUTE SENATE BILL NO. 6119,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6205,  
SUBSTITUTE SENATE BILL NO. 6253,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6328,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6497,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6533,  
SENATE BILL NO. 6588.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED HOUSE BILL NO. 1042,  
SUBSTITUTE HOUSE BILL NO. 1043,  
SUBSTITUTE HOUSE BILL NO. 1083,  
HOUSE BILL NO. 1165,  
SUBSTITUTE HOUSE BILL NO. 1184,  
ENGROSSED HOUSE BILL NO. 1254,  
HOUSE BILL NO. 1297,  
HOUSE BILL NO. 1309,  
ENGROSSED HOUSE BILL NO. 1408,  
SUBSTITUTE HOUSE BILL NO. 1692,

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1746,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2313,  
HOUSE BILL NO. 2402,  
SUBSTITUTE HOUSE BILL NO. 2459,  
HOUSE BILL NO. 2500,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2551,  
SUBSTITUTE HOUSE BILL NO. 2826,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2831,  
ENGROSSED HOUSE BILL NO. 3003,  
SUBSTITUTE HOUSE BILL NO. 3015,  
SECOND SUBSTITUTE HOUSE BILL NO. 3089.

MOTION

On motion of Senator Stevens, the following resolution was adopted:

SENATE RESOLUTION 1998-8694

By Senators Stevens, Haugen, Patterson, T. Sheldon, Johnson, Sellar, Hale, Spanel, Strannigan, Fairley, Swecker, Long, Schow, Oke, Bauer, Finkbeiner, Rasmussen, Roach, Hochstatter, Wood, Goings, Hargrove, Rossi, Zarelli, Heavey, Benton and Anderson

WHEREAS, Governor Gary Locke proclaimed October 19 through October 25, 1997, Christian Heritage Week in Washington State; and

WHEREAS, Marcus and Narcissi Whitman made significant historical contributions to the establishment of the state of Washington and contributions to the growth and development of the free exercise of religion in the United States, specifically in the state of Washington; and

WHEREAS, In 1836 Marcus and Narcissi Whitman risked their lives, traveling more than three thousand miles in six months over harsh terrain to reach the Pacific Northwest and establish a Christian mission; and

WHEREAS, In the face of financial adversity, Marcus Whitman, enduring the elements, crossed the United States again to petition against the cancellation of his Washington mission; and

WHEREAS, After securing the necessary capital resources, Marcus Whitman not only risked his life to return to the Pacific Northwest, but also led over one thousand settlers in the Great Migration of 1843, setting the stage for further colonization of the West; and

WHEREAS, After Marcus Whitman returned, he and Narcissi Whitman sacrificed their lives in defending their mission and Christian beliefs while under attack; and

WHEREAS, Through their sacrifice, Marcus and Narcissi Whitman convinced the United States Congress to form the Oregon Territory, thus founding the first territory west of the Rocky Mountains and establishing the foundation for the state of Washington; and

WHEREAS, Marcus and Narcissi Whitman sacrificed, in the name of Christianity, to lay the foundation for our great State; and

WHEREAS, It is appropriate to highlight the historic achievement and recognize the contributions of Marcus and Narcissi Whitman to the state of Washington;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and honor the contributions of Marcus and Narcissi Whitman in establishing the foundation for the state of Washington and fostering the free exercise of religion in the United States; and

BE IT FURTHER RESOLVED, That Christian Heritage Week is the appropriate occasion to honor such Washington heroes and will be so again in 1998.

Senators Stevens, Hochstatter and Johnson spoke to Senate Resolution 1998-8694.

MOTION

On motion of Senator Spanel, the following resolution was adopted:

SENATE RESOLUTION 1998-8729

By Senators Spanel and Haugen

WHEREAS, The beautiful Skagit Valley is the tulip capital of the Northwest; and  
WHEREAS, Every April the tulips are in bloom, celebrating the beginning of spring; and  
WHEREAS, The Skagit Valley Tulip Festival begins the festival season in Washington State; and  
WHEREAS, This year's fifteenth annual event will run from April 3rd through April 19th, focusing on the communities of Sedro Woolley, Burlington, Anacortes, LaConner, Mount Vernon, and Concrete; and  
WHEREAS, One million people visited the Skagit Valley Tulip Festival last year, participating in the joy and excitement of this annual event and contributing to the economy of the Skagit Valley; and  
WHEREAS, This year's visitors will be greeted by more than one thousand five-hundred acres of tulips reflecting all the colors of the rainbow, and by the fullness of life in the valley and its wonderful people; and  
WHEREAS, Highlights of the event include the Kiwanis Salmon Barbeque, Tulip Pedal Bike Ride, Art in a Pickle Barn, Tour de Fleur, and Art Bash on Beaver Marsh Road;  
NOW, THEREFORE, BE IT RESOLVED, That the Senate salutes the six communities of the Skagit Valley, their Chambers of Commerce, Skagit Valley Tulip Festival Ambassadors, and the Tulip Festival Committee for their Skagit Valley Tulip Festival; and BE IT FURTHER RESOLVED, That we commend the community leaders and corporate sponsors for the success of this important event and encourage citizens from across Washington State to take the time to enjoy this spectacular display; and  
BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Audrey Smith, Tulip Festival Executive Director.

Senators Spanel and Haugen spoke to Senate Resolution 1998-8729.

MOTION

On motion of Senator Kohl, the following resolution was adopted:

SENATE RESOLUTION 1998-8730

By Senators Kohl, Spanel, Jacobsen, Fraser, Bauer, Johnson, Thibaudeau, Haugen, Hargrove, T. Sheldon, Anderson, B. Sheldon, Snyder and Rasmussen

WHEREAS, The Washington State Commercial Fishing Fleet begins leaving in March and the seventieth annual Blessing of the Fleet will occur at Fisherman's Terminal in Seattle on Sunday, March 15th; and  
WHEREAS, The Washington State Commercial Fishing Fleet is one of the world's largest distant water fleets and is of major importance to our state; and  
WHEREAS, Examples of the many important fleets operating out of the state include the salmon fleet which began in territorial Washington in the 1860s, and the halibut fleet which has been in existence since 1888; and  
WHEREAS, The commercial fishing industry directly and indirectly employs thousands of people; and  
WHEREAS, The harvest annually generates millions of dollars each year in direct economic contribution and billions in indirect economic contribution; and  
WHEREAS, The life of a fisher is one fraught with danger and hardship that most of us will never face; and  
WHEREAS, Strength and courage are basic requirements for anyone who chooses to work on the high seas, battling the elements in order to harvest the nature's bounty; and  
WHEREAS, The men and women who work on boats, living between God and the sea, and never certain which will claim them first, deserve our admiration, our thanks, and, when tragedy strikes, our remembrance; and  
WHEREAS, In 1997, Washington State lost Jackson Frasier, James Kennedy, Stanley Erickson, Larry Older, Curtis Miller, Stephen Brooks, John Ferry, Marilyn Tarabochia and Ronald Tarabochia, who were all claimed too early in life, and their deaths have rent again the tightly knit fabric that is the community of fishing families in our region;  
NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate extends its condolences to the families and friends of all our fishermen and women who have lost their lives at sea, including most recently those of Jackson Frasier,

James Kennedy, Stanley Erickson, Larry Older, Curtis Miller, Stephen Brooks, John Ferry, Marilyn Tarabochia and Ronald Tarabochia; and wishes the entire commercial fishing fleet a safe and prosperous season.

Senators Kohl and Spanel spoke to Senate Resolution 1998-8730

#### MOTION

On motion of Senator Strannigan, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8710

By Senators Strannigan, Anderson, Finkbeiner, Haugen, Thibaudeau, Heavey, Kohl and Wood

WHEREAS, The Washington State Senate recognizes that the fabric of this state's identity is positively enhanced by the protected presence of gray whales and other marine mammals that ply Washington waters near our major urban centers; and

WHEREAS, The protected gray whale population in Washington waters provides priceless aesthetic and recreational benefits for countless Washington citizens and visitors as well as substantial economic benefit to the state and its tourism industry; and

WHEREAS, The protected presence of our year-round resident gray whale population allows the whale-watching industry to educate thousands of visitors each year about the wonders of these nomadic creatures and other marine mammals that annually migrate to their Northwest home in our state waters; and

WHEREAS, The hunting of gray whales could cause significant personal safety concerns for tourists who come to Washington for the purpose of whale watching and to others attracted to our state for non-consumptive marine activities such as sailing, diving, sea kayaking and other activities; and

WHEREAS, Many citizens, visitors, businesses and international groups who annually contribute significantly to the economic viability of Washington's tourism industry have expressed their objection to a resumption of hunting for gray whales; and

WHEREAS, A resumed gray whale hunt may have profound negative impacts on the ecology of the Olympic Peninsula, causing gray whales to avoid the region and setting international precedents that pose a potential threat to the last remaining population of gray whales;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate formally recognize the social, economic and environmental benefits of the current protection gray whales enjoy in Washington waters; and

BE IT FURTHER RESOLVED, That the Washington State Senate recognize that the current cessation in whale hunting makes Washington waters a unique and important sanctuary for these magnificent marine mammals; and

BE IT FURTHER RESOLVED, That the Washington State Senate will always be a vigilant advocate for the health of the state's resident gray whale population and will watch over this precious resource to protect and preserve it from human harm so that it may be a lasting heritage for future generations.

#### MOTION

Senator Zarelli moved that the following resolution be adopted:

#### SENATE RESOLUTION 1998-8733

By Senators Zarelli and McDonald

WHEREAS, The Legislature passes measures for the benefit of citizens that are implemented by state agencies; and

WHEREAS, Much of this legislation affects the lives of citizens of the state, particularly actions taken by social service agencies that relate to families and family relationships; and

WHEREAS, Implementation by state agencies often occurs without guidance and input from legislators, the elected representatives of the citizenry of Washington; and

WHEREAS, Legislators often become aware of situations where constituents and others complain that agency action has been frustrating, contrary to legislative policy and counterproductive; and

WHEREAS, No committee of the Senate is specifically charged with reviewing and investigating complaints that legislative goals and intent were not carried out in specific situations involving individuals or groups; and

WHEREAS, The citizens of Washington State, who are the final arbiters of decisions made by their government, have a need for a forum for expressing concerns to the Senate about the programs and services provided by their state agencies to ensure that these agencies remain accountable and responsive to the governed; and

WHEREAS, Citizens, agencies and the Senate would have more information if a committee were established to review agency actions and report to the interested standing committees;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the state of Washington does hereby establish a select committee to review the actions of public agencies called the Senate Select Committee on Family Services Oversight; and

BE IT FURTHER RESOLVED, That the Senate Select Committee on Family Services Oversight shall be made up of five members of the Senate, three from the majority caucus and two from the minority caucus and appointed by the President of the Senate and shall use existing Senate staff; and

BE IT FURTHER RESOLVED, That the Senate Select Committee on Family Services Oversight shall terminate and submit a final report to the appropriate committees of the Senate on December 31, 1999, and shall make any interim reports to the appropriate committees at its sole discretion.

Senators Zarelli and Jacobsen spoke to Senate Resolution 1998-8733.

#### MOTION

On motion of Senator Snyder, further consideration of Senate Resolution 1998-8733 was deferred.

There being no objection, the President reverted the Senate to the sixth order of business.

#### MOTION

On motion of Senator Hale, Senators Anderson, Finkbeiner and Roach were excused.

#### SECOND READING GUBERNATORIAL APPOINTMENT MOTION

On motion of Senator Oke, Gubernatorial Appointment No. 9290, Kelly D. White, as a member of the Fish and Wildlife Commission, was confirmed.

Senators Oke and Jacobsen spoke to the confirmation of Kelly D. White as a member of the Fish and Wildlife Commission.

#### APPOINTMENT OF KELLY D. WHITE

The Secretary called the roll and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Bauer, Benton, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 41. Absent: Senator Wood - 1. Excused: Senators Anderson, Brown, Finkbeiner, McDonald, Patterson, Roach and Sellar - 7.

#### MOTION

On motion of Senator Johnson, the Senate returned to the fourth order of business.

#### MOTION

On motion of Senator Betti Sheldon, Senator McAuliffe was excused.

#### REPORT OF CONFERENCE COMMITTEE

Changing air pollution control provisions

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354, air pollution control, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.94.130 and 1991 c 199 s 705 are each amended to read as follows:

The board shall exercise all powers of the authority except as otherwise provided. The board shall conduct its first meeting within thirty days after all of its members have been appointed or designated as provided in RCW 70.94.100. The board shall meet at least ten times per year. All meetings shall be publicly announced prior to their occurrence. All meetings shall be open to the public. A majority of the board shall constitute a quorum for the transaction of business and shall be necessary for any action taken by the board. The board shall elect from its members a chair and such other officers as may be necessary. Any member of the board may designate a regular alternate to serve on the board in his or her place with the same authority as the member when he or she is unable to attend. In no event may a regular alternate serve as the permanent chair. Each member of the board, or his or her representative, shall receive from the authority compensation consistent with such authority's rates (but not to exceed one thousand dollars per year) for time spent in the performance of duties under this chapter, plus the actual and necessary expenses incurred by the member in such performance. The board may appoint a control officer, and any other personnel, and shall determine their salaries, and pay same, together with any other proper indebtedness, from authority funds.

**Sec. 2.** RCW 70.120.070 and 1991 c 199 s 203 are each amended to read as follows:

(1) Any person:

(a) Whose motor vehicle is tested pursuant to this chapter and fails to comply with the emission standards established for the vehicle;  
and

(b) Who, following such a test, expends more than one hundred dollars on a 1980 or earlier model year motor vehicle or expends more than one hundred fifty dollars on a 1981 or later model year motor vehicle for repairs solely devoted to meeting the emission standards and that are performed by a certified emission specialist authorized by RCW 70.120.020(2)(a); and

(c) Whose vehicle fails a retest, may be issued a certificate of acceptance if (i) the vehicle has been in use for more than five years or fifty thousand miles, and (ii) any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative.

To receive the certificate, the person must document compliance with (b) and (c) of this subsection to the satisfaction of the department.

Should any provision of (b) of this subsection be disapproved by the administrator of the United States environmental protection agency, all vehicles shall be required to expend at least four hundred fifty dollars to qualify for a certificate of acceptance.

(2) Persons who fail the initial tests shall be provided with:

(a) Information regarding the availability of federal warranties and certified emission specialists;

(b) Information on the availability and procedure for acquiring license trip-permits;

(c) Information on the availability and procedure for receiving a certificate of acceptance; and

(d) The local phone number of the department's local vehicle specialist.

**Sec. 3.** RCW 70.120.100 and 1979 ex.s. c 163 s 10 are each amended to read as follows:

The department shall investigate complaints received regarding the operation of emission testing stations and shall require corrections or modifications in those operations when deemed necessary.

The department shall also review complaints received regarding the maintenance or repairs secured by owners of motor vehicles for the purpose of complying with the requirements of this chapter. When possible, the department shall assist such owners in determining the merits of the complaints.

The department shall keep a copy of all complaints received, and on request, make copies available to the public. This is not intended to require disclosure of any information that is exempt from public disclosure under chapter 42.17 RCW.

**Sec. 4.** RCW 70.120.170 and 1991 c 199 s 208 are each amended to read as follows:

(1) The department shall administer a system for emission inspections of all motor vehicles, except those described in RCW 46.16.015(2), that are registered within the boundaries of each emission contributing area. Under such system a motor vehicle shall be inspected biennially except where an annual program would be required

to meet federal law and prevent federal sanctions. In addition, motor vehicles shall be inspected at each change of registered owner of a licensed vehicle as provided under RCW 46.16.015.

(2) The director shall:

(a) Adopt procedures for conducting emission inspections of motor vehicles. The inspections may include idle and high revolution per minute emission tests. The emission test for diesel vehicles shall consist solely of a smoke opacity test.

(b) Adopt criteria for calibrating emission testing equipment. Electronic equipment used to test for emissions standards provided for in this chapter shall be properly calibrated. The department shall examine frequently the calibration of the emission testing equipment used at the stations.

(c) Authorize, through contracts, the establishment and operation of inspection stations for conducting vehicle emission inspections authorized in this chapter. No person contracted to inspect motor vehicles may perform for compensation repairs on any vehicles. No public body may establish or operate contracted inspection stations. Any contracts must be let in accordance with the procedures established for competitive bids in chapter 43.19 RCW.

(3) Subsection (2)(c) of this section does not apply to volunteer motor vehicle inspections under RCW 70.120.020(1) if the inspections are conducted for the following purposes:

(a) Auditing;

(b) Contractor evaluation;

(c) Collection of data for establishing calibration and performance standards; or

(d) Public information and education.

(4)(a) The director shall establish by rule the fee to be charged for emission inspections. The inspection fee shall be a standard fee applicable state-wide or throughout an emission contributing area and shall be no greater than ~~((eighteen))~~ fifteen dollars. Surplus moneys collected from fees over the amount due the contractor shall be paid to the state and deposited in the general fund. Fees shall be set at the minimum whole dollar amount required to (i) compensate the contractor or inspection facility owner, and (ii) offset the general fund appropriation to the department to cover the administrative costs of the motor vehicle emission inspection program.

(b) Before each inspection, a person whose motor vehicle is to be inspected shall pay to the inspection station the fee established under this section. The person whose motor vehicle is inspected shall receive the results of the inspection. If the inspected vehicle complies with the standards established by the director, the person shall receive a dated certificate of compliance. If the inspected vehicle does not comply with those standards, one reinspection of the vehicle shall be afforded without charge.

(5) All units of local government and agencies of the state with motor vehicles garaged or regularly operated in an emissions contributing area shall test the emissions of those vehicles annually to ensure that the vehicle's emissions comply with the emission standards established by the director. All state agencies outside of emission contributing areas with more than twenty motor vehicles housed at a single facility or contiguous facilities shall test the emissions of those vehicles annually to ensure that the vehicles' emissions comply with standards established by the director. A report of the results of the tests shall be submitted to the department.

**NEW SECTION. Sec. 5.** A new section is added to chapter 70.120 RCW to read as follows:

The department shall establish a scientific advisory board to review plans to establish or expand the geographic area where an inspection and maintenance system for motor vehicle emissions is required. The board shall consist of three to five members. All members shall have at least a master's degree in physics, chemistry, or engineering, or a closely related field. No member may be a current employee of a local air pollution control authority, the department, the United States environmental protection agency, or a company that may benefit from a review by the board.

The board shall review an inspection and maintenance plan at the request of a local air pollution control authority, the department, or by a petition of at least fifty people living within the proposed boundaries of a vehicle emission inspection and maintenance system. The entity or entities requesting a scientific review may include specific issues for the board to consider in its review. The board shall limit its review to matters of science and shall not provide advice on penalties or issues that are strictly legal in nature.

The board shall provide a complete written review to the department. If the board members are not in agreement as to the scientific merit of any issue under review, the board may include a dissenting opinion in its report to the department. The department shall immediately make copies available to the local air pollution control authority and to the public.

The department shall conduct a public hearing, within the area affected by the proposed rule, if any significant aspect of the rule is in conflict with a majority opinion of the board. The department shall include in its responsiveness summary the rationale for including a rule that is not consistent with the review of the board, including a response to the issues raised at the public hearing.

Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

**Sec. 6.** RCW 46.16.015 and 1991 c 199 s 209 are each amended to read as follows:

(1) Neither the department of licensing nor its agents may issue or renew a motor vehicle license for any vehicle or change the registered owner of a licensed vehicle, for any vehicle that is required to be inspected under chapter 70.120 RCW, unless the application for issuance or renewal is: (a) Accompanied by a valid certificate of compliance or a valid certificate of acceptance issued pursuant to chapter 70.120 RCW; or (b) exempted from this requirement pursuant to subsection (2) of this section. The certificates must have a date of validation



which is within six months of the date of application for the vehicle license or license renewal. Certificates for fleet or owner tested diesel vehicles may have a date of validation which is within twelve months of the assigned license renewal date.

(2) Subsection (1) of this section does not apply to the following vehicles:

(a) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale;

(b) Motor vehicles with a model year of 1967 or earlier;

(c) Motor vehicles that use propulsion units powered exclusively by electricity;

(d) Motor vehicles fueled by propane, compressed natural gas, or liquid petroleum gas, unless it is determined that federal sanctions will be imposed as a result of this exemption;

(e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;

(f) Farm vehicles as defined in RCW 46.04.181;

(g) Used vehicles which are offered for sale by a motor vehicle dealer licensed under chapter 46.70 RCW; ~~((ø))~~

(h) Classes of motor vehicles exempted by the director of the department of ecology;

(i) Collector cars as identified by the department of licensing under RCW 46.16.305(1); or

(j) Beginning January 1, 2000, vehicles that are less than five years old or more than twenty-five years old.

The provisions of ~~((subparagraph))~~ (a) of this subsection may not be construed as exempting from the provisions of subsection (1) of this section applications for the renewal of licenses for motor vehicles that are or have been leased.

(3) The department of ecology shall provide information to motor vehicle owners regarding the boundaries of emission contributing areas and restrictions established under this section that apply to vehicles registered in such areas. In addition the department of ecology shall provide information to motor vehicle owners on the relationship between motor vehicles and air pollution and steps motor vehicle owners should take to reduce motor vehicle related air pollution. The department of licensing shall send to all registered motor vehicle owners affected by the emission testing program notice that they must have an emission test to renew their registration.

**NEW SECTION. Sec. 7.** (1) The department of ecology shall evaluate changes to the motor vehicle emission inspection program made in RCW 46.16.015(2)(j) and other options that meet air quality objectives and lessen the effect of the program on the motorist. The department shall consider air quality, program costs, and motorist convenience in its evaluation and make recommendations for changes to the program to the appropriate standing committees of the legislature by January 1, 1999.

(2) This section expires June 30, 1999.

**Sec. 8.** RCW 70.94.473 and 1995 c 205 s 1 are each amended to read as follows:

(1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(a) Not burn wood in any solid fuel burning device whenever the department has determined under RCW 70.94.715 that any air pollution episode exists in that area;

(b) Not burn wood in any solid fuel burning device except those which are either Oregon department of environmental quality phase II or United States environmental protection agency certified or certified by the department under RCW 70.94.457(1) or a pellet stove either certified or issued an exemption by the United States environmental protection agency in accordance with Title 40, Part 60 of the code of federal regulations, in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by the department or any authority, for that area. A first stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of ~~((seventy-five))~~ sixty micrograms per cubic meter measured on a twenty-four hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight-hour average; and

(c) Not burn wood in any solid fuel burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of one hundred five micrograms per cubic meter measured on a twenty-four hour average.

(2) Actions of the department and local air pollution control authorities under this section shall preempt actions of other state agencies and local governments for the purposes of controlling air pollution from solid fuel burning devices, except where authorized by chapter 199, Laws of 1991."

On page 1, line 1 of the title, after "control;" strike the remainder of the title and insert "amending RCW 70.94.130, 70.120.070, 70.120.100, 70.120.170, 46.16.015, and 70.94.473; adding a new section to chapter 70.120 RCW; creating a new section; and providing an expiration date," and the bill do pass as recommended by the Conference Committee.

Signed by Senators Morton, Prince; Representatives Schoesler, Pennington.

## MOTION

Senator Morton moved that the Report of the Conference Committee on Second Engrossed Second Substitute House Bill No. 1354 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Second Engrossed Second Substitute House Bill No. 1354.

The motion by Senator Morton carried and the Report of the Conference Committee on Second Engrossed Second Substitute House Bill No. 1354 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Second Engrossed Second Substitute House Bill No. 1354, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Second Substitute House Bill No. 1354, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 7; Absent, 0; Excused, 3.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Winsley, Wood and Zarelli - 39.

Voting nay: Senators Brown, Fraser, Hargrove, Kline, Thibaudeau, West and Wojahn - 7.

Excused: Senators McAuliffe, Patterson and Roach - 3. SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### REPORT OF CONFERENCE COMMITTEE

SHB 2556

March 11, 1998

Includes "NEW ITEM": YES

Making changes concerning the federal child abuse prevention and treatment act

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SUBSTITUTE HOUSE BILL NO. 2556, child abuse prevention/treatment, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.34.020 and 1990 c 284 s 31 are each amended to read as follows:

The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact unless a child's right to conditions of basic nurture, health, or safety is jeopardized. When the rights of basic nurture, physical and mental health, and safety of the child and the legal rights of the parents are in conflict, the rights and safety of the child should prevail. In making reasonable efforts under this chapter, the child's health and safety shall be the paramount concern. The right of a child to basic nurturing includes the right to a safe, stable, and permanent home and a speedy resolution of any proceeding under this chapter.

Sec. 2. RCW 13.34.130 and 1997 c 280 s 1 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030; after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to

believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is related to the child as defined in RCW 74.15.020(4)(a) and with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

- (i) There is no parent or guardian available to care for such child;
- (ii) The parent, guardian, or legal custodian is not willing to take custody of the child;
- (iii) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or
- (iv) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the court finds ~~((#))~~: (a) Termination is recommended by the supervising agency ~~((- that it))~~; (b) termination is in the best interests of the child; and (c) that ~~((it is not reasonable to provide further services to reunify the family))~~ because of the existence of aggravated circumstances ~~((make it unlikely that services will effectuate the return of the child to the child's parents in the near future))~~, reasonable efforts to unify the family are not required. Notwithstanding the existence of aggravated circumstances, reasonable efforts may be required if the court or department determines it is in the best interest of the child. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

~~((a))~~ (i) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

~~((b))~~ (ii) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

~~((c))~~ (iii) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

~~((d))~~ (iv) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

~~((e))~~ (v) Conviction of the parent of attempting, soliciting, or conspiracy to commit a crime listed in (c)(i), (ii), (iii), or (iv) of this subsection;

(vi) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;

~~((f))~~ (vii) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim. In the case of a parent of an Indian child, as defined in the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. 1903), the court shall also consider tribal efforts to assist the parent in completing treatment and make it possible for the child to return home;

(viii) An infant under three years of age has been abandoned as defined in RCW 13.34.030(4)(a);

(ix) The mother has given birth to three or more drug-affected infants, resulting in the department filing a petition under section 23 of this act.

(3) If reasonable efforts are not ordered under this subsection (3) a permanency plan hearing shall be held within thirty days. Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child;

(4) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent living, if appropriate and if the child is age sixteen or older. Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(b) Unless the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

(ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(c) If the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.

~~((4))~~ (5) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

~~((5))~~ (7) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits. The supervising agency shall provide a foster parent, preadoptive parent, or relative with notice of, and their right to an opportunity to be heard in, a review hearing pertaining to the child, but only if that person is currently providing care to that child at the time of the hearing. This section shall not be construed to grant party status to any person who has been provided an opportunity to be heard.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration and preference has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

**Sec. 3.** RCW 13.34.145 and 1995 c 311 s 20 and 1995 c 53 s 2 are each reenacted and amended to read as follows:

(1) A permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(a) Whenever a child is placed in out-of-home care pursuant to RCW 13.34.130, the agency that has custody of the child shall provide the court with a written permanency plan of care directed towards securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent living, if appropriate and if the child is age sixteen or older and the provisions of subsection (2) of this section are met.

(b) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(3)~~((a) For children ten and under,))~~ A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

~~((b) For children over ten, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least fifteen months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than eighteen months following commencement of the current placement episode.))~~

(4) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve ~~((or eighteen))~~ months, as provided in subsection (3) of this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree or guardianship order is entered, or the dependency is dismissed.

(5) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(6) At the permanency planning hearing, the court shall enter findings as required by RCW 13.34.130~~((5))~~ (7) and shall review the permanency plan prepared by the agency. If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280 and 13.34.130(7). If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. In cases where the primary permanency planning goal has not yet been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. In all cases, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists;

or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.130~~((5))~~ (7), and the court shall determine the need for continued intervention.

(8) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(9) Except as otherwise provided in RCW 13.34.235, the status of all dependent children shall continue to be reviewed by the court at least once every six months, in accordance with RCW 13.34.130(~~((5))~~) (7), until the dependency is dismissed. Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**Sec. 4.** RCW 13.34.180 and 1997 c 280 s 2 are each amended to read as follows:

A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege:

(1) That the child has been found to be a dependent child under RCW 13.34.030(4); and  
(2) That the court has entered a dispositional order pursuant to RCW 13.34.130; and  
(3) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(4); and

(4) That the services ordered under RCW 13.34.130 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided; and

(5) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(a) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; or

(b) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; and

(6) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home; or

(7) In lieu of the allegations in subsections (1) through (6) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found; or

(8) In lieu of the allegations in subsections (2) through (6) of this section, the petition may allege that the parent has been found by a court of competent jurisdiction:

(a) To have committed, against another child of such parent, murder in the first degree, murder in the second degree, or homicide by abuse as defined in chapter 9A.32 RCW;

(b) To have committed, against another child of such parent, manslaughter in the first degree or manslaughter in the second degree, as defined in chapter 9A.32 RCW;

(c) To have attempted, conspired, or solicited to commit one or more of the crimes listed in (a) or (b) of this subsection; or

(d) To have committed assault in the first or second degree, as defined in chapter 9A.36 RCW, against the surviving child or another child of the parent.

~~((A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been offered or provided.))~~

Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

"NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of social and health services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number)."

**Sec. 5.** RCW 13.34.190 and 1993 c 412 s 3 are each amended to read as follows:

After hearings pursuant to RCW 13.34.110, the court may enter an order terminating all parental rights to a child if the court finds that:

(1)(a) The allegations contained in the petition as provided in RCW 13.34.180 (1) through (6) are established by clear, cogent, and convincing evidence; or

~~((2))~~ (b) RCW 13.34.180 (3) and (4) may be waived because the allegations under RCW 13.34.180 (1), (2), (5), and (6) are established beyond a reasonable doubt and when an infant has been abandoned, as defined in RCW 13.34.030, the abandonment has been proved beyond a reasonable doubt; or

~~((3))~~ (c) The allegation under RCW 13.34.180(7) is established beyond a reasonable doubt. In determining whether RCW 13.34.180 (5) and (6) are established beyond a reasonable doubt, the court shall consider whether one or more of the aggravated circumstances listed in RCW 13.34.130(2) exist; or

(d) The allegation under RCW 13.34.180(8) is established beyond a reasonable doubt; and

~~((4))~~ (2) Such an order is in the best interests of the child.

**Sec. 6.** RCW 74.15.130 and 1995 c 302 s 5 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or (b) that the conditions required for the issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of a foster family home license, the department's decision shall be upheld if there is reasonable cause to believe that:

(a) The applicant or licensee lacks the character, suitability, or competence to care for children placed in out-of-home care, however, no unfounded report of child abuse or neglect may be used to deny employment or a license;

(b) The applicant or licensee has failed or refused to comply with any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements adopted pursuant to such provisions; or

(c) The conditions required for issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses.

(3) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, other than a foster family home license, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(4) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under the provisions of this chapter and RCW 74.13.031 or that an agency subject to licensing under this chapter and RCW 74.13.031 is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed seventy-five dollars per violation for a family day-care home and two hundred fifty dollars per violation for group homes, child day-care centers, and child-placing agencies. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if

the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

**Sec. 7.** RCW 26.44.020 and 1997 c 386 s 45, 1997 c 386 s 24, 1997 c 282 s 4, and 1997 c 132 s 2 are each reenacted and amended to read as follows:

For the purpose of and as used in this chapter:

- (1) "Court" means the superior court of the state of Washington, juvenile department.
- (2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.
- (3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.
- (4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.
- (5) "Department" means the state department of social and health services.
- (6) "Child" or "children" means any person under the age of eighteen years of age.
- (7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.
- (8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.
- (9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child, adult dependent, or developmentally disabled person by any person under circumstances which indicate that the child's or adult's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined herein.
- (13) "Child protective services section" shall mean the child protective services section of the department.
- (14) "Adult dependent persons" shall be defined as those persons over the age of eighteen years who have been found to be legally incompetent or disabled pursuant to chapter 11.88 RCW.
- (15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.
- (16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety. The fact that siblings share a bedroom is not, in and of itself, "negligent treatment or maltreatment."
- (17) "Developmentally disabled person" means a person who has a disability defined in RCW 71A.10.020.
- (18) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions which endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.
- (19) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty.
- (20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a "sexually aggressive youth."



(21) "Unfounded" means available ~~((evidence))~~ information indicates that, more likely than not, child abuse or neglect did not occur.

**Sec. 8.** RCW 26.44.100 and 1997 c 282 s 2 are each amended to read as follows:

(1) The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth in this chapter, provided that nothing contained in this chapter shall cause any delay in protective custody action.

(2) The department shall notify the alleged perpetrator of the allegations of child abuse and neglect at the earliest possible point in the investigation that will not jeopardize the safety and protection of the child or the investigation process.

Whenever the department completes an investigation of a child abuse or neglect report under chapter 26.44 RCW, the department shall notify the alleged perpetrator of the report and the department's investigative findings. The notice shall also advise the alleged perpetrator that:

(a) A written response to the report may be provided to the department and that such response will be filed in the record following receipt by the department;

(b) Information in the department's record may be considered in subsequent investigations or proceedings related to child protection or child custody;

(c) ~~((There is currently information in the department's record that may))~~ Founded reports of child abuse and neglect may be considered in determining ~~((that))~~ whether the person is disqualified from being licensed to provide child care, employed by a licensed child care agency, or authorized by the department to care for children; and

(d) ~~((A person who has demonstrated a good faith desire to work in a licensed agency may request an informal meeting with the department to have an opportunity to discuss and contest the information currently in the record.))~~ An alleged perpetrator named in a founded report of child abuse or neglect has the right to seek review of the finding as provided in this chapter.

(3) The notification required by this section shall be made by ~~((regular))~~ certified mail, return receipt requested, to the person's last known address.

(4) The duty of notification created by this section is subject to the ability of the department to ascertain the location of the person to be notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

**NEW SECTION. Sec. 9.** A new section is added to chapter 26.44 RCW to read as follows:

(1) A person who is named as an alleged perpetrator after October 1, 1998, in a founded report of child abuse or neglect has the right to seek review and amendment of the finding as provided in this section.

(2) Within twenty calendar days after receiving written notice from the department under RCW 26.44.100 that a person is named as an alleged perpetrator in a founded report of child abuse or neglect, he or she may request that the department review the finding. The request must be made in writing. If a request for review is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding.

(3) Upon receipt of a written request for review, the department shall review and, if appropriate, may amend the finding. Management level staff within the children's administration designated by the secretary shall be responsible for the review. The review must be conducted in accordance with procedures the department establishes by rule. Upon completion of the review, the department shall notify the alleged perpetrator in writing of the agency's determination. The notification must be sent by certified mail, return receipt requested, to the person's last known address.

(4) If, following agency review, the report remains founded, the person named as the alleged perpetrator in the report may request an adjudicative hearing to contest the finding. The adjudicative proceeding is governed by chapter 34.05 RCW and this section. The request for an adjudicative proceeding must be filed within thirty calendar days after receiving notice of the agency review determination. If a request for an adjudicative proceeding is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding.

(5) Reviews and hearings conducted under this section are confidential and shall not be open to the public. Information about reports, reviews, and hearings may be disclosed only in accordance with federal and state laws pertaining to child welfare records and child protective services reports.

(6) The department may adopt rules to implement this section.

**Sec. 10.** RCW 74.13.031 and 1997 c 386 s 32 and 1997 c 272 s 1 are each reenacted and amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of homeless, runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of (~~alleged neglect, abuse, or abandonment of children~~) any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.

(11) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

**Sec. 11.** RCW 70.190.010 and 1996 c 132 s 2 are each amended to read as follows:

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

(1) "Administrative costs" means the costs associated with procurement; payroll processing; personnel functions; management; maintenance and operation of space and property; data processing and computer services; accounting; budgeting; auditing; indirect costs; and organizational planning, consultation, coordination, and training.

(2) "Assessment" has the same meaning as provided in RCW 43.70.010.

(3) "At-risk" children are children who engage in or are victims of at-risk behaviors.

(4) "At-risk behaviors" means violent delinquent acts, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence.

(5) "Community public health and safety networks" or "networks" means the organizations authorized under RCW 70.190.060.

(6) "Comprehensive plan" means a two-year plan that examines available resources and unmet needs for a county or multicounty area, barriers that limit the effective use of resources, and a plan to address these issues that is broadly supported by local residents.

(7) "Participating state agencies" means the office of the superintendent of public instruction, the department of social and health services, the department of health, the employment security department, the department of community, trade, and economic development, and such other departments as may be specifically designated by the governor.

(8) "Family policy council" or "council" means the superintendent of public instruction, the secretary of social and health services, the secretary of health, the commissioner of the employment security department, and the director of the department of community, trade, and economic development or their designees, ~~((one))~~ two legislators from each caucus of the senate and house of representatives, and one representative of the governor.

(9) "Fiduciary interest" means (a) the right to compensation from a health, educational, social service, or justice system organization that receives public funds, or (b) budgetary or policy-making authority for an organization listed in (a) of this subsection. A person who acts solely in an advisory capacity and receives no compensation from a health, educational, social service, or justice system organization, and who has no budgetary or policy-making authority is deemed to have no fiduciary interest in the organization.

(10) "Outcome" or "outcome based" means defined and measurable outcomes used to evaluate progress in reducing the rate of at-risk children and youth through reducing risk factors and increasing protective factors.

(11) "Matching funds" means an amount no less than twenty-five percent of the amount budgeted for a network. The network's matching funds may be in-kind goods and services. Funding sources allowable for match include appropriate federal or local levy funds, private charitable funding, and other charitable giving. Basic education funds shall not be used as a match. State general funds shall not be used as a match for violence reduction and drug enforcement account funds created under RCW 69.50.520.

(12) "Policy development" has the same meaning as provided in RCW 43.70.010.

(13) "Protective factors" means those factors determined by the department of health to be empirically associated with behaviors that contribute to socially acceptable and healthy nonviolent behaviors. Protective factors include promulgation, identification, and acceptance of community norms regarding appropriate behaviors in the area of delinquency, early sexual activity, alcohol and substance abuse, educational opportunities, employment opportunities, and absence of crime.

(14) "Risk factors" means those factors determined by the department of health to be empirically associated with at-risk behaviors that contribute to violence.

**Sec. 12.** RCW 70.190.060 and 1996 c 132 s 3 are each amended to read as follows:

(1) The legislature authorizes community public health and safety networks to reconnect parents and other citizens with children, youth, families, and community institutions which support health and safety. The networks have only those powers and duties expressly authorized under this chapter. The networks should empower parents and other citizens by being a means of expressing their attitudes, spirit, and perspectives regarding safe and healthy family and community life. The legislature intends that parent and other citizen perspectives exercise a controlling influence over policy and program operations of professional organizations concerned with children and family issues within networks in a manner consistent with the Constitution and state law. It is not the intent of the legislature that health, social service, or educational professionals dominate community public health and safety network processes or programs, but rather that these professionals use their skills to lend support to parents and other citizens in expressing their values as parents and other citizens identify community needs and establish community priorities. To this end, the legislature intends full participation of parents and other citizens in community public health and safety networks. The intent is that local community values are reflected in the operations of the network.

(2) A group of persons described in subsection (3) of this section may apply to be a community public health and safety network.

(3) Each community public health and safety network shall be composed of twenty-three people, thirteen of whom shall be citizens who live within the network boundary with no fiduciary interest. In selecting these members, first priority shall be given to members of community mobilization advisory boards, city or county children's services commissions, human services advisory boards, or other such organizations. The thirteen persons shall be selected as follows: Three by chambers of commerce, three by school board members, three by county legislative authorities, three by city legislative authorities, and one high school student, selected by student organizations. The remaining ten members shall live or work within the network boundary and shall include local representation selected by the following groups and entities: Cities; counties; federally recognized Indian tribes; parks and recreation programs; law enforcement agencies; state children's service workers; employment assistance workers; private social service providers, broad-based nonsecular organizations, or health service providers; and public education.

(4) Each of the twenty-three people who are members of each community public health and safety network must sign an annual declaration under penalty of perjury or a notarized statement that clearly, in plain and understandable language, states whether or not he or she has a fiduciary interest. If a member has a fiduciary interest, the nature of that interest must be made clear, in plain understandable language, on the signed statement.

(5) Members of the network shall serve terms of three years.

The terms of the initial members of each network shall be as follows: (a) One-third shall serve for one year; (b) one-third shall serve for two years; and (c) one-third shall serve for three years. Initial members may agree which shall serve fewer than three years or the decision may be made by lot. Any vacancy occurring during the term may be filled by the chair for the balance of the unexpired term.

~~((5))~~ (6) Not less than sixty days before the expiration of a network member's term, the chair shall submit the name of a nominee to the network for its approval. The network shall comply with subsection (3) of this section.

~~((6))~~ (7) Networks are subject to the open public meetings act under chapter 42.30 RCW and the public records provisions of RCW 42.17.270 through 42.17.310.

**Sec. 13.** RCW 70.190.130 and 1996 c 132 s 8 are each amended to read as follows:

(1) The council shall only disburse funds to a network after a comprehensive plan has been prepared by the network and approved by the council. In approving the plan the council shall consider whether the network:

- (a) Promoted input from the widest practical range of agencies and affected parties, including public hearings;
- (b) Reviewed the indicators of violence data compiled by the local public health departments and incorporated a response to those indicators in the plan;
- (c) Obtained a declaration by the largest health department within the network boundary, indicating whether the plan meets minimum standards for assessment and policy development relating to social development according to RCW 43.70.555;
- (d) Included a specific mechanism of data collection and transmission based on the rules established under RCW 43.70.555;
- (e) Considered all relevant causes of violence in its community and did not isolate only one or a few of the elements to the exclusion of others and demonstrated evidence of building community capacity through effective neighborhood and community development;
- (f) Considered youth employment and job training programs outlined in this chapter as a strategy to reduce the rate of at-risk children and youth;
- (g) Integrated local programs that met the network's priorities and were deemed successful by the network;
- (h) Committed to make measurable reductions in the rate of at-risk children and youth by reducing the rate of state-funded out-of-home placements and make reductions in at least three of the following rates of youth: Violent criminal acts, substance abuse, pregnancy and male parentage, suicide attempts, dropping out of school, child abuse or neglect, and domestic violence; and
- (i) Held a public hearing on its proposed comprehensive plan and submitted to the council all of the written comments received at the hearing and a copy of the minutes taken at the hearing.

(2) The council may establish a maximum amount to be expended by a network for purposes of planning and administrative duties, that shall not, in total, exceed ten percent of funds available to a network. The council shall make recommendations to the legislature regarding the specific maximum amounts that can be spent by a network or group of networks on planning and administrative duties. The recommendation may provide differing percentages, considering the size of the budgets of each network and giving consideration to whether there should be a higher percentage for administrative and planning purposes in budgets for smaller networks and a smaller percentage of the budgets for administration and planning purposes in larger networks.

(3) The council may determine that a network is not in compliance with this chapter if it fails to comply with statutory requirements. Upon a determination of noncompliance, the council may suspend or revoke a network's status or contract and specify a process and deadline for the network's compliance.

**NEW SECTION. Sec. 14.** The legislature finds that it is critically important to the basic nurture, health, and safety of children that the state examine a state-wide program relating to child abuse and neglect that includes citizen review panels as required by the federal child abuse prevention and treatment act, 42 U.S.C. Sec. 5106a. **NEW SECTION. Sec. 15.** The Washington state institute for public policy shall conduct, or contract for, a study regarding the creation of citizen review panels to meet the requirements of federal law, and located independent of the department of social and health services. The study shall include an examination of a system of independent citizen review panels to:

- (1) Examine the policies and procedures of state agencies and, where appropriate, specific cases, to evaluate the extent to which the agencies are effectively discharging their child protection responsibilities according to the state law and the state plan required under 42 U.S.C. Sec. 5106a.
- (2) Examine child protection standards set forth in the federal and state law.
- (3) Examine any other criteria that the panel considers important to ensure the protection of children, including a review of the extent to which the state child protective services system is coordinated with the foster care and adoption programs established under part E, Title IV of the Social Security Act.
- (4) Examine whether the panels should report possible criminal activity to the local prosecuting attorney in the county in which the case resides.
- (5) Examine whether, if the panel finds possible civil infractions, whether the findings should be turned over to the aggrieved individual, if the conditions set forth in RCW 74.13.500 through 74.13.525 are met, and who should turn the findings over, and whether the individual should be awarded attorneys' fees, costs, damages, including punitive damages, if the individual prevails in court.

The study shall include an examination of the barriers to broad access to information, whether the panels should have access to the information and specific recommendations on how the panels can obtain access to such information from the department of social and health services, criminal justice agencies, law enforcement, schools, and medical providers, and other sources that have relevant information, including reports and records made and maintained by the department and its contracting agencies, while preserving the confidentiality of the records.

The study shall also include a review of the department of social and health services' current committees and teams that have citizen membership and participation, to determine whether any of these committees and teams should be consolidated.

An interim report of the study shall be submitted to the legislative children's oversight committee by September 15, 1998. The final study and recommendations shall be submitted to the appropriate committees of the house of representatives and the senate by December 1, 1998.

**NEW SECTION. Sec. 16.** The sum of twelve thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 1998, from the general fund to The Evergreen State College for the Washington state institute for public policy for the purposes of sections 14 and 15 of this act.

**Sec. 17.** RCW 70.47.060 and 1997 c 337 s 2, 1997 c 335 s 2, 1997 c 245 s 6, and 1997 c 231 s 206 are each reenacted and amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may, to the extent that funds are available, offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for groups of subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW ((48.42.080)) 48.47.030, and such other factors as the administrator deems appropriate.

However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that the services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (9) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (10) of this section.

(b) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

(c) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator.

(d) To develop, as an offering by every health carrier providing coverage identical to the basic health plan, as configured on January 1, 1996, a basic health plan model plan with uniformity in enrollee cost-sharing requirements.

(3) To design and implement a structure of enrollee cost sharing due a managed health care system from subsidized and nonsubsidized enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(4) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists.

(5) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(6) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(7) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(8) To receive periodic premiums from or on behalf of subsidized and unsubsidized enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(9) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized or unsubsidized enrollees, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. Funds received by a family as part of participation in the adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward a family's current gross family income for the purposes of this chapter. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If, as a result of an eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee knowingly failed to inform the plan of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the federal poverty level. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(10) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or unsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(11) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(12) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(13) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(14) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(15) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

(16) In consultation with appropriate state and local government agencies, to establish criteria defining eligibility for persons confined or residing in government-operated institutions.

**NEW SECTION. Sec. 18.** The legislature finds that all children have the right to be born healthy and free of the consequences of substance abuse by the mother during pregnancy. Individuals who abuse substances are unable to make reasoned decisions that help ensure the birth of a healthy infant. The availability of long-term pharmaceutical birth control, when combined with other treatment regimens, may allow

women to regain control of their lives and make long-term decisions in the best interest of themselves and their children. The legislature finds that it may be unreasonable to continue efforts to reunify the family when a mother has given birth to a third or subsequent infant affected by her substance abuse.

**NEW SECTION. Sec. 19.** A new section is added to chapter 13.34 RCW to read as follows:

(1) A physician licensed under chapter 18.71 or 18.57 RCW, or an advanced registered nurse practitioner under chapter 18.79 RCW, primarily responsible for the care of a newborn infant, who has reasonable cause to believe the infant has been exposed to nonprescription use of controlled substances shall: (a) Conduct reasonably available and appropriate tests to determine whether the infant is drug-affected; (b) notify the department of the name and address of the parent or parents of the infant who is drug-affected; and (c) retain the infant in the birthing facility for medical treatment or place the infant in appropriate pediatric interim care services with the concurrence of the department for sufficient time for the infant to undergo withdrawal from the effects of the controlled substances. The withdrawal shall be under the supervision of appropriate health care professionals.

(2) The physician or nurse practitioner who was responsible for the birth shall, as soon as practical, inform the mother of a drug-affected infant of: (a) The availability of publicly funded tubal ligation surgery as provided under section 34 of this act; (b) available drug treatment and counseling; and (c) birth control counseling and education. The mother may accept the offer of a tubal ligation up to six months following its tender.

(3) A physician or nurse practitioner who makes any determination under this section shall not be liable in any cause of action as a result of his or her determination except for acts of gross negligence or intentional misconduct.

(4) For the purpose of this section, "newborn infant" means an infant within seven days after birth.

(5) This section expires June 30, 2002.

**NEW SECTION. Sec. 20.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The department, upon receipt of a report under section 19 of this act, shall investigate and, in appropriate cases, file a dependency petition. In the event the department does not file a petition, it shall refer the mother to available chemical dependency treatment programs or a model project.

(2) The department and the mother may enter an agreement in which the mother agrees to chemical dependency treatment on an inpatient or outpatient basis or be referred to a model project created under section 30 of this act. The agreement must specify completion dates for each of the conditions. All agreements expire twelve months from the date of execution. If the conditions have not been fulfilled at the time the agreement expires, the department shall investigate and in appropriate cases, file a dependency petition.

(3) If the department and mother enter an agreement under subsection (2) of this section, the department shall, if a dependency petition has been filed, request the court to defer the entry of an order of dependency for as long as the mother remains in treatment or enrolled in the model project, subject to the department's monitoring for compliance. As a condition of deferral of the order of dependency, the parents, if both are available and known, shall stipulate to facts sufficient to constitute a dependency and the court shall order treatment or enrollment in a model project and prohibit nonprescription use of controlled substances. In the event that an available parent unreasonably refuses to stipulate to facts constituting a dependency, the court may proceed with the hearing on the petition.

(4) This section expires June 30, 2002.

**NEW SECTION. Sec. 21.** A new section is added to chapter 13.34 RCW to read as follows:

(1) If the department receives a report under section 19 of this act of a mother who has given birth to a second drug-affected infant, the department:

(a) May request the court to proceed immediately with the entry of a dependency for the first drug-affected infant; and

(b) Shall investigate and, unless there are compelling reasons to the contrary, file a dependency petition on the second drug-affected infant. If the department does not file a petition, it shall refer the woman to available chemical dependency treatment programs or a model project.

(2) The department and the mother may enter an agreement in which the mother agrees to: (a) Enter chemical dependency inpatient treatment or a model project, together with an aftercare program that includes participation in a model project when feasible; and (b) medically appropriate pharmaceutical pregnancy prevention that is administered not less than once every thirty days. The selection of the pregnancy prevention method shall be based on an evaluation of the medical and physical consequences to the mother and shall remain in effect until the dependency petition is dismissed or the court determines it is no longer medically appropriate. The agreement must specify completion dates for each of the conditions. All agreements expire twelve months from the date of execution. If the conditions have not been fulfilled at the time the agreement expires, the department shall investigate and in appropriate cases, file a dependency petition.

(3) If the department and the mother enter an agreement under subsection (2) of this section, the department shall, if a dependency petition has been filed, request the court to defer the entry of an order of dependency on the second drug-affected infant for as long as the mother remains in treatment or enrolled in the model project, subject to the department's monitoring for compliance. As a condition of deferral of the order of dependency, the parents, if both are available and known, shall stipulate to facts sufficient to constitute a dependency and the court shall order treatment or enrollment in a model project and prohibit nonprescription use of controlled substances. In the event that an available parent unreasonably refuses to stipulate to facts constituting a dependency, the court may proceed with the hearing on the petition.

(4) This section expires June 30, 2002.

**NEW SECTION. Sec. 22.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The department may request the court to dismiss the petition deferred under section 20 or 21 of this act at any time. No petition may be vacated or dismissed unless the mother demonstrates by clear and convincing evidence that she has not used controlled substances in a nonprescription manner for at least twelve consecutive months and can safely provide for the child's welfare without continuing supervision by the department or court.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 23.** A new section is added to chapter 13.34 RCW to read as follows:

(1) If the department receives a report under section 19 of this act of a mother who has given birth to a third or subsequent drug-affected infant, the department shall:

(a) Request the court to proceed immediately with the entry of a finding of dependency on all drug-affected children born before the third or subsequent birth unless an order of dependency has been vacated or dismissed; and

(b) File a dependency petition on any drug-affected infant subject to this section as well as any other child born before the third or subsequent birth of a drug-affected infant.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 24.** A new section is added to chapter 13.34 RCW to read as follows:

(1) Following a filing of a petition under section 23 of this act:

(a) The court shall order evaluation by a designated chemical dependency specialist, as defined in RCW 70.96A.020 who shall undertake the processes described in RCW 70.96A.140.

(b) If the court has ordered removal of a child or children, the out-of-home placement order shall remain in effect until the petition is dismissed or the mother has successfully completed inpatient treatment and any aftercare program for controlled substances ordered by the court.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 25.** By July 1, 1999, the department of social and health services, in consultation with the department of health, shall adopt rules to implement this act, including a definition of "drug-affected infant," which shall be limited to infants who are affected by a mother's nonprescription use of controlled substances.

**NEW SECTION. Sec. 26.** A new section is added to chapter 13.34 RCW to read as follows:

(1) A physician licensed under chapter 18.71 or 18.57 RCW, or an advanced registered nurse practitioner under chapter 18.79 RCW, primarily responsible for the care of a newborn infant, who has reasonable cause to believe the infant has been physiologically affected by the mother's alcohol abuse during her pregnancy shall: (a) Conduct reasonably available and appropriate tests to determine whether the infant is alcohol-affected; (b) notify the department of the name and address of the parent or parents of the infant who is alcohol-affected; and (c) retain the infant in the birthing facility for medical treatment or place the infant in appropriate pediatric interim care services with the concurrence of the department for sufficient time for the infant to undergo withdrawal from the effects of the alcohol. The withdrawal shall be under the supervision of appropriate medical professionals.

(2) The physician or nurse practitioner who was responsible for the birth shall, as soon as practical, inform the mother of an alcohol-affected infant of: (a) The availability of publicly funded tubal ligation surgery as provided under section 35 of this act; (b) available alcohol treatment and counseling; and (c) birth control counseling and education. The mother may accept the offer of a tubal ligation up to six months following its tender.

(3) A physician or nurse practitioner who makes any determination under this section shall not be liable in any cause of action as a result of his or her determination except for acts of gross negligence or intentional misconduct.

(4) For the purposes of this section, "newborn infant" means an infant within seven days after birth.

(5) This section expires June 30, 2002.

**NEW SECTION. Sec. 27.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The department, upon receipt of a report under section 26 of this act, shall investigate and, in appropriate cases, file a dependency petition. In the event the department does not file a petition, it shall refer the mother to available alcohol dependency treatment programs or a model project.

(2) The department and the mother may enter an agreement in which the mother agrees to alcohol treatment on an inpatient or outpatient basis or be referred to a model project created under section 30 of this act. The agreement must specify completion dates for each of the conditions. All agreements expire twelve months from the date of execution. If the conditions have not been fulfilled at the time the agreement expires, the department shall investigate and in appropriate cases, file a dependency petition.

(3) If the department and mother enter an agreement under subsection (2) of this section, the department shall, if a dependency petition has been filed, request the court to defer the entry of an order of dependency for as long as the mother remains in treatment or enrolled in the model project, subject to the department's monitoring for compliance. As a condition of deferral of the order of dependency, the parents, if both are available and known, shall stipulate to facts sufficient to constitute a dependency and the court shall order treatment or enrollment in a model



project and prohibit alcohol abuse. In the event that an available parent unreasonably refuses to stipulate to facts constituting a dependency, the court may proceed with the hearing on the petition.

(4) This section expires June 30, 2002.

**NEW SECTION. Sec. 28.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The department may request the court to dismiss the petition deferred under section 27 of this act at any time. No petition may be vacated or dismissed unless the mother demonstrates by clear and convincing evidence that she has not abused alcohol for at least twelve consecutive months and can safely provide for the child's welfare without continuing supervision by the department or court.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 29.** By July 1, 1999, the department of social and health services, in consultation with the department of health, shall adopt rules to implement this act, including a definition of "alcohol-affected infant," which shall be limited to infants who are affected by a mother's abuse of alcohol.

**NEW SECTION. Sec. 30.** To the extent funds are appropriated, the department shall operate a model project to provide services to women who give birth to infants exposed to the nonprescription use of controlled substances or abuse of alcohol by the mother during pregnancy. Within available funds, the project may be offered in one site in each of the three department's administrative regions that have the highest incidence of drug-affected or alcohol-affected infants annually. The project shall accept women referred to it by the department following the birth of a drug-affected or alcohol-affected infant. The model project shall be concluded by July 1, 2002.

**NEW SECTION. Sec. 31.** To the extent funds are appropriated, the institute for public policy shall study the cost-effectiveness of this act and report to the governor and legislature not later than January 1, 2002. The study shall measure the reduction in the birth rate of drug-affected infants among women and shall compare the reduction with the rate of birth of drug-affected infants born to women referred to chemical dependency treatment programs. The study shall identify the factors that promote or discourage the ability of women to avoid giving birth to drug-affected infants.

**NEW SECTION. Sec. 32.** To the extent funds are appropriated, the institute for public policy study referenced in section 31 of this act shall include alcohol-affected births.

**NEW SECTION. Sec. 33.** A new section is added to chapter 70.96A RCW to read as follows:

(1) Any treatment program or model project in which a mother is enrolled under sections 20 through 22 of this act shall provide family planning, which means the process of limiting or spacing the birth of children, education, counseling, information, and services. Family planning does not include pregnancy termination.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 34.** A new section is added to chapter 74.09 RCW to read as follows:

The department may make available, or cause to be made available, pharmaceutical birth control services, information, and counseling to any person who enters chemical dependency treatment under section 20 or 21 of this act. Within available funds, the department may pay for any tubal ligations requested under section 19 of this act if the mother's income is less than two hundred percent of the federal poverty level. The department shall report by December 1st of each year to the governor and legislature: (1) The number of tubal ligations performed as a result of chapter . . . , Laws of 1998 (this act); (2) the number of women who decline to undergo the surgery; (3) the number of women who obtain pharmaceutical birth control, by type of birth control; and (4) the number of women who are reported to the department.

**NEW SECTION. Sec. 35.** A new section is added to chapter 74.09 RCW to read as follows:

The department may make available, or cause to be made available, pharmaceutical birth control services, information, and counseling to any person who enters chemical dependency treatment under section 27 of this act. Within available funds, the department may pay for any tubal ligations requested under section 26 of this act if the mother's income is less than two hundred percent of the federal poverty level. The department shall report by December 1st of each year to the governor and legislature: (1) The number of tubal ligations performed as a result of chapter . . . , Laws of 1998 (this act); (2) the number of women who decline to undergo the surgery; (3) the number of women who obtain pharmaceutical birth control, by type of birth control; and (4) the number of women who are reported to the department.

**NEW SECTION. Sec. 36.** A new section is added to chapter 18.71 RCW to read as follows:

(1) Nothing in section 19 of this act imposes any additional duties or responsibilities on, or removes any duties or responsibilities from, a physician licensed under this chapter, except as specifically included in chapter 13.34 RCW and sections 33 and 34 of this act.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 37.** A new section is added to chapter 18.57 RCW to read as follows:

(1) Nothing in section 19 of this act imposes any additional duties or responsibilities on, or removes any duties or responsibilities from, an osteopath licensed under this chapter, except as specifically included in chapter 13.34 RCW and sections 33 and 34 of this act.

(2) This section expires June 30, 2002.

**NEW SECTION. Sec. 38.** A new section is added to chapter 18.79 RCW to read as follows:

(1) Nothing in section 19 of this act imposes any additional duties or responsibilities on, or removes any duties or responsibilities from, an advanced registered nurse practitioner licensed under this chapter, except as specifically included in chapter 13.34 RCW and sections 33 and 34 of this act.

(2) This section expires June 30, 2002.

**Sec. 39.** RCW 13.34.070 and 1993 c 358 s 1 are each amended to read as follows:

(1) Upon the filing of the petition, the clerk of the court shall issue a summons, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. If the child is developmentally disabled and not living at home, the notice shall be given to the child's custodian as well as to the child's parent. The developmentally disabled child shall not be required to appear unless requested by the court. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons. The fact-finding hearing on the petition shall be held no later than seventy-five days after the filing of the petition, unless exceptional reasons for a continuance are found. In cases where an infant has been affected by the mother's substance abuse, exceptional reasons for a continuance exist if the mother and the department have executed an agreement that will take more than seventy-five days to fulfill. The party requesting the continuance shall have the burden of proving by a preponderance of the evidence that exceptional circumstances do exist. To ensure that the hearing on the petition occurs within the seventy-five day time limit, the court shall schedule and hear the matter on an expedited basis.

(2) A copy of the petition shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel. The summons shall also inform the child's parent, guardian, or legal custodian of his or ~~(her)~~ her right to appointed counsel, if indigent, and of the procedure to use to secure appointed counsel.

(4) The summons shall advise the parents that they may be held responsible for the support of the child if the child is placed in out-of-home care.

(5) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(6) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him to the place of shelter designated by the court.

(7) If the person summoned as provided in this section is subject to an order of the court pursuant to subsection (5) or (6) of this section, and if the person fails to abide by the order, he may be proceeded against as for contempt of court. The order endorsed upon the summons shall conspicuously display the following legend:

NOTICE:  
VIOLATION OF THIS ORDER  
IS SUBJECT TO PROCEEDING  
FOR CONTEMPT OF COURT  
PURSUANT TO RCW 13.34.070.

(8) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally as soon as possible following the filing of the petition, but in no case later than fifteen court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy thereof by certified mail as soon as possible following the filing of the petition, but in no case later than fifteen court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy thereof to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(9) Service of summons may be made under the direction of the court by any person eighteen years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department of social and health services social worker.

(10) In any proceeding brought under this chapter where the court knows or has reason to know that the child involved is a member of an Indian tribe, notice of the pendency of the proceeding shall also be sent by registered mail, return receipt requested, to the child's tribe. If the identity or location of the tribe cannot be determined, such notice shall be transmitted to the secretary of the interior of the United States.

**NEW SECTION. Sec. 40.** (1) The departments of health and social and health services, shall develop a comprehensive plan for providing services to mothers who (a) have delivered a drug or alcohol exposed or affected infant, and (b) meet the definition of at-risk eligible persons in RCW 74.09.790 and who have a child up to three years of age. The services to be provided by the plan will include those defined in RCW 74.09.790. The plan shall provide for the coordination of services through community-based programs and among: (a) The departments; (b) the departments' divisions; and (c) other state agencies. The plan shall include recommendations to the legislature for implementing the plan and any alternative methods for addressing the needs of these mothers and their children.

(2) In developing the plan, the department of health shall inventory the community-based programs that may be accessed to provide services to these mothers and their children; evaluate implementing services for these mothers through extension of the maternity care access system; and evaluate the fiscal impact of the plan. In performing the fiscal evaluation, the department shall calculate potential long-term cost

savings to the state resulting from reduced use of the medical, juvenile justice, public assistance, and dependency systems by children and mothers receiving services under the plan.

(3) The department shall submit a report describing the plan to the appropriate committees of the house of representatives and senate by November 1, 1998.

NEW SECTION. **Sec. 41.** A new section is added to chapter 70.96A RCW to read as follows:

(1) Any treatment program or model project in which a mother is enrolled under section 27 of this act shall provide family planning, which means the process of limiting or spacing the birth of children, education, counseling, information, and services. Family planning does not include pregnancy termination.

(2) This section expires June 30, 2002.

NEW SECTION. **Sec. 42.** A new section is added to chapter 18.71 RCW to read as follows:

(1) Nothing in section 26 of this act imposes any additional duties or responsibilities on, or removes any duties or responsibilities from, a physician licensed under this chapter, except as specifically included in chapter 13.34 RCW and sections 35 and 41 of this act.

(2) This section expires June 30, 2002.

NEW SECTION. **Sec. 43.** A new section is added to chapter 18.57 RCW to read as follows:

(1) Nothing in section 26 of this act imposes any additional duties or responsibilities on, or removes any duties or responsibilities from, an osteopath licensed under this chapter, except as specifically included in chapter 13.34 RCW and sections 35 and 41 of this act.

(2) This section expires June 30, 2002.

NEW SECTION. **Sec. 44.** A new section is added to chapter 18.79 RCW to read as follows:

(1) Nothing in section 26 of this act imposes any additional duties or responsibilities on, or removes any duties or responsibilities from, an advanced registered nurse practitioner licensed under this chapter, except as specifically included in chapter 13.34 RCW and sections 35 and 41 of this act.

(2) This section expires June 30, 2002.

NEW SECTION. **Sec. 45.** Section 9 of this act takes effect October 1, 1998.

NEW SECTION. **Sec. 46.** Sections 18 through 24, 26 through 28, 30 through 39, and 41 through 44 of this act take effect January 1, 1999.

NEW SECTION. **Sec. 47.** Sections 14 through 16 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec. 48.** The department of community, trade, and economic development shall contract with The Evergreen State College for completion of the study by the Washington institute for public policy ordered pursuant to sections 14 through 16 of this act. The department of community, trade, and economic development shall contract with the department of social and health services for the purpose of implementing sections 18 through 44 of this act. No funds for administrative expenses may be deducted by the department of community, trade, and economic development prior to allocation as provided in this section."

Correct the title., and the bill do pass as recommended by the Conference Committee.

Signed by Senators Long, Hargrove, Zarelli; Representatives Cooke, Boldt, Dickerson.

#### MOTION

Senator Long moved that the Report of the Conference Committee on Substitute House Bill No. 2556 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Substitute House Bill No. 2556.

The motion by Senator Long carried and the Report of the Conference Committee on Substitute House Bill No. 2556 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2556, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2556, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, Snyder, Spanel, Stevens, Strannigan, Swanson, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Excused: Senator McAuliffe - 1.

SUBSTITUTE HOUSE BILL NO. 2556, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## REPORT OF CONFERENCE COMMITTEE

**EHB 3041**

**March 11, 1998**

Includes "NEW ITEM": YES

Exempting the office of the family and children's ombudsman from certain proceedings

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred ENGROSSED HOUSE BILL NO. 3041, family and child ombudsman office, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 43.06A RCW to read as follows:

Neither the ombudsman nor the ombudsman's staff may be compelled, in any judicial or administrative proceeding, to testify or to produce evidence regarding the exercise of the official duties of the ombudsman or of the ombudsman's staff. All related memoranda, work product, notes, and case files of the ombudsman's office are confidential, are not subject to discovery, judicial or administrative subpoena, or other method of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. This section shall not apply to the legislative oversight committee.

NEW SECTION. Sec. 2. A new section is added to chapter 43.06A RCW to read as follows:

Identifying information about complainants or witnesses shall not be subject to any method of legal compulsion, nor shall such information be revealed to the legislative oversight committee or the governor except under the following circumstances: (1) The complainant or witness waives confidentiality; (2) under a legislative subpoena when there is a legislative investigation for neglect of duty or misconduct by the ombudsman or ombudsman's office when the identifying information is necessary to the investigation of the ombudsman's acts; or (3) under an investigation or inquiry by the governor as to neglect of duty or misconduct by the ombudsman or ombudsman's office when the identifying information is necessary to the investigation of the ombudsman's acts.

For the purposes of this section, "identifying information" includes the complainant's or witness's name, location, telephone number, likeness, social security number or other identification number, or identification of immediate family members.

NEW SECTION. Sec. 3. A new section is added to chapter 43.06A RCW to read as follows:

The privilege described in section 1 of this act does not apply when:

- (1) The ombudsman or ombudsman's staff member has direct knowledge of an alleged crime, and the testimony, evidence, or discovery sought is relevant to that allegation;
- (2) The ombudsman or a member of the ombudsman's staff has received a threat of, or becomes aware of a risk of, imminent serious harm to any person, and the testimony, evidence, or discovery sought is relevant to that threat or risk;
- (3) The ombudsman has been asked to provide general information regarding the general operation of, or the general processes employed at, the ombudsman's office; or
- (4) The ombudsman or ombudsman's staff member has direct knowledge of a failure by any person specified in RCW 26.44.030, including the state family and children's ombudsman or any volunteer in the ombudsman's office, to comply with RCW 26.44.030.

NEW SECTION. Sec. 4. A new section is added to chapter 43.06A RCW to read as follows:

When the ombudsman or ombudsman's staff member has reasonable cause to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the ombudsman or ombudsman's staff member shall report the matter, or cause a report to be made, to the appropriate authorities.

NEW SECTION. Sec. 5. A new section is added to chapter 43.06A RCW to read as follows:

Nothing in this chapter shall be construed to conflict with the duty to report specified in RCW 26.44.030.

Sec. 6. RCW 43.06A.010 and 1996 c 131 s 2 are each amended to read as follows:

There is hereby created an office of the family and children's ombudsman within the office of the governor for the purpose of promoting public awareness and understanding of family and children services, identifying system issues and responses for the governor and the legislature to act upon, and monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family

and children's services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences. The ombudsman shall report directly to the governor and the legislative oversight committee and shall exercise his or her powers and duties independently of the secretary.

**Sec. 7.** RCW 43.06A.020 and 1996 c 131 s 3 are each amended to read as follows:

(1) ~~Subject to confirmation by the senate,~~ the governor shall appoint an ombudsman who shall be a person of recognized judgment, independence, objectivity, and integrity, and shall be qualified by training or experience, or both, in family and children's services law and policy. Prior to the appointment, the governor shall consult with, and may receive recommendations from the committee, regarding the selection of the ombudsman.

(2) The person appointed ombudsman shall hold office for a term of three years and shall continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the ombudsman only for neglect of duty, misconduct, or inability to perform duties. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term.

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 3 of the title, after "proceedings;" strike the remainder of the title and insert "amending RCW 43.06A.010 and 43.06A.020; adding new sections to chapter 43.06A RCW; and declaring an emergency.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Roach, Hargrove, Zarelli; Representatives Cooke, McDonald, Costa.

#### MOTION

Senator Zarelli moved that the Report of the Conference Committee on Engrossed House Bill No. 3041 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Engrossed House Bill No. 3041.

The motion by Senator Zarelli carried and the Report of the Conference Committee on Engrossed House Bill No. 3041 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed House Bill No. 3041, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3041, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED HOUSE BILL NO. 3041, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, the Senate advanced to the sixth order of business.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2051, by House Committee on Agriculture and Ecology (originally sponsored by Representatives Chandler, Linville, Regala, Mastin, D. Schmidt, Grant, Veloria, Clements, Cody and Parlette)

Exempting environmental remedial services, labor, and businesses from taxation.

The bill was read the second time.

## MOTION

On motion of Senator Morton, the following Committee on Ways and Means amendment was adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.04.050 and 1997 c 127 s 1 are each amended to read as follows:

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

(a) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or

(b) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(c) Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(d) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) of this subsection following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280 (2) and (7) and 82.04.290.

(2) The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same;

(g) The sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), (e), and (f) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section shall be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, day trips for sightseeing purposes, and others, when provided to consumers;

(b) Abstract, title insurance, and escrow services;

(c) Credit bureau services;

(d) Automobile parking and storage garage services;

(e) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(f) Service charges associated with tickets to professional sporting events; and

(g) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

(4) The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

(5) The term shall also include the providing of telephone service, as defined in RCW 82.04.065, to consumers.

(6) The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(7) The term shall also not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor shall it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; and (c) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(8) The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.

(9) Until July 1, 2003, the term shall not include the sale of or charge made for labor and services rendered for environmental remedial action as defined in section 3(2) of this act.

**Sec. 2.** RCW 82.04.190 and 1996 c 173 s 2, 1996 c 148 s 4, and 1996 c 112 s 2 are each reenacted and amended to read as follows:

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale or (d) purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon;

(2)(a) Any person engaged in any business activity taxable under RCW 82.04.290; (b) any person who purchases, acquires, or uses any telephone service as defined in RCW 82.04.065, other than for resale in the regular course of business; and (c) any person who purchases, acquires, or uses any amusement and recreation service defined in RCW 82.04.050(3)(a), other than for resale in the regular course of business;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right of way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person shall be a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person;

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any other subsection of this section shall be construed to modify any other definition of "consumer"; ~~((and))~~

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development~~((-~~  
~~Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer."));~~  
and

(9) Until July 1, 2003, any person engaged in the business of conducting environmental remedial action as defined in section 3(2) of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW to read as follows:

(1) Upon every person engaging within this state in the business of environmental remedial action, the amount of tax with respect to such business shall be equal to the value of the gross income of the business multiplied by the rate 0.471 percent.

(2) For purposes of this chapter, "environmental remedial action" means:

(a) Those services related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances that are conducted under contract with the department of ecology or under an enforcement order, agreed order, or consent decree executed by the department of ecology, or those services, when evaluated as a whole, that are the substantial equivalent of a department of ecology-conducted or supervised remedial action under the model toxics control act, chapter 70.105D RCW; or

(b) Those services related to the identification, investigation, or cleanup of a facility that are conducted under contract with the United States environmental protection agency or under an order or consent decree executed by the United States environmental protection agency, or that are consistent with the national contingency plan adopted under the comprehensive environmental response compensation and liability act, 42 U.S.C. Sec. 9605 as it exists on the effective date of this section, and those services are conducted at facilities that are included on the national priorities list adopted under 42 U.S.C. Sec. 9605 as it exists on the effective date of this section or at facilities subject to a removal action authorized under 42 U.S.C. Sec. 9604 as it exists on the effective date of this section.

(3) A site is eligible for environmental remedial action upon submittal, via certified mail to the department of ecology and the department of revenue, of the following:

(a) A certification from the owner, the department of ecology, or the United States environmental protection agency, containing the following information:

- (i) The location of the site, shown on a map and identified by parcel number or numbers and street address;
- (ii) The name and address and daytime phone number of a contact person;



(iii) A statement that the proposed environmental remedial actions will be conducted by the department of ecology or its authorized contractor under chapter 70.105D RCW or will be substantially equivalent to a department of ecology-conducted or supervised remedial action under the model toxics control act, chapter 70.105D RCW, or will be conducted by the United States environmental protection agency or its authorized contractor or will be consistent with the national contingency plan under 42 U.S.C. Sec. 9605 as it exists on the effective date of this section; and

(iv) A description of the proposed environmental remedial actions to be taken; and

(b)(i) A certification from a certified underground storage tank service supervisor as authorized in chapter 90.76 RCW, from a professional engineer licensed in the state of Washington, or from an environmental professional who subscribes to a code of professional responsibility administered by a recognized organization representing such professions containing the following information:

(A) Confirmation that an environmental remedial action as defined in this section is to be conducted at the site;

(B) The location of the site, shown on a map and identified by parcel number or numbers and street address, and the approximate location of the proposed environmental remedial action; and

(C) The name, address, telephone number, and uniform business identifier of the person providing the certification; or

(ii) If applicable to the site, a copy of an enforcement order, agreed order, or consent decree executed by the department of ecology or the United States environmental protection agency.

(4) The department of revenue shall respond in writing to the owner within thirty days confirming receipt of the certification, or certifications, of eligibility.

(5) The owner shall provide a copy of the confirmation from the department of revenue to each person who renders environmental remedial action at the site. Each person who renders such action shall separately state the charges for labor and services associated with the environmental remedial action.

(6) Upon completion of the environmental remedial action, the owner shall submit to the department of ecology a report documenting the environmental remedial actions conducted at the site and documenting compliance with the requirements of chapter 70.105D RCW.

(7) In addition to any other penalties, a person who files a certificate with the department of ecology or the department of revenue that contains falsehoods or misrepresentations are subject to penalties authorized under chapter 18.43 or 90.76 RCW or RCW 9A.76.175. Also, a person who improperly reports the person's tax class shall be assessed a penalty of fifty percent of the tax due, in addition to other taxes or penalties, together with interest. The department of revenue shall waive the penalty imposed under this section if it finds that the falsehoods or misrepresentations or improper reporting of the tax classification was due to circumstances beyond the control of the person.

(8) This section expires July 1, 2003.

**Sec. 4.** RCW 82.04.290 and 1997 c 7 s 2 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of providing international investment management services, as to such persons, the amount of tax with respect to such business shall be equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2) Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, ~~((and))~~ 82.04.280, and section 3 of this act, and subsection (1) of this section; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 1.5 percent.

This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

**Sec. 5.** RCW 82.04.290 and 1998 c ... s 4 (section 4 of this act) are each amended to read as follows:

(1) Upon every person engaging within this state in the business of providing international investment management services, as to such persons, the amount of tax with respect to such business shall be equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2) Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, and 82.04.280, ~~((and section 3 of this act,))~~ and subsection (1) of this section; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 1.5 percent.

This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

NEW SECTION. Sec. 6. (1) Sections 1 through 4 of this act take effect July 1, 1998.  
(2) Section 5 of this act takes effect July 1, 2003."

#### MOTIONS

On motion Senator Morton, the following title amendment was adopted:

On page 1, line 2 of the title, after "waste;" strike the remainder of the title and insert "amending RCW 82.04.050, 82.04.290, and 82.04.290; reenacting and amending RCW 82.04.190; adding a new section to chapter 82.04 RCW; providing effective dates; and providing an expiration date."

On motion of Senator Morton, the rules were suspended, Substitute House Bill No. 2051, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2051, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2051, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49.

SUBSTITUTE HOUSE BILL NO. 2051, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2371, by Representatives Carlson, Radcliff, Sheahan, Mulliken, Kastama, Johnson, Gardner, Pennington, Kenney, HI Sommers, L. Thomas, Kessler, Anderson and Dyer.

Creating a medical expense plan for certain retirees.

The bill was read the second time. MOTION

On motion of Senator Wood, the rules were suspended, House Bill No. 2371 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### MOTION

On motion of Senator Franklin, Senator Loveland was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2371.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2371 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. Excused: Senator Loveland - 1.

HOUSE BILL NO. 2371, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President reverted the Senate to the third order of business.

MESSAGE FROM THE GOVERNOR

March 11, 1998

TO THE HONORABLE PRESIDENT AND MEMBERS  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 11, 1998, Governor Locke approved the following Senate Bills entitled:

Second Substitute Senate Bill No. 5727

Relating to backup alert devices on delivery trucks.

Substitute Senate Bill No. 5853

Relating to fire protection district finance officers.

Substitute Senate Bill No. 5873

Relating to liability under the model toxics control act.

Senate Bill No. 6118

Relating to gifts under ethics in public service laws.

Engrossed Senate Bill No. 6123

Relating to animal health.

Substitute Senate Bill No. 6129

Relating to allowing continued use of pollution control tax credits after facilities have been modified to maintain effective pollution control.

Substitute Senate Bill No. 6136

Relating to drug offenses in background checks.

Senate Bill No. 6158

Relating to eliminating duplicate authority for the Washington state wheat commission.

Senate Bill No. 6159

Relating to eliminating authority for the Washington land bank.

Senate Bill No. 6171

Relating to authorizing loans for projects recommended by the public works board.

Senate Bill No. 6192

Relating to the operation of the state investment board.

Senate Bill No. 6202

Relating to the securities act of Washington.

Substitute Senate Bill No. 6285

Relating to benefit charges imposed by fire protection districts.

Senate Bill No. 6303

Relating to restrictions on the restoration of service credit.

Senate Bill No. 6483

Relating to the transfer of the enforcement authority for cigarette and tobacco taxes from the department of revenue to the liquor control board.

Substitute Senate Bill No. 6489

Relating to district court elections.

Substitute Senate Bill No. 6507

Relating to the eliminating the expiration of the state cosmetology, barbering, esthetics and manicuring advisory board.

Substitute Senate Bill No. 6575

Relating to extending the powers of the joint administrative rules review committee.

Senate Bill No. 6631

Relating to candidate declaration filings in districts comprising more than one county.

Sincerely,

EVERETT H. BILLINGSLEA, General Counsel

There being no objection, the President advanced the Senate to the sixth order of business.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2871, by House Committee on Finance (originally sponsored by Representatives Carlson, Radcliff, Constantine, Sheahan, Mulliken, Kastama, Johnson, Gardner, Pennington, Kenney, H. Sommers, L. Thomas, Kessler, Anderson and Dyer)

Creating a system of classifying land as agricultural land with long-term commercial significance for tax purposes.

The bill was read the second time.

### MOTION

Senator West moved that the following Committee on Ways and Means amendment be adopted:

On page 5, beginning on line 22, strike all of section 7 and insert the following:

"Sec. 7. RCW 84.34.020 and 1997 c 429 s 31 are each amended to read as follows:

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

(1) "Open space land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife

preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (ix) protect or enhance aquatic habitat, or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section, or (d) any shoreland area, as defined in RCW 90.58.030, that has no dwellings and that is used in a manner that will protect or enhance aquatic habitat as certified by the department of fish and wildlife or a conservation district. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means:

(a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:

(i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture;

or

(iii) Other similar commercial activities as may be established by rule;

(b) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:

(i) One hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:

(i) One thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter.

Parcels of land described in (b)(i) and (c)(i) of this subsection shall, upon any transfer of the property excluding a transfer to a surviving spouse, be subject to the limits of (b)(ii) and (c)(ii) of this subsection.

Agricultural lands shall also include such incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to

the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands"; or

(d) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes((;

~~(e) Any parcel of land designated as agricultural land under RCW 36.70A.170; or~~

~~(f) Any parcel of land not within an urban growth area zoned as agricultural land under a comprehensive plan adopted under chapter 36.70A RCW)).~~

(3) "Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of forest crops for commercial purposes. A timber management plan shall be filed with the county legislative authority at the time (a) an application is made for classification as timber land pursuant to this chapter or (b) when a sale or transfer of timber land occurs and a notice of classification continuance is signed. Timber land means the land only.

(4) "Current" or "currently" means as of the date on which property is to be listed and valued by the assessor.

(5) "Owner" means the party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" shall mean the contract vendee.

(6) "Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, shall be considered contiguous.

(7) "Granting authority" means the appropriate agency or official who acts on an application for classification of land pursuant to this chapter.

(8) "Farm and agricultural conservation land" means either:

(a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

**Sec. 8.** RCW 84.34.055 and 1994 c 264 s 76 are each amended to read as follows:

(1) The county legislative authority may direct the county planning commission to set open space priorities and adopt, after a public hearing, an open space plan and public benefit rating system for the county. The plan shall consist of criteria for determining eligibility of lands, the process for establishing a public benefit rating system, and an assessed valuation schedule. Criteria for determining eligibility of land shall include aquatic habitat protection and enhancement, and in determining eligibility of land under this criteria, the lack of eligibility under other criteria shall not be considered. The assessed valuation schedule shall be developed by the county assessor and shall be a percentage of market value based upon the public benefit rating system. The open space plan, the public benefit rating system, and the assessed valuations schedule shall not be effective until approved by the county legislative authority after at least one public hearing: PROVIDED, That any county which has complied with the procedural requisites of chapter 393, Laws of 1985, prior to July 28, 1985, need not repeat those procedures in order to adopt an open space plan pursuant to chapter 393, Laws of 1985.

(2) In adopting an open space plan, recognized sources shall be used unless the county does its own survey of important open space priorities or features, or both. Recognized sources include but are not limited to the natural heritage data base; the state office of historic preservation; the interagency committee for outdoor recreation inventory of dry accretion beach and shoreline features; state, national, county, or city registers of historic places; the shoreline master program; or studies by the parks and recreation commission and by the departments of fish and wildlife and natural resources. Features and sites may be verified by an outside expert in the field and approved by the appropriate state or local agency to be sent to the county legislative authority for final approval as open space.

(3) When the county open space plan is adopted, owners of open space lands then classified under this chapter shall be notified in the same manner as is provided in RCW 84.40.045 of their new assessed value. These lands may be removed from classification, upon request of owner, without penalty within thirty days of notification of value.

(4) The open space plan and public benefit rating system under this section may be adopted for taxes payable in 1986 and thereafter."

Renumber the sections consecutively and correct any internal references accordingly.

#### MOTION

On motion of Senator Johnson, further consideration of Engrossed Substitute House Bill No. 2871 was deferred.

. There being no objection, the Senate resumed consideration of Substitute House Bill No. 3076, deferred on second reading March 11, 1998.

#### MOTION

On motion of Senator West, the rules were suspended, Substitute House Bill No. 3076 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3076.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3076 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE HOUSE BILL NO. 3076, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2312, by House Committee on Commerce and Labor (originally sponsored by Representatives Doumit, Pennington, Hatfield, Kenney, Clements, Carlson, Kessler, Anderson, Dunn and Tokuda)

Prescribing workers' compensation obligations of employees not domiciled in Washington.

The bill was read the second time.

#### MOTION

Senator Snyder moved that the following amendment by Senators Snyder, Schow and Heavey be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that a competitive disadvantage exists in the construction industry because of a disparity in workers' compensation coverage requirements among the states. The intent of this act is (1) to provide an equal footing for all contractors bidding on or engaging in construction work in this state, (2) to ensure that all workers injured while in the course of employment in this state receive the benefits to which they are entitled, and (3) to not create disincentives for employers to hire workers in this state.

**Sec. 2.** RCW 51.12.120 and 1995 c 199 s 1 are each amended to read as follows:

(1) If a worker, while working outside the territorial limits of this state, suffers an injury on account of which he or she, or his or her beneficiaries, would have been entitled to compensation under this title had ~~((such))~~ the injury occurred within this state, ~~((such))~~ the worker, or his or her beneficiaries, shall be entitled to compensation under this title ~~((: PROVIDED, That))~~ if at the time of ~~((such))~~ the injury:

(a) His or her employment is principally localized in this state; or

(b) He or she is working under a contract of hire made in this state for employment not principally localized in any state; or

(c) He or she is working under a contract of hire made in this state for employment principally localized in another state whose workers' compensation law is not applicable to his or her employer; or

(d) He or she is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of compensation or other recoveries, including settlement proceeds, under the workers' compensation law of another state, territory, province, or foreign nation to a worker or his or her beneficiaries otherwise entitled on account of such injury to compensation under this title shall not be a bar to a claim for compensation under this title ~~((: PROVIDED,))~~ if that claim under this title is timely filed. If compensation is paid or awarded under this title, the total amount of compensation or other recoveries, including settlement proceeds, paid or awarded the worker or beneficiary under such other workers' compensation law shall be credited against the compensation due the worker or beneficiary under this title.

(3)(a) An employer not domiciled in this state who is employing workers in this state in work for which the employer must be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW, or prequalified under RCW 47.28.070, must secure the payment of compensation under this title by:

(i) Insuring the employer's workers' compensation obligation under this title with the department;

(ii) Being qualified as a self-insurer under this title; or

(iii) For employers domiciled in a state or province of Canada subject to an agreement entered into under subsection (7) of this section, as permitted by the agreement, filing with the department a certificate of coverage issued by the agency that administers the workers'

compensation law in the employer's state or province of domicile certifying that the employer has secured the payment of compensation under the other state's or province's workers' compensation law.

(b) The department shall adopt rules to implement this subsection.

(4) If a worker or beneficiary is entitled to compensation under this title by reason of an injury sustained in this state while in the employ of an employer who is domiciled in another state or province of Canada and the employer:

(a) ~~Is not subject to subsection (3) of this section~~ and ~~((who))~~ has neither opened an account with the department nor qualified as a self-insurer under this title, ~~((such as))~~ the employer or his or her insurance carrier shall file with the director a certificate issued by the agency ~~((which))~~ that administers the workers' compensation law in the state of the employer's domicile, certifying that ~~((such))~~ the employer has secured the payment of compensation under the workers' compensation law of ~~((such))~~ the other state and that with respect to ~~((said))~~ the injury ~~((such))~~ the worker or beneficiary is entitled to the benefits provided under ~~((such))~~ the other state's law. ~~((In such event:~~

~~((a))~~ (b) Has filed a certificate under subsection (3)(a)(iii) of this section or (a) of this subsection (4):

~~((i))~~ (i) The filing of ~~((such))~~ the certificate ~~((shall))~~ constitutes appointment by the employer or his or her insurance carrier of the director as its agent for acceptance of the service of process in any proceeding brought by any claimant to enforce rights under this title;

~~((b))~~ (ii) The director shall send to such employer or his or her insurance carrier, by registered or certified mail to the address shown on such certificate, a true copy of any notice of claim or other process served on the director by the claimant in any proceeding brought to enforce rights under this title;

~~((c))~~ (iii) If ~~((such))~~ the employer is a self-insurer under the workers' compensation law of ~~((such))~~ the other state or province of Canada, ~~((such))~~ the employer shall, upon submission of evidence or security, satisfactory to the director, of his or her ability to meet his or her liability to ~~((such))~~ the claimant under this title, be deemed to be a qualified self-insurer under this title; and

~~((d))~~ (iv) If ~~((such))~~ the employer's liability under the workers' compensation law of ~~((such))~~ the other state or province of Canada is insured~~((, such))~~:

(A) ~~The~~ employer's carrier, as to such claimant only, shall be deemed to be subject to this title~~((: PROVIDED, That))~~. However, unless ~~((its))~~ the insurer's contract with ~~((said))~~ the employer requires ~~((it))~~ the insurer to pay an amount equivalent to the compensation benefits provided by this title, the insurer's liability for compensation shall not exceed ~~((its))~~ the insurer's liability under the workers' compensation law of ~~((such))~~ the other state or province; and

~~((d))~~ (B) If the total amount for which ~~((such))~~ the employer's insurer is liable under ~~((e)(i) above)~~ (b)(iv)(A) of this subsection is less than the total of the compensation to which ~~((such))~~ the claimant is entitled under this title, the director may require the employer to file security satisfactory to the director to secure the payment of compensation under this title~~((:))~~.

~~((e))~~ (c) If ~~((such employer))~~ subject to subsection (3) of this section, has not complied with subsection (3) of this section or, if not subject to subsection (3) of this section, has neither qualified as a self-insurer nor secured insurance coverage under the workers' compensation law of another state or province of Canada, ~~((such))~~ the claimant shall be paid compensation by the department~~((:))~~ and

~~((f) Any such))~~ the employer shall have the same rights and obligations, and is subject to the same penalties, as other employers subject to this title ~~((and where he or she has not provided coverage or sufficient coverage to secure the compensation provided by this title to such claimant, the director may impose a penalty payable to the department of a sum not to exceed fifty percent of the cost to the department of any deficiency between the compensation provided by this title and that afforded such claimant by such employer or his or her insurance carrier if any)).~~

~~((4))~~ (5) As used in this section:

(a) A person's employment is principally localized in this or another state when: (i) His or her employer has a place of business in this or ~~((such))~~ the other state and he or she regularly works at or from ~~((such))~~ the place of business~~((:))~~; or (ii) if ~~((clause (i) foregoing))~~ (a)(i) of this subsection is not applicable, he or she is domiciled in and spends a substantial part of his or her working time in the service of his or her employer in this or ~~((such))~~ the other state;

(b) "Workers' compensation law" includes "occupational disease law" for the purposes of this section.

~~((5))~~ (6) A worker whose duties require him or her to travel regularly in the service of his or her employer in this and one or more other states may agree in writing with his or her employer that his or her employment is principally localized in this or another state, and, unless ~~((such))~~ the other state refuses jurisdiction, ~~((such))~~ the agreement shall govern as to any injury occurring after the effective date of the agreement.

~~((6))~~ (7) The director ~~((shall be))~~ is authorized to enter into agreements with the appropriate agencies of other states and provinces of Canada ~~((which))~~ that administer their workers' compensation law with respect to conflicts of jurisdiction and the assumption of jurisdiction in cases where the contract of employment arises in one state or province and the injury occurs in another~~((, and))~~. If the other state's or province's law requires Washington employers to secure the payment of compensation under the other state's or province's workers' compensation laws for work that in Washington requires the employer to be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW, or prequalified under RCW 47.28.070, then employers domiciled in that state or province must purchase compensation covering their workers engaged in that work in this state under this state's industrial insurance law. When ((any such)) an agreement under this subsection has been executed and

~~((promulgated))~~ adopted as a ~~((regulation))~~ rule of the department under chapter 34.05 RCW, it ~~((shall))~~ binds all employers and workers subject to this title and the jurisdiction of this title ~~((shall be))~~ is governed by this ~~((regulation))~~ rule.

**Sec. 3.** RCW 18.27.030 and 1997 c 314 s 4 are each amended to read as follows:

(1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

(a) Employer social security number.

~~((As applicable: (i) The industrial insurance account number covering employees domiciled in Washington; and (ii) evidence of workers' compensation coverage in the applicant's state of domicile for the applicant's employees working in Washington who are not domiciled in Washington))~~ Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law.

(c) Employment security department number.

(d) State excise tax registration number.

(e) Unified business identifier (UBI) account number may be substituted for the information required by (b)~~((;))~~ of this subsection if the applicant will not employ employees in Washington, and by (c)~~((;))~~ and (d) of this subsection.

(f) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

(g) The name and address of each partner if the applicant ~~((be))~~ is a firm or partnership, or the name and address of the owner if the applicant ~~((be))~~ is an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant ~~((be))~~ is a corporation. The information contained in such application ~~((shall be))~~ is a matter of public record and open to public inspection.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(b) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3) The department shall deny an application for registration if the applicant has been previously registered as a sole proprietor, partnership, or corporation and the applicant has an unsatisfied final judgment against him or her in an action based on this chapter that was incurred during a previous registration under this chapter.

**Sec. 4.** RCW 19.28.120 and 1992 c 217 s 2 are each amended to read as follows:

(1) It is unlawful for any person, firm, partnership, corporation, or other entity to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to convey electric current, or installing or maintaining equipment to be operated by electric current as it pertains to the electrical industry, without having an unrevoked, unsuspended, and unexpired electrical contractor license, issued by the department in accordance with this chapter. All electrical contractor licenses expire twenty-four calendar months following the day of their issue. The department may issue an electrical contractors license for a period of less than twenty-four months only for the purpose of equalizing the number of electrical contractor licenses ~~((which))~~ that expire each month. Application for an electrical contractor license shall be made in writing to the department, accompanied by the required fee. The application shall state:

(a) The name and address of the applicant; in case of firms or partnerships, the names of the individuals composing the firm or partnership; in case of corporations, the names of the managing officials thereof;

(b) The location of the place of business of the applicant and the name under which the business is conducted;

(c) Employer social security number;

~~((As applicable: (i) The industrial insurance account number covering employees domiciled in Washington; and (ii) evidence of workers' compensation coverage in the applicant's state of domicile for the applicant's employees working in Washington who are not domiciled in Washington))~~ Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law;

(e) Employment security department number;

(f) State excise tax registration number;

(g) Unified business identifier (UBI) account number may be substituted for the information required by (d)~~((;))~~ of this subsection if the applicant will not employ employees in Washington, and by (e)~~((;))~~ and (f) of this subsection; and



(h) Whether a general or specialty electrical contractor license is sought and, if the latter, the type of specialty. Electrical contractor specialties include, but are not limited to: Residential, domestic appliances, pump and irrigation, limited energy system, signs, nonresidential maintenance, and a combination specialty. A general electrical contractor license shall grant to the holder the right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electric current, and installing or maintaining equipment, or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current, in the state of Washington. A specialty electrical contractor license shall grant to the holder a limited right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electrical current, and installing or maintaining equipment; or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current in the state of Washington as expressly allowed by the license.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(d) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3) The application for a contractor license shall be accompanied by a bond in the sum of four thousand dollars with the state of Washington named as obligee in the bond, with good and sufficient surety, to be approved by the department. The bond shall at all times be kept in full force and effect, and any cancellation or revocation thereof, or withdrawal of the surety therefrom, suspends the license issued to the principal until a new bond has been filed and approved as provided in this section. Upon approval of a bond, the department shall on the next business day deposit the fee accompanying the application in the electrical license fund and shall file the bond in the office. The department shall upon request furnish to any person, firm, partnership, corporation, or other entity a certified copy of the bond upon the payment of a fee that the department shall set by rule. The fee shall cover but not exceed the cost of furnishing the certified copy. The bond shall be conditioned that in any installation or maintenance of wires or equipment to convey electrical current, and equipment to be operated by electrical current, the principal will comply with the provisions of this chapter and with any electrical ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(~~(2)~~) (3) that is in effect at the time of entering into a contract. The bond shall be conditioned further that the principal will pay for all labor, including employee benefits, and material furnished or used upon the work, taxes and contributions to the state of Washington, and all damages that may be sustained by any person, firm, partnership, corporation, or other entity due to a failure of the principal to make the installation or maintenance in accordance with this chapter or any applicable ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(~~(2)~~) (3). In lieu of the surety bond required by this section the license applicant may file with the department a cash deposit or other negotiable security acceptable to the department. If the license applicant has filed a cash deposit, the department shall deposit the funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from the account.

(4) The department shall issue general or specialty electrical contractor licenses to applicants meeting all of the requirements of this chapter. The provisions of this chapter relating to the licensing of any person, firm, partnership, corporation, or other entity including the requirement of a bond with the state of Washington named as obligee therein and the collection of a fee therefor, are exclusive, and no political subdivision of the state of Washington may require or issue any licenses or bonds or charge any fee for the same or a similar purpose. No person, firm, partnership, corporation, or other entity holding more than one specialty contractor license under this chapter may be required to pay an annual fee for more than one such license or to post more than one four thousand dollar bond, equivalent cash deposit, or other negotiable security.

(5) To obtain a general or specialty electrical contractor license the applicant must designate an individual who currently possesses an administrator's certificate as a general electrical contractor administrator or as a specialty electrical contractor administrator in the specialty for which application has been made. Administrator certificate specialties include but are not limited to: Residential, domestic, appliance, pump and irrigation, limited energy system, signs, nonresidential maintenance, and combination specialty. To obtain an administrator's certificate an individual must pass an examination as set forth in RCW 19.28.123 unless the applicant was a licensed electrical contractor at any time during 1974. Applicants who were electrical contractors licensed by the state of Washington at any time during 1974 are entitled to receive a general electrical contractor administrator's certificate without examination if the applicants apply prior to January 1, 1984. The board of electrical examiners shall certify to the department the names of all persons who are entitled to either a general or specialty electrical contractor administrator's certificate.

**NEW SECTION. Sec. 5.** The workers' compensation advisory committee established under RCW 51.04.110 shall appoint a subcommittee to review section 2 of this act and related issues, as determined by the committee, and report its findings and recommendations to the committee. The committee shall make a final report to the department of labor and industries by December 15, 1998. The department shall report on the study to the appropriate committees of the legislature by January 15, 1999."

Debate ensued

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Snyder, Schow and Heavey to Substitute House Bill No. 2312.

The motion by Senator Snyder carried and the striking amendment was adopted.

MOTIONS

On motion of Senator Snyder, the following title amendment was adopted:

On page 1, line 2 of the title, after "Washington;" strike the remainder of the title and insert "amending RCW 51.12.120, 18.27.030, and 19.28.120; and creating new sections."

On motion of Senator Snyder, the rules were suspended, Substitute House Bill No. 2312, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 2312, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2312, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senators McAuliffe and Sellar - 2. SUBSTITUTE HOUSE BILL NO. 2312, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2849, by House Committee on Appropriations (originally sponsored by Representatives Talcott, Johnson, B. Thomas, Kastama, L. Thomas, Benson, Lambert, Alexander, Robertson, Pennington, McDonald, Lisk, Cairnes, Radcliff, Ballasiotes, Zellinsky, Backlund, D. Schmidt, Delvin, Carlson, Sump, Chandler, Smith and Thompson)

Enhancing student achievement accountability.

The bill was read the second time.

#### MOTION

Senator Goings moved that the following amendments by Senator McAuliffe be considered simultaneously and be adopted:

On page 4, line 1, after "(2)" strike "(a)"

On page 4, after line 12, strike all the material down to and including "parents." on line 18

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendments by Senator McAuliffe on page 4, lines 1 and 12, to Second Substitute House Bill No. 2849.

The motion by Senator Goings carried and the amendments by Senator McAuliffe were adopted.

#### MOTION

On motion of Senator Hochstatter, the rules were suspended, Second Substitute House Bill No. 2849, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 2849, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2849, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 47. Voting nay: Senator Zarelli -

1. Absent: Senator Haugen - 1. SECOND SUBSTITUTE HOUSE BILL NO. 2849, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### POINT OF INQUIRY

Senator Snyder: "Senator Johnson, some of these bills are coming out awfully fast and the information gets on our desks about thirty seconds before we have to make a decision on the bill. Could we have some kind of a list of what is coming up, because some of our members are getting a little bit upset because we can't plan ahead or can't have an opportunity to see if they are within the cutoff resolution--that passes or not? We would like to have a little time to decide if they are for or against the legislation."

Senator Johnson: "I have furnished that information to your floor leader. We will try and be a little more extensive and we will be working off this calendar a fair amount--coming up--the conference report calendar."

#### POINT OF ORDER

Senator Kohl: "A point of order, please, Mr. President. Following up on what Senator Snyder has communicated, I am also concerned that even when we get a bill report, for example, bills that have come through the Ways and Means Committee, there is nothing on it in terms of what happened in the House--any votes, any information. If we are not really that familiar with the bill, it makes it very difficult, especially when we get it just exactly before we are supposed to take a vote. I would appreciate more information being included whenever possible."

#### REPLY BY THE PRESIDENT

President Owen: "Message received."

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2947, by House Committee on Commerce and Labor (originally sponsored by Representatives McMorris, Conway, Carlson, Kenney, Costa, Wood, Ogden and Gardner) (by request of Employment Security Department)

Revising unemployment compensation for part-time faculty.

The bill was read the second time.

#### MOTION

On motion of Senator Schow, the rules were suspended, Engrossed Substitute House Bill No. 2947 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF INQUIRY

Senator Snyder: "Senator Schow, is this the one that Employment Security has been lobbying for us to pass?"

Senator Schow: "This is the one that they have been lobbying with us to pass, because it gives them the guidelines on what they have to do with the part time community colleges instructors."

Senator Snyder: "Thank you."

Further debate ensued.

#### POINT OF ORDER

Senator Schow: "A point of order, Mr. President. I believe the three minute rule is in effect and the Senator has already spoken."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Jacobsen, I believe you have spoken once already."

Further debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2947.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2947 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Voting nay: Senators Brown, Fairley, Kohl and Spanel - 4. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2947, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of Engrossed Substitute House Bill No. 2871, deferred earlier today after Senator West moved that the Committee on Ways and Means amendment on page 5, line 22, be adopted.

#### POINT OF ORDER

Senator McDonald: "A point of order, Mr. President. I raise an objection, based on the scope and object of this amendment. This amendment expands the scope and object of the bill in violation of Article 11, Section 38, of the State Constitution. The underlying bill only addresses agricultural lands, specifically the current use classifications of land designated agricultural land for the long-term commercial significance under the Growth Management Act. The bill removes it from the farm and agricultural classification and creates a new system designed specifically for this type of agricultural land.

"The amendment deals with open space land. The original bill does not address other lands that are subject to current use evaluation such as open space land or timber land. The amendment broadens the scope of the bill from a limited focus on agricultural land to include one; Allowing critical criteria to be used classifying land as open space land designated on aquatic habitat protection enhancement and two; Allowing shoreline to be used as aquatic habitat protection enhancement to be classified as open space.

"In summary, the original bill addresses agricultural land and the amendment addresses open space land. The limited scope of the original bill is greatly expanded by this amendment."

Further debate ensued. MOTION

On motion of Senator West, further consideration of Engrossed Substitute House Bill No. 2871 was deferred. There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 6165 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### REPORT OF CONFERENCE COMMITTEE

ESSB 6165

March 10, 1998

Includes "NEW ITEM": YES

Ignition interlock violations

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE SENATE BILL NO. 6165, ignition interlock violations, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** This act may be known and cited as the Mary Johnsen Act.

**Sec. 2.** RCW 46.20.720 and 1997 c 229 s 8 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device.

(2) If a person is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance, the court shall order that after a period of suspension, revocation, or denial of driving privileges, the person may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device. The court may waive the requirement for the use of such a device if the court makes a specific finding in writing that such devices are not reasonably available in the local area.

(3) The court shall establish a specific calibration setting at which the ignition interlock or other biological or technical device will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction. In the case of a person under subsection (2) of this section, the period of time of the restriction will be as follows:

(a) For a person subject to RCW 46.61.5055 (1)(b), (2), or (3) who has not previously been restricted under this section, a period of not less than one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of not less than five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of not less than ten years.

For purposes of this section, "convicted" means being found guilty of an offense or being placed on a deferred prosecution program under chapter 10.05 RCW.

**Sec. 3.** RCW 46.20.740 and 1997 c 229 s 10 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driver's license of any person restricted under RCW 46.20.720 or 46.61.5055 stating that the person may operate only a motor vehicle equipped with an ignition interlock or other biological or technical device.

(2) It is a misdemeanor for a person with such a notation on his or her driver's license to operate a motor vehicle that is not so equipped. For the first such conviction, the minimum sentence is thirty days in jail. For a second offense, the minimum sentence is sixty days in jail. For a third or subsequent offense, the minimum sentence is ninety days in jail.

**Sec. 4.** RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are each reenacted and amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; and

(iv) By a court-ordered restriction under RCW 46.20.720.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; and

(iv) By a court-ordered restriction under RCW 46.20.720; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of nine hundred days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; and

(iv) By a court-ordered restriction under RCW 46.20.720.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; and

(iv) By a court-ordered restriction under RCW 46.20.720; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; and

(iv) By a court-ordered restriction under RCW 46.20.720.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock or other biological or technical device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8)(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(b) "Within five years" means that the arrest for a prior offense occurred within five years of the arrest for the current offense.

**Sec. 5.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read as follows:

Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504 or any similar municipal ordinance, the arresting officer may take custody of the vehicle and provide for its prompt removal to a place of safety. If the driver is in violation of a restriction under RCW 46.20.720 or 46.61.5055 to operate only a motor vehicle equipped with an ignition interlock or other biological or technical device, the arresting officer shall take custody of the vehicle and provide for its prompt removal to a place of safety. The vehicle will remain impounded for use as evidence at a trial regarding the violation of the restriction.

In addition, a police officer may take custody of a vehicle and provide for its prompt removal to a place of safety under any of the following circumstances:

(1) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(2) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(3) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(4) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(5) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(6) Whenever a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(7) Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of RCW 46.20.005 or with a license that has been expired for ninety days or more, or with a suspended or revoked license in violation of RCW 46.20.342 or 46.20.420.

Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

NEW SECTION. Sec. 6. A new section is added to chapter 46.61 RCW to read as follows:

Charges of a violation of RCW 46.61.502, 46.61.503, or 46.61.504, whether made by citation, complaint, or information, shall be filed, and arraignment on those charges shall be held, within twenty-one days following arrest.

NEW SECTION. Sec. 7. The legislature finds that driving is a privilege and that the state may restrict that privilege in the interests of public safety. One such reasonable restriction is requiring certain individuals, if they choose to drive, to drive only vehicles equipped with ignition interlock devices. The legislature further finds that the costs of these devices are minimal and are affordable. It is the intent of the legislature that these devices be paid for by the drivers using them and that neither the state nor entities of local government provide any public funding for this purpose.

NEW SECTION. Sec. 8. If this act mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management.

NEW SECTION. Sec. 9. This act takes effect January 1, 1999."

On page 1, line 1 of the title, after "devices;" strike the remainder of the title and insert "amending RCW 46.20.720, 46.20.740, and 46.55.113; reenacting and amending RCW 46.61.5055; adding a new section to chapter 46.61 RCW; creating new sections; prescribing penalties; and providing an effective date.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Rossi, Kline, Roach; Representatives Sterk, Robertson, Constantine.

#### MOTION

Senator Rossi moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6165 be adopted.

#### POINT OF ORDER

Senator Kohl: "A point of order, Mr. President. It seems that on any bills that come to us now in the form of a Conference Committee Report, I am not able to find anything in writing, on my desk, with regard to a bill report from what the bill was like before the Conference Committee Report--what the history of the bill was, how we voted on it before, how the House voted on it--unless I had happened to have saved the green bill book from a week or two ago--and I wouldn't even know which one it was in. Unfortunately, I did not save all of them. Is there anyway that we can have more information provided us? I represent constituents and they often ask me how I voted on something, why I voted on something or why I didn't vote for a bill. I am finding this very difficult--to be able to make good decisions on every bill when I can't refer back to anything and find out about what the bill was like, except for this Conference Committee Report. I would appreciate being able to have sufficient material so that I can make good decisions in my voting. Thank you."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Kohl, the President believes that the rules only provide that you must have a copy of the Conference Committee Report available and this is the process that we have followed in the past. Although, I may agree that other information would be helpful, there is not a rule that I can find that it requires that it be there. You might want to confer with the conferees about the history--or the committee."

Senator Kohl: "Thank you, Mr. President, and I appreciate that there may not be a Senate Rule, but we don't seem to be having Senate Rules for everything anyway. Just for practical purposes, we are sent here, we are elected by our constituents to make good policy decisions and I don't believe I am having all the information before me to be able to do that, especially with



Conference Committee Reports that sometimes other bills are added in that perhaps we would not necessarily like. We do have opportunity to look at the Conference Committee Report, that is true, but I don't find that we have enough information and I am asking--even though it is not covered by a Senate Rule--that we can get a bill report we are getting for some other bills, to find out what happened--the history of that bill as it came through the Legislature. That, at least, would be appreciated. Thank you."

President Owen: "Senator Kohl, the President can only respond to your point of order and the procedures are being followed properly. The rest must be taken up within the Senate members, themselves."

Further debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Engrossed Substitute Senate Bill No. 6165.

The motion by Senator Rossi carried and the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6165 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6165, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6165, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 6165, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### POINT OF INQUIRY

Senator Kohl: "Senator Johnson, you had mentioned earlier that there has been ample opportunity for our caucuses to have discussions on Conference Committee Reports. I would like to request, in the form of a question, that we be able to have our caucus meet in order to go over Conference Committee Reports. The one that we just went over and voted on came in last night and we have not had an opportunity to caucus on this Conference Committee Report--or many others--but there could be time allowed for actual consideration. I would appreciate it."

Senator Johnson: "My reference, Senator Kohl, was not necessarily a caucus gathering, but the caucus staff and that sort of thing. I think, also, information is available through my office on prior bill reports and so on, but we will be caucusing in a bit."

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SUBSTITUTE SENATE BILL NO. 6181 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### REPORT OF CONFERENCE COMMITTEE

**SSB 6181**

**March 10, 1998**

Includes "NEW ITEM"ES

Regulating probate, trusts, and estates

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SUBSTITUTE SENATE BILL NO. 6181, regulating probate, trusts, and estates, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"PART I--TESTAMENTARY DISPOSITION OF NONPROBATE ASSETS**

NEW SECTION. Sec. 101. SHORT TITLE. This chapter may be known and cited as the testamentary disposition of nonprobate assets act.

NEW SECTION. Sec. 102. PURPOSES. The purposes of this chapter are to:

- (1) Enhance and facilitate the power of testators to control the disposition of assets that pass outside their wills;
- (2) Provide simple procedures for resolution of disputes regarding entitlement to such assets; and
- (3) Protect any financial institution or other third party having possession of or control over such an asset and transferring it to a beneficiary duly designated by the testator, unless that third party has been provided notice of a testamentary disposition as required in this chapter.

NEW SECTION. Sec. 103. CONSTRUCTION--JURISDICTION. (1) When construing sections and provisions of this chapter, the sections and provisions must:

- (a) Be liberally construed and applied to promote the purposes of this chapter;
- (b) Be considered part of a general act that is intended as unified coverage of the subject matter, and no part of this chapter may be deemed impliedly repealed by subsequent legislation if the construction can be reasonably avoided;
- (c) Not be held invalid because of the invalidity of other sections or provisions of this chapter as long as the section or provision in question can be given effect without regard to the invalid section or provision, and to this end the sections or provisions of this chapter are severable;
- (d) Not be construed by reference to section or subsection headings as used in this chapter, since these do not constitute any part of the law;
- (e) Not be deemed to alter the community or separate property nature of any asset passing outside a testator's will or any individual's community or separate rights to the asset, and a testator's community or separate property rights to the asset are not affected by whether it passes outside the will or, under this chapter, by disposition under the will; and
- (f) Not be construed as authorizing or extending the authority of any financial institution or other third party to sell or otherwise create assets that would pass outside a testator's will upon such terms as would contravene any other applicable federal or state law.

(2) The sections and provisions of this chapter apply to an owner who dies while a resident of this state on or after the effective date of this section and to a nonprobate asset the disposition of which on the death of the owner would otherwise be governed by the law of this state.

NEW SECTION. Sec. 104. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1)(a) "Actual knowledge" means:
  - (i) For a financial institution, whether acting as personal representative or otherwise, or other third party in possession or control of a nonprobate asset, receipt of written notice that: (A) Complies with section 109 of this act; (B) pertains to the testamentary disposition or ownership of a nonprobate asset in its possession or control; and (C) is received by the financial institution or third party after the death of the owner in a time sufficient to afford the financial institution or third party a reasonable opportunity to act upon the knowledge; and
  - (ii) For a personal representative that is not a financial institution, personal knowledge or possession of documents relating to the testamentary disposition or ownership of a nonprobate asset of the owner sufficient to afford the personal representative reasonable opportunity to act upon the knowledge, including reasonable opportunity for the personal representative to provide the written notice under section 109 of this act.
- (b) For the purposes of (a) of this subsection, notice of more than thirty days is presumed to be notice that is sufficient to afford the party a reasonable opportunity to act upon the knowledge, but notice of less than five business days is presumed not to be a sufficient notice for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.
- (2) "Beneficiary" means the person designated to receive a nonprobate asset upon the death of the owner by means other than the owner's will.
- (3) "Broker" means a person defined as a broker or dealer under the federal securities laws.
- (4) "Date of will" means, as to any nonprobate asset, the date of signature of the will or codicil that refers to the asset and disposes of it.
- (5) "Designate" means a written means by which the owner selects a beneficiary, including but not limited to instruments under contractual arrangements and registration of accounts, and "designation" means the selection.

(6) "Financial institution" means: A bank, trust company, mutual savings bank, savings and loan association, credit union, broker, or issuer of stock or its transfer agent.

(7)(a) "Nonprobate asset" means a nonprobate asset within the meaning of RCW 11.02.005, but excluding the following:

- (i) A right or interest in real property passing under a joint tenancy with right of survivorship;
- (ii) A deed or conveyance for which possession has been postponed until the death of the owner;
- (iii) A right or interest passing under a community property agreement; and
- (iv) An individual retirement account or bond.

(b) For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, see RCW 11.07.010(5).

(8) "Owner" means a person who, during life, has beneficial ownership of the nonprobate asset.

(9) "Request" means a request by the beneficiary for transfer of a nonprobate asset after the death of the owner, if it complies with all conditions of the arrangement, including reasonable special requirements concerning necessary signatures and regulations of the financial institution or other third party, or by the personal representative of the owner's estate or the testamentary beneficiary, if it complies with the owner's will and any additional conditions of the financial institution or third party for such transfer.

(10) "Testamentary beneficiary" means a person named under the owner's will to receive a nonprobate asset under this chapter, including but not limited to the trustee of a testamentary trust.

(11) "Third party" means a person, including a financial institution, having possession of or control over a nonprobate asset at the death of the owner, including the trustee of a revocable living trust and surviving joint tenant or tenants.

**NEW SECTION. Sec. 105. DISPOSITION OF NONPROBATE ASSETS UNDER WILL.** (1) Subject to community property rights, upon the death of an owner the owner's interest in any nonprobate asset specifically referred to in the owner's will belongs to the testamentary beneficiary named to receive the nonprobate asset, notwithstanding the rights of any beneficiary designated before the date of the will.

(2) A general residuary gift in an owner's will, or a will making general disposition of all of the owner's property, does not entitle the devisees or legatees to receive nonprobate assets of the owner.

(3) A disposition in a will of the owner's interest in "all nonprobate assets" or of all of a category of nonprobate asset under section 104(7) of this act, such as "all of my payable on death bank accounts" or similar language, is deemed to be a disposition of all the nonprobate assets the beneficiaries of which are designated before the date of the will.

(4) If the owner designates a beneficiary for a nonprobate asset after the date of the will, the will does not govern the disposition of that nonprobate asset. If the owner revokes the later beneficiary designation, the prior will does not govern the disposition of the nonprobate asset. A beneficiary designation with respect to an asset that renews without the signature of the owner is deemed to have been made on the date on which the account was first opened.

**NEW SECTION. Sec. 106. WAIVER OF RIGHT TO DISPOSE OF A NONPROBATE ASSET UNDER WILL.** An owner may waive the right to dispose of a specific nonprobate asset by will under this chapter, with or without consideration, by a written instrument signed by the owner and delivered to the financial institution or other third party, including but not limited to signature cards or deposit agreements. The waiver is revocable by written instrument delivered to the financial institution or other third party unless the owner has stated that the waiver is to be irrevocable.

**NEW SECTION. Sec. 107. CONTROVERSIES BETWEEN BENEFICIARIES AND TESTAMENTARY BENEFICIARIES.** This chapter is intended to establish ownership rights to nonprobate assets upon the death of the owner, as between beneficiaries and testamentary beneficiaries. This chapter is relevant only as to controversies between these persons, and has no bearing on the right of a person to transfer a nonprobate asset under its terms in the absence of a testamentary provision under this chapter.

**NEW SECTION. Sec. 108. RIGHT TO RELY ON FORM OF NONPROBATE ASSET--DISCHARGE OF FINANCIAL INSTITUTION OR OTHER THIRD PARTY.** In transferring nonprobate assets, a financial institution or other third party may rely conclusively and entirely upon the form of the nonprobate asset and the terms of the nonprobate asset arrangement in effect on the date of death of the owner, unless the financial institution or other third party has actual knowledge of the existence of a claim by a testamentary beneficiary. A financial institution or other third party is not required to inquire as to either the source or ownership of any nonprobate asset in its possession or under its control, or as to the proposed application of an asset so transferred. A transfer of a nonprobate asset in accordance with this section constitutes a complete release and discharge of the financial institution or other third party from all claims relating to the nonprobate asset, regardless of whether or not the transfer is consistent with the actual ownership of the nonprobate asset.

**NEW SECTION. Sec. 109. NOTICE--FORM--LIMITATION ON LIABILITY FOR FAILURE TO PROVIDE NOTICE.** (1) Written notice under this chapter must be served personally or by certified mail, return receipt requested and postage prepaid, on the financial institution or other third party having the nonprobate asset in its possession or control, on the beneficiary, on the testamentary beneficiary, and on the personal representative, and proof of the mailing or service must be made by affidavit and filed under the cause number assigned to the owner's estate. Notice to a financial institution must include notice delivered as follows:

- (a) If the nonprobate asset was maintained at a specific office of the financial institution, notice must be delivered to the office at which the nonprobate asset was maintained, which notice must be directed to the manager of the office;
  - (b) If the nonprobate asset was held in a trust administered by a financial institution, notice must be delivered to the office at which the trust was administered, which notice must be directed to a named officer responsible for the administration of the trust; and
  - (c) In all cases, notice must be delivered to any other location and in any other manner specifically designated in a written agreement signed by the owner and the financial institution, including but not limited to a signature card or deposit agreement.
- (2) Written notice to a financial institution or other third party of the testamentary disposition of a nonprobate asset under this chapter must be in a form substantially similar to the following:

NOTICE OF TESTAMENTARY  
DISPOSITION OF NONPROBATE ASSET

The undersigned personal representative, petitioner for appointment as personal representative, attorney for the personal representative or petitioner, or testamentary beneficiary under the will of the decedent named above (as that term is defined in section 104 of this act) hereby notifies you that the decedent named above died on (DATE MUST BE SUPPLIED) and left a will dated (DATE OF WILL MUST BE SUPPLIED) disposing of the following nonprobate asset or assets in your possession or control:

(EACH SUCH ASSET MUST BE DESCRIBED WITH REASONABLE SPECIFICITY. FOR ACCOUNTS AT FINANCIAL INSTITUTIONS, THE WRITTEN NOTICE MUST SPECIFY THE OFFICE AT WHICH THE ACCOUNT WAS MAINTAINED, THE NAME OR NAMES IN WHICH THE ACCOUNT WAS HELD, AND THE FULL ACCOUNT NUMBER. FOR ASSETS HELD IN TRUST, THE WRITTEN NOTICE MUST SPECIFY THE NAME OR NAMES OF THE GRANTOR, THE NAME OF THE TRUST, IF ANY, AND THE DATE OF THE TRUST INSTRUMENT.)

Under chapter 11.-- RCW (sections 101 through 116 of this act), you may not transfer, deliver, or otherwise dispose of the asset or assets listed above in accordance with the beneficiary designation, account registration, or other arrangement made with you by the decedent. You may transfer, deliver, or otherwise dispose of the asset or assets listed above only upon receipt of the written direction of the personal representative or of the testamentary beneficiary, if the personal representative consents.

(CAPACITY OF SIGNER)

(3) The personal representative of the estate of the owner, a petitioner for appointment as personal representative, or the testamentary beneficiary may provide written notice under this section. The personal representative has no duty to provide written notice under this section and has no liability for failing or refusing to give the notice.

(4) Written notice under this section may be provided at any time after the death of the owner and before discharge of the personal representative on closing of the estate, and may be provided before admission to probate of the will.

**NEW SECTION. Sec. 110. VESTING OF RIGHTS AND POWERS UNDER CHAPTER.** The right to provide notice under section 109 of this act and the entitlement of the testamentary beneficiary to the nonprobate asset vest immediately upon death of the owner. The power of the personal representative to direct the financial institution or other third party having the nonprobate asset in its possession or under its control to transfer or otherwise dispose of the asset arises upon the later of appointment of the personal representative or admission of the will to probate.

**NEW SECTION. Sec. 111. OWNERSHIP RIGHTS AS BETWEEN INDIVIDUALS PRESERVED--TESTAMENTARY BENEFICIARY MAY RECOVER NONPROBATE ASSET FROM BENEFICIARY--LIMITATION ON ACTION TO RECOVER.** (1) The protection accorded to financial institutions and other third parties under section 108 of this act has no bearing on the actual rights of ownership to nonprobate assets as between beneficiaries and testamentary beneficiaries, and their heirs, successors, personal representatives, and assigns.

(2) A testamentary beneficiary entitled to a nonprobate asset otherwise transferred to a beneficiary not so entitled, and a personal representative of the owner's estate on behalf of the testamentary beneficiary, may petition the superior court having jurisdiction over the owner's estate for an order declaring that the testamentary beneficiary is so entitled, the hearing of the petition to be held in accordance with chapter 11.96 RCW.

(3) A testamentary beneficiary claiming a nonprobate asset who has not filed such a petition within the earlier of: (a) Six months from the date of admission of the will to probate; and (b) one year from the date of the owner's death, shall be forever barred from making such a claim or commencing such an action.

**NEW SECTION. Sec. 112. NONPROBATE ASSETS NOT PROPERTY OF ESTATE.** (1) Notwithstanding any provision of this chapter, a nonprobate asset disposed of under the owner's will may not be treated as a part of the owner's probate estate for any other purpose under this title, unless:

- (a) The nonprobate asset is subject to liabilities and claims, estate taxes, and expenses of administration under RCW 11.18.200; or

(b) Any section of this title directs otherwise, by specifically referring to this section.

(2) Provision of notice under this chapter has no effect on the administration of other assets of the estate of the owner. The personal representative has no duty to administer upon a nonprobate asset because of providing the notice, unless specifically required by this chapter or under RCW 11.18.200.

(3) RCW 11.12.110, regarding death of a devisee or legatee before the testator, does not apply to disposition of a nonprobate asset under a will.

**NEW SECTION. Sec. 113. TRANSFER OF NONPROBATE ASSET TO TESTAMENTARY BENEFICIARY.** (1) A financial institution's or third party's obligation to transfer a nonprobate asset to a testamentary beneficiary arises only after it has actual knowledge of the claim of the testamentary beneficiary, and after receiving written direction from the personal representative of the owner's estate, or if the personal representative consents in writing, from the testamentary beneficiary, to make the transfer. The financial institution may also require that its customary procedures be followed in effectuating a transfer of the nonprobate asset.

(2) Subject to subsection (1) of this section, financial institutions and other third parties may transfer a nonprobate asset that has not already been distributed to the testamentary beneficiary entitled to the nonprobate asset under the owner's will, subject to liabilities and claims, estate taxes, and expenses of administration under RCW 11.18.200.

**NEW SECTION. Sec. 114. AUTHORITY TO WITHHOLD TRANSFER.** (1) This chapter does not require any financial institution or other third party to transfer a nonprobate asset to a beneficiary, testamentary beneficiary, or other person claiming an interest in the nonprobate asset if the financial institution or third party has actual knowledge of the existence of a dispute between beneficiaries, testamentary beneficiaries, or other persons concerning rights or ownership to the nonprobate asset under this chapter, or if the financial institution or third party is otherwise uncertain as to who is entitled to receive the nonprobate asset under this chapter. In any such case, the financial institution or third party may, without liability, notify in writing all beneficiaries, testamentary beneficiaries, or other persons claiming an interest in the nonprobate asset of either its uncertainty as to who is entitled to transfer of the nonprobate asset or the existence of any dispute, and it may also, without liability, refuse to transfer a nonprobate asset to a beneficiary or a testamentary beneficiary until such time as either:

- (a) All the beneficiaries, testamentary beneficiaries, and other interested persons have consented in writing to the transfer; or
- (b) The transfer is authorized or directed by a court of proper jurisdiction.

(2) The expense of obtaining the written consent or court authorization or direction may, by order of the court, be paid by the personal representative as an expense of administration.

**NEW SECTION. Sec. 115. ADVERSE CLAIM BOND.** Notwithstanding section 114 of this act, a financial institution or other third party having actual knowledge of the existence of a dispute between beneficiaries, a testamentary beneficiary, or other persons concerning rights to a nonprobate asset under this chapter may condition transfer of the nonprobate asset on execution, in form and with security acceptable to the financial institution or other third party, of a bond in an amount that is double the fair market value of the nonprobate asset on the date of the owner's death or the amount of any adverse claim, whichever is the lesser, indemnifying the financial institution or other third party from any and all liability, loss, damage, costs, and expenses, for and on account of transfer of the nonprobate asset. **NEW SECTION. Sec. 116. APPLICATION OF CHAPTER.** This chapter applies to any will of an owner who dies while a resident of this state on or after the effective date of this section, regardless of whether the will was executed or republished before or after the effective date of this section and regardless of whether the beneficiary of the nonprobate asset was designated before or after the effective date of this section.

**Sec. 117.** RCW 11.02.005 and 1997 c 252 s 1 are each amended to read as follows:

When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian or limited guardian and special representative.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the deceased or the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the intestate but who left issue surviving the intestate; each share of a deceased person in the nearest degree shall be divided among those of the deceased person's issue who survive the intestate and have no ancestor then living who is in the line of relationship between them and the intestate, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the intestate. Posthumous children are considered as living at the death of their parent.

(4) "Issue" includes all the lawful lineal descendants of the ancestor and all lawfully adopted children.

(5) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(7) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(8) "Will" means an instrument validly executed as required by RCW 11.12.020.

(9) "Codicil" means a will that modifies or partially revokes an existing earlier will. A codicil need not refer to or be attached to the earlier will.

(10) "Guardian" or "limited guardian" means a personal representative of the person or estate of an incompetent or disabled person as defined in RCW 11.88.010 and the term may be used in lieu of "personal representative" wherever required by context.

(11) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(12) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(13) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

(14) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

(15) "Nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument or arrangement other than the person's will. "Nonprobate asset" includes, but is not limited to, a right or interest passing under a joint tenancy with right of survivorship, joint bank account with right of survivorship, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of which the person is grantor and that becomes effective or irrevocable only upon the person's death, community property agreement, individual retirement account or bond, or note or other contract the payment or performance of which is affected by the death of the person. "Nonprobate asset" does not include: A payable-on-death provision of a life insurance policy, annuity, or other similar contract, or of an employee benefit plan; a right or interest passing by descent and distribution under chapter 11.04 RCW; a right or interest if, before death, the person has irrevocably transferred the right or interest, the person has waived the power to transfer it or, in the case of contractual arrangement, the person has waived the unilateral right to rescind or modify the arrangement; or a right or interest held by the person solely in a fiduciary capacity. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, see RCW 11.07.010(5). For the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see section 104(7) of this act.

(16) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, ((1997)) 1998.

Words that import the singular number may also be applied to the plural of persons and things.

Words importing the masculine gender only may be extended to females also.

**Sec. 118.** RCW 11.07.010 and 1997 c 252 s 2 are each amended to read as follows:

(1) This section applies to all nonprobate assets, wherever situated, held at the time of entry by a superior court of this state of a decree of dissolution of marriage or a declaration of invalidity.

(2)(a) If a marriage is dissolved or invalidated, a provision made prior to that event that relates to the payment or transfer at death of the decedent's interest in a nonprobate asset in favor of or granting an interest or power to the decedent's former spouse is revoked. A provision affected by this section must be interpreted, and the nonprobate asset affected passes, as if the former spouse failed to survive the decedent, having died at the time of entry of the decree of dissolution or declaration of invalidity.

(b) This subsection does not apply if and to the extent that:

(i) The instrument governing disposition of the nonprobate asset expressly provides otherwise;

(ii) The decree of dissolution or declaration of invalidity requires that the decedent maintain a nonprobate asset for the benefit of a former spouse or children of the marriage, payable on the decedent's death either outright or in trust, and other nonprobate assets of the decedent fulfilling such a requirement for the benefit of the former spouse or children of the marriage do not exist at the decedent's death; or

(iii) If not for this subsection, the decedent could not have effected the revocation by unilateral action because of the terms of the decree or declaration, or for any other reason, immediately after the entry of the decree of dissolution or declaration of invalidity.

(3)(a) A payor or other third party in possession or control of a nonprobate asset at the time of the decedent's death is not liable for making a payment or transferring an interest in a nonprobate asset to a decedent's former spouse whose interest in the nonprobate asset is revoked under this section, or for taking another action in reliance on the validity of the instrument governing disposition of the nonprobate asset, before the payor or other third party has actual knowledge of the dissolution or other invalidation of marriage. A payor or other third party is liable for a payment or transfer made or other action taken after the payor or other third party has actual knowledge of a revocation under this section.

(b) This section does not require a payor or other third party to pay or transfer a nonprobate asset to a beneficiary designated in a governing instrument affected by the dissolution or other invalidation of marriage, or to another person claiming an interest in the nonprobate

asset, if the payor or third party has actual knowledge of the existence of a dispute between the former spouse and the beneficiaries or other persons concerning rights of ownership of the nonprobate asset as a result of the application of this section among the former spouse and the beneficiaries or among other persons, or if the payor or third party is otherwise uncertain as to who is entitled to the nonprobate asset under this section. In such a case, the payor or third party may, without liability, notify in writing all beneficiaries or other persons claiming an interest in the nonprobate asset of either the existence of the dispute or its uncertainty as to who is entitled to payment or transfer of the nonprobate asset. The payor or third party may also, without liability, refuse to pay or transfer a nonprobate asset in such a circumstance to a beneficiary or other person claiming an interest until the time that either:

(i) All beneficiaries and other interested persons claiming an interest have consented in writing to the payment or transfer; or

(ii) The payment or transfer is authorized or directed by a court of proper jurisdiction.

(c) Notwithstanding subsections (1) and (2) of this section and (a) and (b) of this subsection, a payor or other third party having actual knowledge of the existence of a dispute between beneficiaries or other persons concerning rights to a nonprobate asset as a result of the application of this section may condition the payment or transfer of the nonprobate asset on execution, in a form and with security acceptable to the payor or other third party, of a bond in an amount that is double the fair market value of the nonprobate asset at the time of the decedent's death or the amount of an adverse claim, whichever is the lesser, or of a similar instrument to provide security to the payor or other third party, indemnifying the payor or other third party for any liability, loss, damage, costs, and expenses for and on account of payment or transfer of the nonprobate asset.

(d) As used in this subsection, "actual knowledge" means, for a payor or other third party in possession or control of the nonprobate asset at or following the decedent's death, written notice to the payor or other third party, or to an officer of a payor or third party in the course of his or her employment, received after the decedent's death and within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge. The notice must identify the nonprobate asset with reasonable specificity. The notice also must be sufficient to inform the payor or other third party of the revocation of the provisions in favor of the decedent's spouse by reason of the dissolution or invalidation of marriage, or to inform the payor or third party of a dispute concerning rights to a nonprobate asset as a result of the application of this section. Receipt of the notice for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(4)(a) A person who purchases a nonprobate asset from a former spouse or other person, for value and without actual knowledge, or who receives from a former spouse or other person payment or transfer of a nonprobate asset without actual knowledge and in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, property, or benefit nor is liable under this section for the amount of the payment or the value of the nonprobate asset. However, a former spouse or other person who, with actual knowledge, not for value, or not in satisfaction of a legally enforceable obligation, receives payment or transfer of a nonprobate asset to which that person is not entitled under this section is obligated to return the payment or nonprobate asset, or is personally liable for the amount of the payment or value of the nonprobate asset, to the person who is entitled to it under this section.

(b) As used in this subsection, "actual knowledge" means, for a person described in (a) of this subsection who purchases or receives a nonprobate asset from a former spouse or other person, personal knowledge or possession of documents relating to the revocation upon dissolution or invalidation of marriage of provisions relating to the payment or transfer at the decedent's death of the nonprobate asset, received within a time after the decedent's death and before the purchase or receipt that is sufficient to afford the person purchasing or receiving the nonprobate asset reasonable opportunity to act upon the knowledge. Receipt of the personal knowledge or possession of the documents for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(5) As used in this section, "nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under only the following written instruments or arrangements other than the decedent's will:

(a) A payable-on-death provision of a life insurance policy, employee benefit plan, annuity or similar contract, or individual retirement account;

(b) A payable-on-death, trust, or joint with right of survivorship bank account;

(c) A trust of which the person is a grantor and that becomes effective or irrevocable only upon the person's death; or

(d) Transfer on death beneficiary designations of a transfer on death or pay on death security, if such designations are authorized under Washington law.

(However, for the general definition of "nonprobate asset" in this title, RCW 11.02.005 applies.) For the general definition in this title of "nonprobate asset," see RCW 11.02.005(15) and for the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see section 104(7) of this act.

(6) This section is remedial in nature and applies as of July 25, 1993, to decrees of dissolution and declarations of invalidity entered after July 24, 1993, and this section applies as of January 1, 1995, to decrees of dissolution and declarations of invalidity entered before July 25, 1993.

## PART II--PROBATE

**Sec. 201.** RCW 11.54.070 and 1997 c 252 s 54 are each amended to read as follows:

(1) Except as provided in ~~((subsection))~~ RCW 11.54.060(2) ~~((of this section))~~, property awarded and cash paid under this chapter is immune from all debts, including judgments and judgment liens, of the decedent and of the surviving spouse existing at the time of death.

(2) Both the decedent's and the surviving spouse's interests in any community property awarded to the spouse under this chapter are immune from the claims of creditors.

**Sec. 202.** RCW 11.68.110 and 1997 c 252 s 68 are each amended to read as follows:

(1) If a personal representative who has acquired nonintervention powers does not apply to the court for either of the final decrees provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration that must state as follows:

(a) The date of the decedent's death and the decedent's residence at the time of death;

(b) Whether or not the decedent died testate or intestate;

(c) If the decedent died testate, the date of the decedent's last will and testament and the date of the order probating the will;

(d) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of estate taxes due as the result of the decedent's death has been determined, settled, and paid;

(e) That the personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;

(f) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each heir; and

(g) The amount of fees paid or to be paid to each of the following: (i) Personal representative or representatives; (ii) lawyer or lawyers; (iii) appraiser or appraisers; and (iv) accountant or accountants; and that the personal representative believes the fees to be reasonable and does not intend to obtain court approval of the amount of the fees or to submit an estate accounting to the court for approval.

(2) Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent petitions the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, lawyers, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be automatically discharged without further order of the court and the representative's powers will cease thirty days after the filing of the declaration of completion of probate, and the declaration of completion of probate shall, at that time, be the equivalent of the entry of a decree of distribution in accordance with chapter 11.76 RCW for all legal intents and purposes.

(3) Within five days of the date of the filing of the declaration of completion, the personal representative or the personal representative's lawyer shall mail a copy of the declaration of completion to each heir, legatee, or devisee of the decedent, who: (a) Has not waived notice of the filing, in writing, filed in the cause ~~((or who, not having waived notice,))~~; and (b) either has not received the full amount of the distribution to which the heir, legatee, or devisee is entitled or has a property right that might be affected adversely by the discharge of the personal representative under this section, together with a notice which shall be substantially as follows:

### CAPTION NOTICE OF FILING OF OF DECLARATION OF COMPLETION

#### CASE OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the . . . . day of . . . . ., 19. . . ; unless you shall file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative will be automatically discharged without further order of the court, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.

Dated this . . . . day of . . . . ., 19. . .



Personal Representative

(4) If all heirs, devisees, and legatees of the decedent entitled to notice under this section waive, in writing, the notice required by this section, the personal representative will be automatically discharged without further order of the court and the declaration of completion of probate will become effective as a decree of distribution upon the date of filing thereof. In those instances where the personal representative has been required to furnish bond, and a declaration of completion is filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative.

**Sec. 203.** RCW 11.68.114 and 1997 c 252 s 70 are each amended to read as follows:

(1) The personal representative retains the powers to: Deal with the taxing authority of any federal, state, or local government; hold a reserve in an amount not to exceed three thousand dollars, for the determination and payment of any additional taxes, interest, and penalties, and of all reasonable expenses related directly or indirectly to such determination or payment; pay from the reserve the reasonable expenses, including compensation for services rendered or goods provided by the personal representative or by the personal representative's employees, independent contractors, and other agents, in addition to any taxes, interest, or penalties assessed by a taxing authority; receive and hold any credit, including interest, from any taxing authority; and distribute the residue of the reserve to the intended beneficiaries of the reserve; if:

(a) In lieu of the statement set forth in RCW 11.68.110(1)(e), the declaration of completion of probate states that:

The personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed, except for the determination of taxes and of interest and penalties thereon as permitted under this section;

and

(b) The notice of the filing of declaration of completion of probate must be in substantially the following form:

CAPTION NOTICE OF FILING OF  
OF DECLARATION OF COMPLETION  
CASE OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the . . . day of . . . , . . . ; unless you file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing:

(i) The schedule of fees set forth in the Declaration of Completion of Probate will be deemed reasonable;

(ii) The Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW;

(iii) The acts that the personal representative performed before the Declaration of Completion of Probate was filed will be deemed approved, and the personal representative will be automatically discharged without further order of the court with respect to all such acts; and

(iv) The personal representative will retain the power to deal with the taxing authorities, together with \$. . . for the determination and payment of all remaining tax obligations. Only that portion of the reserve that remains after the settlement of any tax liability, and the payment of any expenses associated with such settlement, will be distributed to the persons legally entitled to the reserve.

(2) If the requirements in subsection (1) of this section are met, the personal representative is discharged from all claims other than those relating to the settlement of any tax obligations and the actual distribution of the reserve, at the effective date of the declaration of completion. The personal representative is discharged from liability from the settlement of any tax obligations and the distribution of the reserve, and the personal representative's powers cease, thirty days after the personal representative

~~(a))~~ has mailed to those persons who would have shared in the distribution of the reserve had the reserve remained intact

~~((b))~~ has filed with the court copies of checks or receipts showing how the reserve was in fact distributed, unless a person with an interest in the reserve petitions the court earlier within the thirty-day period for an order requiring an accounting of the reserve or an order determining the reasonableness, or lack of reasonableness, of distributions made from the reserve. If the personal representative has been required to furnish a bond, any bond furnished by the personal representative is automatically discharged upon the final discharge of the personal representative.

**Sec. 204.** 1997 c 252 s 87 (uncodified) is amended to read as follows:

The following acts or parts of acts are each repealed, effective December 31, 1997, for estates of decedents dying after December 31, 1997:

- (1) RCW 11.40.011 and 1989 c 333 s 2, 1983 c 201 s 1, & 1967 ex.s. c 106 s 3;
- (2) RCW 11.40.012 and 1989 c 333 s 3;
- (3) RCW 11.40.013 and 1994 c 221 s 26 & 1989 c 333 s 4;
- (4) RCW 11.40.014 and 1989 c 333 s 5;
- (5) RCW 11.40.015 and 1994 c 221 s 27 & 1989 c 333 s 6;
- (6) RCW 11.42.160 and 1994 c 221 s 46;
- (7) RCW 11.42.170 and 1994 c 221 s 47;
- (8) RCW 11.42.180 and 1994 c 221 s 48;
- (9) RCW 11.44.066 and 1990 c 180 s 1 & 1974 ex.s. c 117 s 49;
- (10) RCW 11.52.010 and 1987 c 442 s 1116, 1984 c 260 s 17, 1974 ex.s. c 117 s 7, 1971 ex.s. c 12 s 2, 1967 c 168 s 12, & 1965 c 145 s 11.52.010;
- (11) RCW 11.52.012 and 1985 c 194 s 1, 1984 c 260 s 18, 1977 ex.s. c 234 s 9, 1974 ex.s. c 117 s 8, & 1965 c 145 s 11.52.012;
- (12) RCW 11.52.014 and 1965 c 145 s 11.52.014;
- (13) RCW 11.52.016 and 1988 c 202 s 18, 1972 ex.s. c 80 s 1, & 1965 c 145 s 11.52.016;
- (14) RCW 11.52.020 and 1985 c 194 s 2, 1984 c 260 s 19, 1974 ex.s. c 117 s 9, 1971 ex.s. c 12 s 3, 1967 c 168 s 13, & 1965 c 145 s 11.52.020;
- (15) RCW 11.52.022 and 1985 c 194 s 3, 1984 c 260 s 20, 1977 ex.s. c 234 s 10, 1974 ex.s. c 117 s 10, 1971 ex.s. c 12 s 4, & 1965 c 145 s 11.52.022;
- (16) RCW 11.52.024 and 1972 ex.s. c 80 s 2 & 1965 c 145 s 11.52.024;
- (17) RCW 11.52.030 and 1965 c 145 s 11.52.030;
- (18) RCW 11.52.040 and 1965 c 145 s 11.52.040;
- (19) RCW 11.52.050 and 1967 c 168 s 14;
- (20) RCW 11.68.010 and 1994 c 221 s 50, 1977 ex.s. c 234 s 18, 1974 ex.s. c 117 s 13, 1969 c 19 s 1, & 1965 c 145 s 11.68.010;
- (21) RCW 11.68.020 and 1974 ex.s. c 117 s 14 & 1965 c 145 s 11.68.020;
- (22) RCW 11.68.030 and 1977 ex.s. c 234 s 19, 1974 ex.s. c 117 s 15, & 1965 c 145 s 11.68.030; and
- (23) RCW 11.68.040 and 1977 ex.s. c 234 s 20, 1974 ex.s. c 117 s 16, & 1965 c 145 s 11.68.040.

**Sec. 205.** 1997 c 252 s 89 (uncodified) is amended to read as follows:

Sections 1 through (~~73 of this act~~) 72, chapter 252, Laws of 1997 apply to estates of decedents dying after December 31, 1997. Sections 81 through 86, chapter 252, Laws of 1997 apply to all estates, trusts, and governing instruments in existence on or at any time after March 7, 1984, and to all proceedings with respect thereto after March 7, 1984, whether the proceedings commenced before or after March 7, 1984, and including distributions made after March 7, 1984. Sections 81 through 86, chapter 252, Laws of 1997 do not apply to any governing instrument, the terms of which expressly or by necessary implication make the application of sections 81 through 86, chapter 252, Laws of 1997 inapplicable. The judicial and nonjudicial dispute resolution procedures of chapter 11.96 RCW apply to sections 81 through 86, chapter 252, Laws of 1997.

### **PART III--UNIFORM TRANSFERS TO MINORS ACT**

**Sec. 301.** RCW 11.114.030 and 1991 c 193 s 3 are each amended to read as follows:

(1) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: ". . . . . as custodian for . . . . . (name of minor) under the Washington uniform transfers to minors act." The nomination may name one or more persons as substitute custodians to whom the property shall be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

As an alternative to naming a specific person as custodian, the nomination may provide that the custodian may be designated by the legal representative of, or other person specified by, the person having the right to designate the recipient of the property described in this subsection. The person having the right of designation of the custodian is authorized to designate himself or herself as custodian, if he or she falls within the class of persons eligible to serve as custodian under RCW 11.114.090(1).

(2) A custodian nominated under this section shall be a person to whom a transfer of property of that kind may be made under RCW 11.114.090(1).

(3) Instead of designating one specific minor, the designation may specify multiple persons or a class or classes of persons, but when the custodial property is actually created under subsection (4) of this section, it must be constituted as a separate custodianship for each beneficiary, and each beneficiary's interest in it must be determined in accordance with the governing instrument and applicable law.

(4) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under RCW 11.114.090. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to RCW 11.114.090.

#### PART IV--INTERNAL REVENUE CODE REFERENCES

**Sec. 401.** RCW 83.100.020 and 1994 c 221 s 70 are each amended to read as follows:

As used in this chapter:

- (1) "Decedent" means a deceased individual;
- (2) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;
- (3) "Federal credit" means (a) for a transfer, the maximum amount of the credit for state taxes allowed by section 2011 of the Internal Revenue Code; and (b) for a generation-skipping transfer, the maximum amount of the credit for state taxes allowed by section 2604 of the Internal Revenue Code;
- (4) "Federal return" means any tax return required by chapter 11 or 13 of the Internal Revenue Code;
- (5) "Federal tax" means (a) for a transfer, a tax under chapter 11 of the Internal Revenue Code; and (b) for a generation-skipping transfer, the tax under chapter 13 of the Internal Revenue Code;
- (6) "Generation-skipping transfer" means a "generation-skipping transfer" as defined and used in section 2611 of the Internal Revenue Code;
- (7) "Gross estate" means "gross estate" as defined and used in section 2031 of the Internal Revenue Code;
- (8) "Nonresident" means a decedent who was domiciled outside Washington at his death;
- (9) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;
- (10) "Person required to file the federal return" means any person required to file a return required by chapter 11 or 13 of the Internal Revenue Code, such as the personal representative of an estate; or a transferor, trustee, or beneficiary of a generation-skipping transfer; or a qualified heir with respect to qualified real property, as defined and used in section 2032A(c) of the Internal Revenue Code;
- (11) "Property" means (a) for a transfer, property included in the gross estate; and (b) for a generation-skipping transfer, all real and personal property subject to the federal tax;
- (12) "Resident" means a decedent who was domiciled in Washington at time of death;
- (13) "Transfer" means "transfer" as used in section 2001 of the Internal Revenue Code, or a disposition or cessation of qualified use as defined and used in section 2032A(c) of the Internal Revenue Code;
- (14) "Trust" means "trust" under Washington law and any arrangement described in section 2652 of the Internal Revenue Code; and
- (15) "Internal Revenue Code" means, for the purposes of this chapter and RCW 83.110.010, the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, ~~((1995))~~ 1998.

**Sec. 402.** RCW 83.110.010 and 1994 c 221 s 71 are each amended to read as follows:

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

- (1) "Estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state;
- (2) "Excise tax" means the federal excise tax imposed by section 4980A(d) of the Internal Revenue Code, and interest and penalties imposed in addition to the excise tax;
- (3) "Fiduciary" means executor, administrator of any description, and trustee;
- (4) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as ~~((amended or renumbered on January 1, 1995))~~ defined in and as of the date specified in RCW 83.100.020;
- (5) "Person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;
- (6) "Persons interested in retirement distributions" means any person determined as of the date the excise tax is due, including a personal representative, guardian, trustee, or beneficiary, entitled to receive, or who has received, by reason of or following the death of a decedent, any property or interest therein which constitutes a retirement distribution as defined in section 4980A(e) of the Internal Revenue Code, but this definition excludes any alternate payee under a qualified domestic relations order as such terms are defined in section 414(p) of the Internal Revenue Code;

(7) "Person interested in the estate" means any person, including a personal representative, guardian, or trustee, entitled to receive, or who has received, from a decedent while alive or by reason of the death of a decedent any property or interest therein included in the decedent's taxable estate;

(8) "Qualified heir" means a person interested in the estate who is entitled to receive, or who has received, an interest in qualified real property;

(9) "Qualified real property" means real property for which the election described in section 2032A of the Internal Revenue Code has been made;

(10) "State" means any state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; and

(11) "Tax" means the federal estate tax, the excise tax defined in subsection (2) of this section, and the estate tax payable to this state and interest and penalties imposed in addition to the tax.

#### **PART V--SLAYER'S STATUTE**

**NEW SECTION. Sec. 501.** A new section is added to chapter 41.04 RCW to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) "Slayer" means a slayer as defined in RCW 11.84.010.

(b) "Decedent" means any person whose life is taken by a slayer, and who is entitled to benefits from the Washington state department of retirement systems by written designation or by operation of law.

(2) Property that would have passed to or for the benefit of a beneficiary under one of the retirement systems listed in RCW 41.50.030 shall not pass to that beneficiary if the beneficiary was a slayer of the decedent and the property shall be distributed as if the slayer had predeceased the decedent.

(3) A slayer is deemed to have predeceased the decedent as to property which, by designation or by operation of law, would have passed from the decedent to the slayer because of the decedent's entitlement to benefits under one of the retirement systems listed in RCW 41.50.030.

(4)(a) The department of retirement systems has no affirmative duty to determine whether a beneficiary is, or is alleged to be, a slayer. However, upon receipt of written notice that a beneficiary is a defendant in a civil lawsuit that alleges the beneficiary is a slayer or is charged with a crime that, if committed, means the beneficiary is a slayer, the department of retirement systems shall determine whether the beneficiary is a defendant in such a civil suit or has been formally charged in court with the crime, or both. If so, the department shall withhold payment of any benefits until:

(i) The case or charges, or both if both are pending, are dismissed;

(ii) The beneficiary is found not guilty in the criminal case or prevails in the civil suit, or both if both are pending; or

(iii) The beneficiary is convicted or is found to be a slayer in the civil suit.

(b) If the case or charges, or both if both are pending, are dismissed or if a beneficiary is found not guilty or prevails in the civil suit, or both if both are pending, the department shall pay the beneficiary the benefits the beneficiary is entitled to receive. If the beneficiary is convicted or found to be a slayer in a civil suit, the department shall distribute the benefits according to subsection (2) of this section.

(5) The slayer's conviction for having participated in the willful and unlawful killing of the decedent shall be admissible in evidence against a claimant of property in any civil action arising under this section.

(6) This section shall not subject the department of retirement systems to liability for payment made to a slayer or alleged slayer prior to the department's receipt of written notice that the slayer has been convicted of, or the alleged slayer has been formally criminally or civilly charged in court with, the death of the decedent. If the conviction or civil judgment of a slayer is reversed on appeal, the department of retirement systems shall not be liable for payment made prior to the receipt of written notice of the reversal to a beneficiary other than the person whose conviction or civil judgment is reversed.

**NEW SECTION. Sec. 502.** A new section is added to chapter 11.84 RCW to read as follows:

Proceeds payable to a slayer as the beneficiary of any benefits flowing from one of the retirement systems listed in RCW 41.50.030, by virtue of the decedent's membership in the department of retirement systems or by virtue of the death of decedent, shall be paid instead as designated in section 501 of this act.

**Sec. 503.** RCW 11.84.900 and 1965 c 145 s 11.84.900 are each amended to read as follows:

This chapter shall ~~((not be considered penal in nature, but shall))~~ be construed broadly ~~((in order))~~ to effect the policy of this state that no person shall be allowed to profit by his own wrong, wherever committed.

**Sec. 504.** RCW 11.02.070 and 1967 c 168 s 1 are each amended to read as follows:

Except as provided in sections 501 and 502 of this act, upon the death of a decedent, a one-half share of the community property shall be confirmed to the surviving spouse, and the other one-half share shall be subject to testamentary disposition by the decedent, or shall descend as provided in chapter 11.04 RCW. The whole of the community property shall be subject to probate administration for all purposes of this title, including the payment of obligations and debts of the community, the award in lieu of homestead, the allowance for family support, and any other matter for which the community property would be responsible or liable if the decedent were living.

**Sec. 505.** RCW 26.16.120 and Code 1881 s 2416 are each amended to read as follows:

Nothing contained in any of the provisions of this chapter or in any law of this state, shall prevent the husband and wife from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by the husband and wife by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be, under the laws of the state, and the same may at any time thereafter be altered or amended in the same manner(~~(= PROVIDED, HOWEVER, That)~~). Such agreement shall not derogate from the right of creditors(~~(=)~~); nor be construed to curtail the powers of the superior court to set aside or cancel such agreement for fraud or under some other recognized head of equity jurisdiction, at the suit of either party; nor prevent the application of laws governing the community property and inheritance rights of slayers under chapter 11.84 RCW.

**NEW SECTION. Sec. 506.** Sections 501 through 505 of this act apply to acts that result in unlawful killings of decedents by slayers on and after the effective date of this section.

**NEW SECTION. Sec. 507.** If any part of sections 501 through 505 of this act is found to be in conflict with federal requirements, the conflicting part of sections 501 through 505 of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination does not affect the operation of the remainder of sections 501 through 505 of this act. Rules adopted under sections 501 through 505 of this act must meet federal requirements.

#### **PART VI--MISCELLANEOUS--EFFECTIVE DATES**

**NEW SECTION. Sec. 601.** Part headings and section captions used in this act are not any part of the law.

**NEW SECTION. Sec. 602.** Sections 101 through 116 of this act constitute a new chapter in Title 11 RCW.

**NEW SECTION. Sec. 603.** (1) Sections 101 through 116 and 118 of this act take effect July 1, 1999.

(2) Sections 117, 201 through 205, 301, 401, 501 through 507, and 604 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**NEW SECTION. Sec. 604.** (1) Sections 201 through 205 of this act are remedial in nature and apply retroactively to July 27, 1997, and thereafter.

(2) Section 301 of this act is remedial in nature and applies retroactively to July 1, 1991, and thereafter."

On page 1, line 1 of the title, after "law;" strike the remainder of the title and insert "amending RCW 11.02.005, 11.07.010, 11.54.070, 11.68.110, 11.68.114, 11.114.030, 83.100.020, 83.110.010, 11.84.900, 11.02.070, and 26.16.120; amending 1997 c 252 s 87 (uncodified); amending 1997 c 252 s 89 (uncodified); adding a new section to chapter 41.04 RCW; adding a new section to chapter 11.84 RCW; adding a new chapter to Title 11 RCW; creating new sections; providing an effective date; and declaring an emergency.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Bauer, Roach; Representatives Carlson, Costa.

#### **MOTION**

Senator Johnson moved that the Report of the Conference Committee on Substitute Senate Bill No. 6181 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Substitute Senate Bill No. 6181.

The motion by Senator Johnson carried and the Report of the Conference Committee on Substitute Senate Bill No. 6181 was adopted.

#### **MOTION**

On motion of Senator Hale, Senators Benton and Schow were excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6181, as recommended by the Conference Committee.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6181, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senator Strannigan - 1. Excused: Senators Benton and Schow - 2. SUBSTITUTE SENATE BILL NO. 6181, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SECOND SUBSTITUTE SENATE BILL NO. 6190 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

## REPORT OF CONFERENCE COMMITTEE

**2SSB 6190**

**March 10, 1998**

Includes "NEW ITEM": YES

Disabled persons' parking

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SECOND SUBSTITUTE SENATE BILL NO. 6190, disabled person's parking, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.16.381 and 1995 c 384 s 1 are each amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk and meets one of the following criteria, as determined by a licensed physician:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Is so severely disabled, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association; or

(g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician of the applicant shall document that the disability is comparable in severity to the others listed in this subsection.

(2) The applications for disabled parking permits and temporary disabled parking permits are official state documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's signature and immediately below the applicant's signature:

"A disabled parking permit may be issued only for a medical necessity that severely affects mobility (RCW 46.16.381). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the photograph, name, and date of birth of the person to whom the placard is issued, and the placard's serial number. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the disabled person. Instead of regular motor vehicle license plates, disabled persons are entitled to receive special license plates bearing the international symbol of access for one vehicle registered in the disabled person's name. Disabled persons who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the special license plates or placard may park in places reserved for mobility disabled persons. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport disabled persons who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding homes, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

~~((3))~~ (4) Whenever the disabled person transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the disabled person and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the disabled person, the removed plate shall be immediately surrendered to the director.

~~((4))~~ (5) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. ~~((The director may issue a second temporary placard during that period if requested by the person who is temporarily disabled.))~~ If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the disabled person's physician. The permanent parking placard and photo identification card of a disabled person shall be renewed~~((, when))~~ at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. In the event of the permit holder's death, the parking placard and photo identification card must be immediately surrendered to the department. The department shall match and purge its disabled permit data base with available death record information at least every twelve months.

~~((5))~~ (6) Each person who has been issued a permanent disabled parking permit on or before July 1, 1998, must renew the permit no later than July 1, 2003, subject to a schedule to be set by the department, or the permit will expire.

(7) Additional fees shall not be charged for the issuance of the special placards or the photo identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

~~((6))~~ (8) Any unauthorized use of the special placard ~~((or the)),~~ special license plate, or photo identification card is a ~~((misdemeanor))~~ traffic infraction with a monetary penalty of two hundred fifty dollars.

~~((7))~~ (9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to make inaccessible the access aisle located next to a space reserved for physically disabled persons. The clerk of the court shall report all violations related to this subsection to the department.

(10) It is a parking infraction, with a monetary penalty of ~~((one hundred seventy five))~~ two hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for physically disabled persons without a special license plate or placard. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the special license plate or placard required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for physically disabled persons may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards. All time restrictions must be clearly posted.

~~((8))~~ (11) The ~~((penalty))~~ penalties imposed under subsections ~~((7))~~ (9) and (10) of this section shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

~~((9))~~ (12) Except as provided by subsection (2) of this section, it is a ((misdemeanor)) traffic infraction with a monetary penalty of two hundred fifty dollars for any person ~~((to))~~ willfully to obtain a special license plate ~~((or)),~~ placard, or photo identification card in a manner other than that established under this section.

(13)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's photo identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(14) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community service for a nonprofit organization that serves the disabled community or persons having disabling diseases; or

(b) Any other community service that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

(15) The court may not suspend more than one-half of any fine imposed under subsection (8), (9), (10), or (12) of this section.

**Sec. 2.** RCW 46.61.581 and 1988 c 74 s 1 are each amended to read as follows:

A parking space or stall for a disabled person shall be indicated by a vertical sign, between thirty-six and eighty-four inches off the ground, with the international symbol of access, whose colors are white on a blue background, described under RCW 70.92.120 and the notice "State disabled parking permit required."

Failure of the person owning or controlling the property where required parking spaces are located to erect and maintain the sign is a class ((4)) 2 civil infraction under chapter 7.80 RCW for each parking space that should be so designated. The person owning or controlling the property where the required parking spaces are located shall ensure that the parking spaces are not blocked or made inaccessible, and failure to do so is a class 2 civil infraction.

**Sec. 3.** RCW 46.63.020 and 1997 c 229 s 13 and 1997 c 66 s 8 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to initial registration of motor vehicles;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381 (~~((6) or (9))~~) (2) relating to ~~((unauthorized use or acquisition of))~~ knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

(15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of suncreening material;



- (22) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (23) RCW 46.48.175 relating to the transportation of dangerous articles;
- (24) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (25) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (26) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (27) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (28) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (29) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (30) RCW 46.55.035 relating to prohibited practices by tow truck operators;
- (31) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- (32) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (33) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- (34) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- (35) RCW 46.61.500 relating to reckless driving;
- (36) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- (37) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;
- (38) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- (39) RCW 46.61.522 relating to vehicular assault;
- (40) RCW 46.61.5249 relating to first degree negligent driving;
- (41) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;
- (42) RCW 46.61.530 relating to racing of vehicles on highways;
- (43) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (44) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (45) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (46) Chapter 46.65 RCW relating to habitual traffic offenders;
- (47) RCW 46.68.010 relating to false statements made to obtain a refund;
- (48) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;
- (49) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
- (50) RCW 46.72A.060 relating to limousine carrier insurance;
- (51) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;
- (52) RCW 46.72A.080 relating to false advertising by a limousine carrier;
- (53) Chapter 46.80 RCW relating to motor vehicle wreckers;
- (54) Chapter 46.82 RCW relating to driver's training schools;
- (55) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;
- (56) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW."

On page 1, line 1 of the title, after "persons;" strike the remainder of the title and insert "amending RCW 46.16.381 and 46.61.581; reenacting and amending RCW 46.63.020; and prescribing penalties.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Oke, Fairley, Wood; Representatives Mitchell, Robertson.

#### MOTION

Senator Oke moved that the Report of the Conference Committee on Second Substitute Senate Bill No. 6190 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Second Substitute Senate Bill No. 6190.

The motion by Senator Oke carried and the Report of the Conference Committee on Second Substitute Senate Bill No. 6190 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6190, as recommended by the Conference Committee.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6190, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Strannigan - 1. SECOND SUBSTITUTE SENATE BILL NO. 6190, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 6204 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

## REPORT OF CONFERENCE COMMITTEE

**ESSB 6204**

**March 10, 1998**

Includes "NEW ITEM": YES

Increasing the efficiency of registering and identifying livestock

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE SENATE BILL NO. 6204, increasing the efficiency of registering and identifying livestock, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 16.57.010 and 1996 c 105 s 1 are each amended to read as follows:

For the purpose of this chapter:

- (1) "Department" means the department of agriculture of the state of Washington.
- (2) "Director" means the director of the department or a duly appointed representative.
- (3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.
- (4) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, poultry and rabbits.
- (5) "Brand" means a permanent fire brand or any artificial mark, other than an individual identification symbol, approved by the ~~((director))~~ board to be used in conjunction with a brand or by itself.
- (6) "Production record brand" means a number brand which shall be used for production identification purposes only.
- (7) "~~((Brand))~~ Livestock inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides and/or the application of any artificial identification such as back tags or ear clips necessary to preserve the identity of the livestock or livestock hides examined.
- (8) "Individual identification symbol" means a permanent mark placed on a horse for the purpose of individually identifying and registering the horse and which has been approved for use as such by the ~~((director))~~ board.
- (9) "Registering agency" means any person issuing an individual identification symbol for the purpose of individually identifying and registering a horse.
- (10) "Poultry" means chickens, turkeys, ratites, and other domesticated fowl.
- (11) "Ratite" means, but is not limited to, ostrich, emu, rhea, or other flightless bird used for human consumption, whether live or slaughtered.
- (12) "Ratite farming" means breeding, raising, and rearing of an ostrich, emu, or rhea in captivity or an enclosure.

(13) "Microchipping" means the implantation of an identification microchip or similar electronic identification device to establish the identity of an individual animal:

(a) In the pipping muscle of a chick ratite or the implantation of a microchip in the tail muscle of an otherwise unidentified adult ratite;

(b) In the nuchal ligament of a horse unless otherwise specified by rule of the ~~((director))~~ board; and

(c) In locations of other livestock species as specified by rule of the ~~((director))~~ board when requested by an association of producers of that species of livestock.

(14) "Livestock identification board" or "board" means the board established under RCW 16.57.015.

(15) "Certificate of permit" means a form prescribed by and obtained from the board that is completed by the owner or a person authorized to act on behalf of the owner to show the ownership of livestock. It does not evidence inspection of livestock.

(16) "Inspection certificate" means a certificate issued by the board documenting the ownership of livestock based on an inspection of livestock by the board. It includes an individual identification certificate issued by the board.

(17) "Self-inspection certificate" means a form prescribed by and obtained from the board that is used for self-inspection of cattle or horses and is signed by the buyer and seller of the cattle or horses.

**Sec. 2.** RCW 16.57.015 and 1993 c 354 s 10 are each amended to read as follows:

~~(1) ((The director shall establish a livestock identification advisory board. The board shall be composed of six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors. In making appointments, the director shall solicit nominations from organizations representing these groups state-wide.~~

~~(2) The purpose of the board is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding brand inspection fees and related licensing fees. The director shall consult the board before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter or a proposed rule setting a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090 and the rule has not received the approval of the advisory board, the director shall file with the board a written statement setting forth the director's reasons for proposing the rule without the board's approval.~~

~~(3) The members of the advisory board serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the board to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.)) There is established a Washington state livestock identification board. The board is composed of the director, who shall be a nonvoting member, and six voting members appointed by the governor as follows: One beef producer, one cattle feeder, one dairy producer, one livestock market owner, one meat packer, and one horse producer. Organizations representing the groups represented on the board may submit nominations for these appointments to the governor for the governor's consideration. Three members of the initial board shall be appointed for two years and three members shall be appointed for three years, thereafter gubernatorially appointed members shall be appointed for a three-year term. Members may succeed themselves. As used in this subsection, "meat packer" means a person licensed to operate a slaughtering establishment under chapter 16.49A RCW.~~

~~(2) The board shall be responsible for the administration of the livestock identification program which includes the review of recording and registration of brands, approval of all expenditures from the livestock identification account, administration of this chapter and chapters 16.58 and 16.65 RCW, administration of the inspection, enforcement, and licensing activities, fee setting, and holding hearings and adopting rules for the administration of the livestock identification program. Authorities and responsibilities other than rule making that are granted to the board by this chapter and chapters 16.58 and 16.65 RCW may be delegated by the board to duly authorized representatives of the board. The board shall adopt rules regarding such authorities and responsibilities in accordance with chapter 34.05 RCW.~~

~~(3) Until June 30, 2004, the board shall contract with the department for registration and recording and for livestock inspection or investigation work and fix the compensation and terms of the contract. Beginning July 1, 2004, the board may contract with the department or other entities to provide such registration, recording, inspection, or investigation.~~

~~(4) Members of the board shall receive compensation as provided by RCW 43.03.240 and travel expenses to meetings or in otherwise carrying out the duties of the board as provided under RCW 43.03.050 and 43.03.060. The board shall meet at least quarterly in each calendar year. The board shall hire staff as necessary to carry out its duties.~~

~~(5) The board may select the area of the state in which to locate its principal office, which may include an area that is, by and large, near the geographic center of the state. The department shall examine the rental and other costs of locating the principal office from which it administers any contract it has with the board in an area that is, by and large, near the geographic center of the state. The department shall compare these costs with those of maintaining the principal office in its current location. The department shall report its findings to the board and shall consider moving its principal office for such administration to such an area if it would be more cost-effective to do so.~~

NEW SECTION. **Sec. 3.** A new section is added to chapter 16.57 RCW to read as follows:

There is established a Washington state livestock identification account in the agricultural local fund created under RCW 43.23.230 into which all moneys collected or received from registration, recording, inspection, or enforcement under this chapter and moneys collected or received by the board under chapters 16.58 and 16.65 RCW shall be deposited. These moneys shall be used solely for the Washington state livestock identification program. Only the board may authorize expenditures from this account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 4.** RCW 16.57.020 and 1994 c 46 s 7 are each amended to read as follows:

(1) The ~~((director))~~ board shall be the recorder of livestock brands and such brands shall not be recorded elsewhere in this state. Any person desiring to register a livestock brand shall apply on a form prescribed by the ~~((director))~~ board. Such application shall be accompanied by a facsimile of the brand applied for and a ~~((thirty-five))~~ seventy-dollar recording fee. The ~~((director))~~ board shall, upon ~~((his or her))~~ their satisfaction that the application and brand facsimile meet the requirements of this chapter and/or rules adopted hereunder, record such brand.

(2) As provided in RCW 16.57.015, the director of agriculture may be designated by the board as the recorder of livestock brands. If the director is so designated, the recording fee shall be deposited by the director in the Washington state livestock identification account and shall be used solely for livestock identification program purposes as provided in this chapter and only as authorized by the board.

(3) This section is null and void unless subsections (1) through (5) of section 2 of this act and section 98 of this act become law.

**NEW SECTION. Sec. 5.** A new section is added to chapter 16.57 RCW to read as follows:

(1) The board may adopt rules establishing criteria and fees for the permanent renewal of brands registered with the department or with the board but renewed as livestock heritage brands. Such heritage brands are not intended for use on livestock.

(2) If the Washington state livestock identification board with authority and responsibility for administering the livestock identification program is not established by July 31, 1998, the department of agriculture is granted the authorities provided to the board by subsection (1) of this section.

**NEW SECTION. Sec. 6.** A new section is added to chapter 16.57 RCW to read as follows:

(1) The board may enter into agreements with Washington state licensed and accredited veterinarians, who have been certified by the board, to perform livestock inspection. Fees for livestock inspection performed by a certified veterinarian shall be collected by the veterinarian and remitted to the board. Veterinarians providing livestock inspection may charge a fee for livestock inspection that is in addition to and separate from fees collected under RCW 16.57.220. The board may adopt rules necessary to implement livestock inspection performed by veterinarians and may adopt fees to cover the cost associated with certification of veterinarians.

(2) If the Washington state livestock identification board with authority and responsibility for administering the livestock identification program is not established by July 31, 1998, the department of agriculture is granted all of the authorities provided to the board by subsection (1) of this section.

**Sec. 7.** RCW 16.57.030 and 1959 c 54 s 3 are each amended to read as follows:

The ~~((director))~~ board shall not record tattoo brands or marks for any purpose subsequent to the enactment of this chapter. However, all tattoo brands and marks of record on the date of the enactment of this chapter shall be recognized as legal ownership brands or marks.

**Sec. 8.** RCW 16.57.040 and 1974 ex.s. c 64 s 1 are each amended to read as follows:

The ~~((director))~~ board may provide for the use of production record brands. Numbers for such brands shall be issued at the discretion of the ~~((director))~~ board and shall be placed on livestock immediately below the registered ownership brand or any other location prescribed by the ~~((director))~~ board.

**Sec. 9.** RCW 16.57.070 and 1959 c 54 s 7 are each amended to read as follows:

The ~~((director))~~ board shall determine conflicting claims between applicants to a brand, and in so doing shall consider the priority of applicants.

**Sec. 10.** RCW 16.57.080 and 1994 c 46 s 16 are each amended to read as follows:

~~((The director shall establish by rule a schedule for the renewal of registered brands.))~~ (1) Except as provided in section 5 of this act, the fee for the renewal of ~~((the))~~ a brand ~~((s))~~ registration shall be ~~((no less than twenty-five))~~ seventy dollars for each two-year period of brand ownership ~~((, except that)).~~ However, the ~~((director))~~ board may ~~((, in adopting a renewal schedule,))~~ provide for the collection of renewal fees on a prorated basis ~~((and may by rule increase the registration and renewal fee for brands by no more than fifty percent subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.)).~~ At least sixty days before the expiration of a registered brand, the ~~((director))~~ board shall notify by letter the owner of record of the brand that on the payment of the requisite application fee and application of renewal the ~~((director))~~ board shall issue the proof of payment allowing the brand owner exclusive ownership and use of the brand for the subsequent registration period. The failure of the registered owner to pay the renewal fee by the date required by rule shall cause such owner's brand to revert to the ~~((department))~~ board. The ~~((director))~~ board may for a period of one year following such reversion, reissue such brand only to the prior registered owner upon payment of the registration fee and a late filing fee ~~((to be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.))~~ of twenty dollars for renewal subsequent to the regular renewal period. The ~~((director))~~ board may at the ~~((director's))~~ board's discretion, if such brand is not reissued within one year to the prior registered owner, issue such brand to any other applicant.

(2) This section is null and void unless subsections (1) through (5) of section 2 of this act and section 98 of this act become law.

**Sec. 11.** RCW 16.57.090 and 1994 c 46 s 17 are each amended to read as follows:

A brand is the personal property of the owner of record. Any instrument affecting the title of such brand shall be acknowledged in the presence of the recorded owner and a notary public. The ~~((director))~~ board shall record such instrument upon presentation and payment of a recording fee not to exceed fifteen dollars to be prescribed by the ~~((director))~~ board by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Such recording shall be constructive notice to all the world of the existence and conditions affecting the title to such brand. A copy of all records concerning the brand, certified by the ~~((director))~~ board, shall be received in evidence to all intent and purposes as the original instrument. The ~~((director))~~ board shall not be personally liable for failure of the ~~((director's))~~ board's agents to properly record such instrument.

**Sec. 12.** RCW 16.57.100 and 1971 ex.s. c 135 s 3 are each amended to read as follows:

The right to use a brand shall be evidenced by the original certificate issued by the ~~((director))~~ board showing that the brand is of present record or a certified copy of the record of such brand showing that it is of present record. A healed brand of record on livestock shall be prima facie evidence that the recorded owner of such brand has legal title to such livestock and is entitled to its possession: PROVIDED, That the ~~((director))~~ board may require additional proof of ownership of any animal showing more than one healed brand.

**Sec. 13.** RCW 16.57.105 and 1967 c 240 s 38 are each amended to read as follows:

Any person having a brand recorded with the ~~((department))~~ board shall have a preemptory right to use such brand and its design under any newly approved method of branding adopted by the ~~((director))~~ board.

**Sec. 14.** RCW 16.57.110 and 1959 c 54 s 11 are each amended to read as follows:

No brand shall be placed on livestock that is not permanent in nature and of a size that is not readily visible. The ~~((director))~~ board, in order to assure that brands are readily visible, may prescribe the size of branding irons to be used for ownership brands.

**Sec. 15.** RCW 16.57.120 and 1991 c 110 s 2 are each amended to read as follows:

No person shall remove or alter a brand of record on livestock without first having secured the written permission of the ~~((director))~~ board. Violation of this section shall be a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 16.** RCW 16.57.130 and 1959 c 54 s 13 are each amended to read as follows:

The ~~((director))~~ board shall not record a brand that is identical to a brand of present record; nor a brand so similar to a brand of present record that it will be difficult to distinguish between such brands when applied to livestock.

**Sec. 17.** RCW 16.57.140 and 1994 c 46 s 18 are each amended to read as follows:

The owner of a brand of record may procure from the ~~((director))~~ board a certified copy of the record of the owner's brand upon payment of a fee not to exceed seven dollars and fifty cents to be prescribed by the ~~((director))~~ board by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

**Sec. 18.** RCW 16.57.150 and 1974 ex.s. c 64 s 5 are each amended to read as follows:

The ~~((director))~~ board shall publish a book to be known as the "Washington State Brand Book", showing all the brands of record. Such book shall contain the name and address of the owners of brands of record and a copy of the brand laws and regulations. Supplements to such brand book showing newly recorded brands, amendments or newly adopted regulations, shall be published biennially, or prior thereto at the discretion of the ~~((director))~~ board: PROVIDED, That whenever ~~((he deems it))~~ necessary, the ~~((director))~~ board may issue a new brand book.

**Sec. 19.** RCW 16.57.160 and 1991 c 110 s 3 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, the ~~((director))~~ board may ~~((by))~~ adopt rules ~~((adopted subsequent to a public hearing designate))~~: Designating any point for mandatory ~~((brand))~~ livestock inspection of cattle or horses or the furnishing of proof that cattle passing or being transported through such points have been ~~((brand))~~ livestock inspected and are lawfully being moved; providing for self-inspection of cattle and horses; and providing for issuance of individual horse and cattle identification certificates or other means of horse and cattle identification.

~~((Further,))~~ (2) The ~~((director))~~ board or any peace officer may stop vehicles carrying cattle or horses to determine if ~~((such))~~ the cattle or horses are identified, branded, or accompanied by ~~((the form prescribed by the director under RCW 16.57.240 or a brand certificate issued by the department))~~ a certificate of permit, inspection certificate, self-inspection certificate, or other satisfactory proof of ownership, as determined by the board.

(3) Inspection shall not be required for:

(a) Any individual private sale of any unbranded dairy breed milk production cattle involving fifteen head or less; or

(b) A sale by the owner of a dairy farm licensed under chapter 15.36 RCW of a male calf or male calves from the farm that are not more than thirty days old, as long as the license number for the dairy is listed on the bill of sale or its equivalent.

**Sec. 20.** RCW 16.57.165 and 1971 ex.s. c 135 s 6 are each amended to read as follows:

The ~~((director))~~ board may, in order to reduce the cost of ~~((brand))~~ livestock inspection to livestock owners, enter into agreements with any qualified county, municipal, or other local law enforcement agency, or qualified individuals for the purpose of performing ~~((brand))~~ livestock inspection in areas where ~~((department brand))~~ livestock inspection by the department may not readily be available.

**Sec. 21.** RCW 16.57.170 and 1959 c 54 s 17 are each amended to read as follows:

The ~~((director))~~ board may enter at any reasonable time any slaughterhouse or public livestock market to make an examination of the brands on livestock or hides, and may enter at any reasonable time an establishment where hides are held to examine them for brands. The ~~((director))~~ board may enter any of these premises at any reasonable time to examine all books and records required by law in matters relating to ~~((brand))~~ livestock inspection or other methods of livestock identification.

**Sec. 22.** RCW 16.57.180 and 1959 c 54 s 18 are each amended to read as follows:

Should the ~~((director))~~ board be denied access to any premises or establishment where such access was sought for the purposes set forth in RCW 16.57.170, ~~((he))~~ the board may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises or establishment for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

**Sec. 23.** RCW 16.57.200 and 1959 c 54 s 20 are each amended to read as follows:

Any owner or ~~((his))~~ an agent shall make the brand or brands on livestock being ~~((brand))~~ livestock inspected readily visible and shall cooperate with the ~~((director))~~ board to carry out such ~~((brand))~~ livestock inspection in a safe and expeditious manner.

**Sec. 24.** RCW 16.57.210 and 1959 c 54 s 21 are each amended to read as follows:

The ~~((director))~~ board shall have authority to arrest any person without warrant anywhere in the state found in the act of, or whom ~~((he))~~ the board has reason to believe is guilty of, driving, holding, selling or slaughtering stolen livestock. Any such person arrested by the ~~((director))~~ board shall be turned over to the sheriff of the county where the arrest was made, as quickly as possible.

**Sec. 25.** RCW 16.57.220 and 1997 c 356 s 2 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall cause a charge to be made for all ~~((brand))~~ livestock inspection of cattle and horses required under this chapter and rules adopted hereunder. Such charges shall be paid to the ~~((department))~~ board by the owner or person in possession unless requested by the purchaser and then such ~~((brand))~~ livestock inspection shall be paid by the purchaser requesting such ~~((brand))~~ livestock inspection. Except as provided by rule, such inspection charges shall be due and payable at the time ~~((brand))~~ livestock inspection is performed and shall be paid upon billing by the ~~((department))~~ board and if not shall constitute a prior lien on the cattle or cattle hides or horses or horse hides ~~((brand))~~ livestock inspected until such charge is paid. The ~~((director))~~ board in order to best utilize the services of the ~~((department))~~ livestock inspector in performing ~~((brand))~~ livestock inspection may establish schedules by days and hours when a ~~((brand))~~ livestock inspector will be on duty to perform ~~((brand))~~ livestock inspection at established inspection points. The fees for ~~((brand))~~ livestock inspection performed at inspection points according to schedules established by the ~~((director))~~ board shall be seventy-five cents per head for cattle and ~~((not more than))~~ three dollars per head for horses ~~((as prescribed by the director subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015))~~. Fees for ~~((brand))~~ livestock inspection of cattle and horses at points other than those designated by the ~~((director))~~ board or not in accord with the schedules established by the ~~((director))~~ board shall be based on a fee schedule not to exceed actual net cost to the ~~((department))~~ board of performing the ~~((brand))~~ livestock inspection service. For the purpose of this section, actual costs shall mean fifteen dollars per hour and the current mileage rate set by the office of financial management.

**Sec. 26.** RCW 16.57.230 and 1995 c 374 s 50 are each amended to read as follows:

No person shall collect or make a charge for ~~((brand))~~ livestock inspection of livestock unless there has been an actual ~~((brand))~~ livestock inspection of such livestock.

**Sec. 27.** RCW 16.57.240 and 1995 c 374 s 51 are each amended to read as follows:

~~((Any person purchasing, selling, holding for sale, trading, bartering, transferring title, slaughtering, handling, or transporting cattle shall keep a record on forms prescribed by the director. Such forms))~~ (1) Certificates of permit, inspection certificates, and self-inspection certificates shall show the owner, number, ~~((specie))~~ breed, sex, brand or other method of identification of ~~((such))~~ the cattle or horses and any other necessary information required by the ~~((director))~~ board. ~~((The original shall be kept for a period of three years or shall be furnished to the director upon demand or as prescribed by rule, one copy shall accompany the cattle to their destination and shall be subject to inspection at any time by the director or any peace officer or member of the state patrol: PROVIDED, That in the following instances only, cattle may be moved or transported within this state without being accompanied by an official certificate of permit, brand inspection certificate, bill of sale, or self-inspection slip:~~

~~((1) When such cattle are moved or transported upon lands under the exclusive control of the person moving or transporting such cattle;~~

~~((2) When such cattle are being moved or transported for temporary grazing or feeding purposes and have the registered brand of the person having or transporting such cattle.))~~

~~((2) The board may cause certificate of permit forms to be issued to any person on payment of a fee established by rule.~~

~~((3) Inspection certificates, self-inspection certificates, or other proof of ownership deemed satisfactory by the board shall be kept by the owner and/or person in possession of any cattle or horses and shall be furnished to the board or any peace officer upon demand.~~

~~((4) Cattle may not be moved or transported within this state without being accompanied by a certificate of permit, inspection certificate, or self-inspection certificate except:~~

~~((a) When the cattle are moved or transported upon lands under the exclusive control of the person moving or transporting the cattle; or~~

~~((b) When the cattle are being moved or transported for temporary grazing or feeding purposes and have the recorded brand of the person having or transporting the cattle.~~

(5) Certificates of permit, inspection certificates, or self-inspection certificates accompanying cattle being moved or transported within this state shall be subject to inspection at any time by the board or any peace officer.

**Sec. 28.** RCW 16.57.260 and 1981 c 296 s 19 are each amended to read as follows:

It shall be unlawful for any person to remove or cause to be removed or accept for removal from this state, any cattle or horses which are not accompanied at all times by an official ~~((brand))~~ livestock inspection certificate issued by the ~~((director))~~ board on such cattle or horses, except as provided in RCW 16.57.160.

**Sec. 29.** RCW 16.57.270 and 1959 c 54 s 27 are each amended to read as follows:

It shall be unlawful for any person moving or transporting livestock in this state to refuse to assist the ~~((director))~~ board or any peace officer in establishing the identity of such livestock being moved or transported.

**Sec. 30.** RCW 16.57.275 and 1967 c 240 s 37 are each amended to read as follows:

Any cattle carcass, or primal part thereof, of any breed or age being transported in this state from other than a state or federal licensed and inspected slaughterhouse or common carrier hauling for such slaughterhouse, shall be accompanied by a certificate of permit signed by the owner of such carcass or primal part thereof and, if such carcass or primal part is delivered to a facility custom handling such carcasses or primal part thereof, such certificate of permit shall be deposited with the owner or manager of such custom handling facility and such certificate of permit shall be retained for a period of one year and be made available to the ~~((department))~~ livestock identification board for inspection during reasonable business hours. ~~((The owner of such carcass or primal part thereof shall mail a copy of the said certificate of permit to the department within ten days of said transportation.))~~

**Sec. 31.** RCW 16.57.280 and 1995 c 374 s 52 are each amended to read as follows:

No person shall knowingly have unlawful possession of any livestock marked with a recorded brand or tattoo of another person unless:

- (1) Such livestock lawfully bears the person's own healed recorded brand; or
- (2) Such livestock is accompanied by a certificate of permit from the owner of the recorded brand or tattoo; or
- (3) Such livestock is accompanied by a ~~((brand))~~ livestock inspection certificate; or
- (4) Such cattle is accompanied by a self-inspection slip; or
- (5) Such livestock is accompanied by a bill of sale from the previous owner or other satisfactory proof of ownership.

A violation of this section constitutes a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 32.** RCW 16.57.290 and 1995 c 374 s 53 are each amended to read as follows:

All unbranded cattle and horses and those bearing brands not recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit, and those bearing brands recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit signed by the owner of the brand when presented for inspection by the ~~((director))~~ board, shall be sold by the ~~((director))~~ board or the ~~((director's))~~ board's representative, unless other satisfactory proof of ownership is presented showing the person presenting them to be lawfully in possession. Upon the sale of such cattle or horses, the ~~((director))~~ board or the ~~((director's))~~ board's representative shall give the purchasers a bill of sale therefor, or, if theft is suspected, the cattle or horses may be impounded by the ~~((director))~~ board or the ~~((director's))~~ board's representative.

**Sec. 33.** RCW 16.57.300 and 1989 c 286 s 24 are each amended to read as follows:

The proceeds from the sale of cattle and horses as provided for under RCW 16.57.290, after paying the cost thereof, shall be paid to the ~~((director))~~ board, who shall make a record showing the brand or marks or other method of identification of the animals and the amount realized from the sale thereof. However, the proceeds from a sale of such cattle or horses at a licensed public livestock market shall be held by the licensee for a reasonable period not to exceed thirty days to permit the consignor to establish ownership or the right to sell such cattle or horses. If such consignor fails to establish legal ownership or the right to sell such cattle or horses, such proceeds shall be paid to the ~~((director))~~ board to be disposed of as any other estray proceeds.

**Sec. 34.** RCW 16.57.310 and 1959 c 54 s 31 are each amended to read as follows:

When a person has been notified by registered mail that animals bearing his or her recorded brand have been sold by the ~~((director))~~ board, he or she shall present to the ~~((director))~~ board a claim on the proceeds within ten days from the receipt of the notice or the ~~((director))~~ board may decide that no claim exists.

**Sec. 35.** RCW 16.57.320 and 1991 c 110 s 6 are each amended to read as follows:

If, after the expiration of one year from the date of sale, the person presenting the animals for inspection has not provided the ~~((director))~~ board with satisfactory proof of ownership, the proceeds from the sale shall be paid on the claim of the owner of the recorded brand. However, it shall be a gross misdemeanor for the owner of the recorded brand to knowingly accept such funds after he or she has sold, bartered or traded such animals to the claimant or any other person. A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 36.** RCW 16.57.330 and 1959 c 54 s 33 are each amended to read as follows:

If, after the expiration of one year from the date of sale, no claim is made, the money shall be credited to the ~~((department of agriculture))~~ board to be expended in carrying out the provisions of this chapter.

**Sec. 37.** RCW 16.57.340 and 1959 c 54 s 34 are each amended to read as follows:

The ~~((director))~~ board shall have the authority to enter into reciprocal agreements with any or all states to prevent the theft, misappropriation or loss of identification of livestock. The ~~((director))~~ board may declare any livestock which is shipped or moved into this state from such states estrays if such livestock is not accompanied by the proper official brand certificate or other such certificates required by the law of the state of origin of such livestock. The ~~((director))~~ board may hold such livestock subject to all costs of holding or sell such livestock and send the funds, after the deduction of the cost of such sale, to the proper authority in the state of origin of such livestock.

**Sec. 38.** RCW 16.57.350 and 1994 c 46 s 8 are each amended to read as follows:

The ~~((director))~~ board may adopt such rules as are necessary to carry out the purposes of this chapter. It shall be the duty of the ~~((director))~~ board to enforce and carry out the provisions of this chapter and/or rules adopted hereunder. No person shall interfere with the ~~((director))~~ board when ~~((he or she))~~ the board is performing or carrying out duties imposed on ~~((him or her))~~ it by this chapter and/or rules adopted hereunder.

**Sec. 39.** RCW 16.57.360 and 1991 c 110 s 7 are each amended to read as follows:

The ~~((department))~~ board is authorized to issue notices of and enforce civil infractions in the manner prescribed under chapter 7.80 RCW.

The violation of any provision of this chapter and/or rules and regulations adopted hereunder shall constitute a class I civil infraction as provided under chapter 7.80 RCW unless otherwise specified herein.

**Sec. 40.** RCW 16.57.370 and 1959 c 54 s 37 are each amended to read as follows:

All fees collected under the provisions of this chapter shall be retained and deposited by the ~~((director))~~ board to be used only for the enforcement of this chapter.

**Sec. 41.** RCW 16.57.400 and 1994 c 46 s 20 are each amended to read as follows:

The ~~((director))~~ board may provide by rules ~~((and regulations))~~ adopted pursuant to chapter 34.05 RCW for the issuance of individual horse and cattle identification certificates or other means of horse and cattle identification deemed appropriate. Such certificates or other means of identification shall be valid only for the use of the horse and cattle owner in whose name it is issued.

Horses and cattle identified pursuant to the provisions of this section and the rules ~~((and regulations))~~ adopted hereunder shall not be subject to ~~((brand))~~ livestock inspection except when sold at points provided for in RCW ~~((16.57.380))~~ 16.57.160. The ~~((director))~~ board shall charge a fee for the certificates or other means of identification authorized pursuant to this section and no identification shall be issued until the ~~((director))~~ board has received the fee. The schedule of fees shall be established in accordance with the provisions of chapter 34.05 RCW.

**Sec. 42.** RCW 16.57.407 and 1996 c 105 s 3 are each amended to read as follows:

The ~~((department))~~ livestock identification board has the authority to conduct an investigation of an incident where scars or other marks indicate that a microchip has been removed from a horse.

**Sec. 43.** RCW 16.57.410 and 1993 c 354 s 11 are each amended to read as follows:

(1) No person may act as a registering agency without a permit issued by the ~~((department))~~ board. The ~~((director))~~ board may issue a permit to any person or organization to act as a registering agency for the purpose of issuing permanent identification symbols for horses in a manner prescribed by the ~~((director))~~ board. Application for such permit, or the renewal thereof by January 1 of each year, shall be on a form prescribed by the ~~((director))~~ board, and accompanied by the proof of registration to be issued, any other documents required by the ~~((director))~~ board, and a fee of one hundred dollars.

(2) Each registering agency shall maintain a permanent record for each individual identification symbol. The record shall include, but need not be limited to, the name, address, and phone number of the horse owner and a general description of the horse. A copy of each permanent record shall be forwarded to the ~~((director))~~ board, if requested by the ~~((director))~~ board.

(3) Individual identification symbols shall be inspected as required for brands under RCW 16.57.220 ~~((and 16.57.380))~~. Any horse presented for inspection and bearing such a symbol, but not accompanied by proof of registration and certificate of permit, shall be sold as provided under RCW 16.57.290 through 16.57.330.

(4) The ~~((director))~~ board shall adopt such rules as are necessary for the effective administration of this section pursuant to chapter 34.05 RCW.

**Sec. 44.** RCW 16.57.420 and 1993 c 105 s 3 are each amended to read as follows:

The ~~((department))~~ livestock identification board may, in consultation with representatives of the ratite industry, develop by rule a system that provides for the identification of individual ratites through the use of microchipping. The ~~((department))~~ board may establish fees for the issuance or reissuance of microchipping numbers sufficient to cover the expenses of the ~~((department))~~ board.

**Sec. 45.** RCW 16.58.020 and 1971 ex.s. c 181 s 2 are each amended to read as follows:

For the purpose of this chapter:

(1) "Livestock identification board" or "board" means the livestock identification board defined under RCW 16.57.010.



(2) "Certified feed lot" means any place, establishment, or facility commonly known as a commercial feed lot, cattle feed lot, or the like, which complies with all of the requirements of this chapter, and any ~~((regulations))~~ rules adopted pursuant to the provisions of this chapter and which holds a valid license from the ~~((director))~~ board as hereinafter provided.

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

~~((3))~~ "Director" means the director of the department or his duly authorized representative.

~~((4))~~ (3) "Licensee" means any persons licensed under the provisions of this chapter.

~~((5))~~ (4) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

**Sec. 46.** RCW 16.58.030 and 1971 ex.s. c 181 s 3 are each amended to read as follows:

The ~~((director))~~ board may adopt such rules ~~((and regulations))~~ as are necessary to carry out the purpose of this chapter. The adoption of such rules shall be subject to the provisions of this chapter and rules ~~((and regulations))~~ adopted hereunder. No person shall interfere with the ~~((director when he))~~ board when it is performing or carrying out any duties imposed ~~((upon him))~~ by this chapter or rules ~~((and regulations))~~ adopted hereunder.

**Sec. 47.** RCW 16.58.040 and 1971 ex.s. c 181 s 4 are each amended to read as follows:

On or after August 9, 1971, any person desiring to engage in the business of operating one or more certified feed lots shall obtain an annual license from the ~~((director))~~ board for such purpose. The application for a license shall be on a form prescribed by the ~~((director))~~ board and shall include the following:

- (1) The number of certified feed lots the applicant intends to operate and their exact location and mailing address;
- (2) The legal description of the land on which the certified feed lot will be situated;
- (3) A complete description of the facilities used for feeding and handling of cattle at each certified feed lot;
- (4) The estimated number of cattle which can be handled for feeding purposes at each such certified feed lot; and
- (5) Any other information necessary to carry out the purpose and provisions of this chapter and rules ~~((or regulations))~~ adopted hereunder.

**Sec. 48.** RCW 16.58.050 and 1997 c 356 s 4 are each amended to read as follows:

The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of seven hundred fifty dollars. Upon approval of the application by the ~~((director))~~ livestock identification board and compliance with the provisions of this chapter and rules adopted hereunder, the applicant shall be issued a license or a renewal thereof. The board shall conduct an inspection of all cattle and their corresponding ownership documents prior to issuing an original license. The inspection fee shall be the higher of the current inspection fee per head of cattle or time and mileage as set forth in RCW 16.57.220.

**Sec. 49.** RCW 16.58.060 and 1991 c 109 s 10 are each amended to read as follows:

The ~~((director))~~ board shall establish by rule an expiration date or dates for all certified feed lot licenses. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. If an application for renewal of a certified feed lot license is not received by the ~~((department))~~ board per the date required by rule or should a person fail, refuse, or neglect to apply for renewal of a preexisting license on or before the date of expiration, that person shall be assessed an additional twenty-five dollars which shall be added to the regular license fee and shall be paid before the ~~((director))~~ board may issue a license to the applicant.

**Sec. 50.** RCW 16.58.070 and 1989 c 175 s 54 are each amended to read as follows:

The ~~((director))~~ livestock identification board is authorized to deny, suspend, or revoke a license in accord with the provisions of chapter 34.05 RCW if ~~((he))~~ it finds that there has been a failure to comply with any requirement of this chapter or rules ~~((and regulations))~~ adopted hereunder. Hearings for the revocation, suspension, or denial of a license shall be subject to the provisions of chapter 34.05 RCW concerning adjudicative proceedings.

**Sec. 51.** RCW 16.58.080 and 1971 ex.s. c 181 s 8 are each amended to read as follows:

Every certified feed lot shall be equipped with a facility or a livestock pen, approved by the ~~((director))~~ livestock identification board as to location and construction within the ~~((said))~~ feed lot so that necessary ~~((brand))~~ livestock inspection can be carried on in a proper, expeditious and safe manner. Each licensee shall furnish the ~~((director))~~ board with sufficient help necessary to carry out ~~((brand))~~ livestock inspection in the manner set forth above.

**Sec. 52.** RCW 16.58.095 and 1991 c 109 s 11 are each amended to read as follows:

All cattle entering or reentering a certified feed lot must be inspected for brands upon entry, unless they are accompanied by a ~~((brand))~~ livestock inspection certificate issued by the ~~((director))~~ livestock identification board, or any other agency authorized in any state or Canadian province by law to issue such a certificate. Licensees shall report a discrepancy between cattle entering or reentering a certified feed lot and the ~~((brand))~~ livestock inspection certificate accompanying the cattle to the nearest ~~((brand))~~ livestock inspector immediately. A discrepancy may require an inspection of all the cattle entering or reentering the lot, except as may otherwise be provided by rule.

**Sec. 53.** RCW 16.58.100 and 1979 c 81 s 3 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall each year conduct audits of the cattle received, fed, handled, and shipped by the licensee at each certified feed lot. Such audits shall be for the purpose of determining if such cattle correlate with the ~~((brand))~~ livestock

inspection certificates issued in their behalf and that the certificate of assurance furnished the ~~((director))~~ board by the licensee correlates with his or her assurance that ~~((brand))~~ livestock inspected cattle were not commingled with uninspected cattle.

**Sec. 54.** RCW 16.58.110 and 1991 c 109 s 12 are each amended to read as follows:

All certified feed lots shall furnish the ~~((director))~~ livestock identification board with records as requested by ~~((him))~~ it from time to time on all cattle entering or on feed in ~~((said))~~ certified feed lots and dispersed therefrom. All such records shall be subject to examination by the ~~((director))~~ board for the purpose of maintaining the integrity of the identity of all such cattle. The ~~((director))~~ board may make the examinations only during regular business hours except in an emergency to protect the interest of the owners of such cattle.

**Sec. 55.** RCW 16.58.120 and 1991 c 109 s 13 are each amended to read as follows:

The licensee shall maintain sufficient records as required by the ~~((director))~~ livestock identification board at each certified feed lot, if ~~((said))~~ the licensee operates more than one certified feed lot.

**Sec. 56.** RCW 16.58.130 and 1997 c 356 s 7 are each amended to read as follows:

(1) Each licensee shall pay to the ~~((director))~~ livestock identification board a fee of ~~((twelve))~~ fifteen cents for each head of cattle handled through the licensee's feed lot. Payment of such fee shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. Further, the ~~((director))~~ board shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments.

~~((2))~~ This section is null and void unless subsections (1) through (5) of section 2 of this act and section 98 of this act become law.

**Sec. 57.** RCW 16.58.140 and 1979 c 81 s 5 are each amended to read as follows:

All fees provided for in this chapter shall be retained by the ~~((director))~~ board for the purpose of enforcing and carrying out the purpose and provisions of this chapter or chapter 16.57 RCW.

**Sec. 58.** RCW 16.58.150 and 1971 ex.s. c 181 s 15 are each amended to read as follows:

No ~~((brand))~~ livestock inspection shall be required when cattle are moved or transferred from one certified feed lot to another or the transfer of cattle from a certified feed lot to a point within this state, or out of state where this state maintains ~~((brand))~~ livestock inspection, for the purpose of immediate slaughter.

**Sec. 59.** RCW 16.58.160 and 1991 c 109 s 15 are each amended to read as follows:

The ~~((director))~~ board may, when a certified feed lot's conditions become such that the integrity of reports or records of the cattle therein becomes doubtful, suspend such certified feed lot's license until such time as the ~~((director))~~ board can conduct an investigation to carry out the purpose of this chapter.

**Sec. 60.** RCW 16.65.010 and 1983 c 298 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) The term "public livestock market" means any place, establishment or facility commonly known as a "public livestock market", "livestock auction market", "livestock sales ring", yards selling on commission, or the like, conducted or operated for compensation or profit as a public livestock market, consisting of pens or other enclosures, and their appurtenances in which livestock is received, held, sold, kept for sale or shipment. The term does not include the operation of a person licensed under this chapter to operate a special open consignment horse sale.

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

~~((3))~~ "Director" means the director of the department or his duly authorized representative.

~~((4))~~ "Licensee" means any person licensed under the provisions of this chapter.

~~((5))~~ (3) "Livestock" includes horses, mules, burros, cattle, sheep, swine, and goats.

~~((6))~~ (4) "Livestock identification board" or "board" means the board created in RCW 16.57.015.

~~((5))~~ "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

~~((7))~~ (6) "Stockyard" means any place, establishment, or facility commonly known as a stockyard consisting of pens or other enclosures and their appurtenances in which livestock services such as feeding, watering, weighing, sorting, receiving and shipping are offered to the public: PROVIDED, That stockyard shall not include any facilities where livestock is offered for sale at public auction, feed lots, or quarantined registered feed lots.

~~((8))~~ (7) "Packer" means any person engaged in the business of slaughtering, manufacturing, preparing meat or meat products for sale, marketing meat, meat food products or livestock products.

~~((9))~~ (8) "Deputy state veterinarian" means a graduate veterinarian authorized to practice in the state of Washington and appointed or deputized by the director of agriculture as his or her duly authorized representative.

~~((10))~~ (9) "Special open consignment horse sale" means a sale conducted by a person other than the operator of a public livestock market which is limited to the consignment of horses and donkeys only for sale on an occasional and seasonal basis.

**Sec. 61.** RCW 16.65.015 and 1983 c 298 s 2 are each amended to read as follows:

This chapter does not apply to:

(1) A farmer selling his or her own livestock on the farmer's own premises by auction or any other method.

(2) A farmers' cooperative association or an association of livestock breeders when any class of their own livestock is assembled and offered for sale at a special sale on an occasional and seasonal basis under the association's management and responsibility, and the special sale has been approved by the ~~((director))~~ board in writing. However, the special sale shall be subject to brand and health inspection requirements as provided in this chapter for sales at public livestock markets.

**Sec. 62.** RCW 16.65.020 and 1983 c 298 s 5 are each amended to read as follows:

Public livestock markets and special open consignment horse sales shall be under the direction and supervision of the ~~((director))~~ livestock identification board, and the ~~((director))~~ board, but not ~~((his))~~ its duly authorized representative, may adopt such rules ~~((and regulations))~~ as are necessary to carry out the purpose of this chapter. It shall be the duty of the ~~((director))~~ board to enforce and carry out the provisions of this chapter and rules ~~((and regulations))~~ adopted hereunder. No person shall interfere with the ~~((director))~~ board when ~~((he))~~ it is performing or carrying out any duties imposed upon ~~((him))~~ it by this chapter or rules ~~((and regulations))~~ adopted hereunder.

**Sec. 63.** RCW 16.65.030 and 1995 c 374 s 54 are each amended to read as follows:

(1) ~~((On and after June 10, 1959,))~~ No person shall operate a public livestock market without first having obtained a license from the ~~((director))~~ livestock identification board. Application for ~~((such))~~ a license shall be in writing on forms prescribed by the ~~((director))~~ board, and shall include the following:

(a) A nonrefundable original license application fee of fifteen hundred dollars.  
(b) A legal description of the property upon which the public livestock market shall be located.  
(c) A complete description and blueprints or plans of the public livestock market physical plant, yards, pens, and all facilities the applicant proposes to use in the operation of such public livestock market.

~~((A detailed statement showing all the assets and liabilities of the applicant which must reflect a sufficient net worth to construct or operate a public livestock market.))~~ A financial statement, compiled or audited by a certified or licensed public accountant, to determine whether or not the applicant meets the minimum net worth requirements, established by the director by rule, to construct and/or operate a public livestock market. If the applicant is a subsidiary of a larger company, corporation, society, or cooperative association, both the parent company and the subsidiary company must submit a financial statement to determine whether or not the applicant meets the minimum net worth requirements. All financial statement information required by this subsection is confidential information and not subject to public disclosure.

(e) The schedule of rates and charges the applicant proposes to impose on the owners of livestock for services rendered in the operation of such livestock market.

(f) The weekly or monthly sales day or days on which the applicant proposes to operate his or her public livestock market sales and the class of livestock that may be sold on these days.

(g) Projected source and quantity of livestock ~~((, by county,))~~ anticipated to be handled.

(h) Projected ~~((income and expense statements for))~~ gross dollar volume of business to be carried on, at, or through the public livestock market during the first year's operation.

(i) Facts upon which ~~((are))~~ is based the conclusion that the trade area and the livestock industry will benefit because of the proposed market.

(j) ~~((Such))~~ Other information as the ~~((director))~~ board may ~~((reasonably))~~ require by rule.

(2) ~~((The director shall, after public hearing as provided by chapter 34.05 RCW, grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to all of the requirements of this section and giving reasonable consideration at the same hearing to:~~

~~((a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application; and~~

~~((b) The present market services elsewhere available to the trade area proposed to be served.~~

~~((3) Applications for renewal under RCW 16.65.040 shall include all information under subsection (1) of this section, except subsection (1)(a) of this section.))~~ If the board determines that the applicant meets all the requirements of subsection (1) of this section, the board shall conduct a public hearing as provided by chapter 34.05 RCW, and shall grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to the requirements of this section and giving reasonable consideration to:

~~((a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application;~~

~~((b) The geographical area that will be affected;~~

~~((c) The conflict, if any, with sales days already allocated in the area;~~

~~((d) The amount and class of livestock available for marketing in the area;~~

~~((e) Buyers available to the proposed market; and~~

~~((f) Any other conditions affecting the orderly marketing of livestock.~~

~~((3) Before a license is issued to operate a public livestock market, the applicant must:~~

~~((a) Execute and deliver to the board a surety bond as required under RCW 16.65.200;~~

~~((b) Provide evidence of a custodial account, as required under RCW 16.65.140, for the consignor's proceeds;~~

(c) Pay the appropriate license fee; and

(d) Provide other information required under this chapter and rules adopted under this chapter.

**Sec. 64.** RCW 16.65.037 and 1997 c 356 s 8 are each amended to read as follows:

(1) Upon the approval of the application by the ~~((director))~~ livestock identification board and compliance with the provisions of this chapter, the applicant shall be issued a license or renewal thereof. Any license issued under the provisions of this chapter shall only be valid at location and for the sales day or days for which the license was issued.

(2) The license fee shall be based on the average gross sales volume per official sales day of that market:

(a) Markets with an average gross sales volume up to and including ten thousand dollars, a one hundred fifty dollar fee;

(b) Markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars, a three hundred fifty dollar fee; and

(c) Markets with an average gross sales volume over fifty thousand dollars, a four hundred fifty dollar fee.

The fees for public market licenses shall be set by the ~~((director))~~ board by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each such public livestock market, and each such application shall be accompanied by the appropriate application fee.

**Sec. 65.** RCW 16.65.040 and 1983 c 298 s 6 are each amended to read as follows:

All public livestock market licenses provided for in this chapter shall expire on March 1st subsequent to the date of issue. Any person who fails, refuses, or neglects to apply for a renewal of a preexisting license on or before the date of expiration, shall pay a penalty of twenty-five dollars, which shall be added to the regular license fee, before such license may be renewed by the ~~((director))~~ livestock identification board.

**Sec. 66.** RCW 16.65.042 and 1983 c 298 s 3 are each amended to read as follows:

(1) A person shall not operate a special open consignment horse sale without first obtaining a license from the ~~((director))~~ livestock identification board. The application for the license shall include:

(a) A detailed statement showing all of the assets and liabilities of the applicant;

(b) The schedule of rates and charges the applicant proposes to impose on the owners of horses for services rendered in the operation of the horse sale;

(c) The specific date and exact location of the proposed sale;

(d) Projected quantity and approximate value of horses to be handled; and

(e) Such other information as the ~~((director))~~ board may reasonably require.

(2) The application shall be accompanied by a license fee of one hundred dollars. Upon the approval of the application by the ~~((director))~~ board and compliance with this chapter, the applicant shall be issued a license. A special open consignment horse sale license is valid only for the specific date or dates and exact location for which the license was issued.

**Sec. 67.** RCW 16.65.050 and 1959 c 107 s 5 are each amended to read as follows:

All fees ~~((provided for))~~ collected or received by the board under this chapter shall be ~~((retained by the director))~~ deposited by the board in the livestock identification account created in section 3 of this act. Moneys collected under this chapter may be expended by the board without appropriation for the purpose of enforcing this chapter.

**Sec. 68.** RCW 16.65.080 and 1985 c 415 s 9 are each amended to read as follows:

(1) The ~~((director))~~ livestock identification board is authorized to deny, suspend, or revoke a license in the manner prescribed herein, when there are findings by the ~~((director))~~ board that any licensee (a) has been guilty of fraud or misrepresentation as to titles, charges, numbers, brands, weights, proceeds of sale, or ownership of livestock; (b) has attempted payment to a consignor by a check the licensee knows not to be backed by sufficient funds to cover such check; (c) has violated any of the provisions of this chapter or rules ~~((and regulations))~~ adopted hereunder; (d) has violated any laws of the state that require health or ~~((brand))~~ livestock inspection of livestock; (e) has violated any condition of the bond, as provided in this chapter. However, the ~~((director))~~ board may deny a license if the applicant refuses to accept the sales day or days allocated to ~~((him))~~ it under the provisions of this chapter.

(2) In all proceedings for revocation, suspension, or denial of a license the licensee or applicant shall be given an opportunity to be heard in regard to such revocation, suspension or denial of a license. The ~~((director))~~ board shall give the licensee or applicant twenty days' notice in writing and such notice shall specify the charges or reasons for such revocation, suspension or denial. The notice shall also state the date, time and place where such hearing is to be held. Such hearings shall be held in the city where the licensee has his or her principal place of business, or where the applicant resides, unless some other place be agreed upon by the parties, and the defendant may be represented by counsel.

(3) The ~~((director))~~ board may issue subpoenas to compel the attendance of witnesses, and/or the production of books or documents anywhere in the state. The applicant or licensee shall have opportunity to be heard, and may have such subpoenas issued as he or she desires. Subpoenas shall be served in the same manner as in civil cases in the superior court. Witnesses shall testify under oath which may be administered by the ~~((director))~~ board. Testimony shall be recorded, and may be taken by deposition under such rules as the ~~((director))~~ board may prescribe.

(4) The ~~((director))~~ board shall hear and determine the charges, make findings and conclusions upon the evidence produced, and file them in ~~((his))~~ its office, together with a record of all of the evidence, and serve upon the accused a copy of such findings and conclusions.

**Sec. 69.** RCW 16.65.090 and 1997 c 356 s 10 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall provide for ~~((brand))~~ livestock inspection. When such ~~((brand))~~ livestock inspection is required the licensee shall collect from the consignor and pay to the ~~((department))~~ board, as provided by law, a fee for ~~((brand))~~ livestock inspection for each animal consigned to the public livestock market or special open consignment horse sale. However, if in any one sale day the total fees collected for ~~((brand))~~ livestock inspection do not exceed ninety dollars, then such licensee shall pay ninety dollars for such ~~((brand))~~ livestock inspection or as much thereof as the ~~((director))~~ board may prescribe.

**Sec. 70.** RCW 16.65.100 and 1983 c 298 s 9 are each amended to read as follows:

The licensee of each public livestock market or special open consignment horse sale shall collect from any purchaser of livestock requesting ~~((brand))~~ livestock inspection a fee as provided by law for each animal inspected. Such fee shall be in addition to the fee charged to the consignor for ~~((brand))~~ livestock inspection and shall not apply to the minimum fee chargeable to the licensee.

**Sec. 71.** RCW 16.65.140 and 1971 ex.s. c 192 s 4 are each amended to read as follows:

Each licensee shall establish a custodial account for consignor's proceeds. All funds derived from the sale of livestock handled on a commission or agency basis shall be deposited in that account. Such account shall be drawn on only for the payment of net proceeds to the consignor, or such other person or persons of whom such licensee has knowledge is entitled to such proceeds, and to obtain from such proceeds only the sums due the licensee as compensation for his or her services as are set out in his or her tariffs, and for such sums as are necessary to pay all legal charges against the consignment of livestock which the licensee in his or her capacity as agent is required to pay for on behalf of the consignor or shipper. The licensee in each case shall keep such accounts and records that will at all times disclose the names of the consignors and the amount due and payable to each from the funds in the custodial account for consignor's proceeds. The licensee shall maintain the custodial account for consignor's proceeds in a manner that will expedite examination by the ~~((director))~~ livestock identification board and reflect compliance with the requirements of this section.

**Sec. 72.** RCW 16.65.190 and 1983 c 298 s 12 are each amended to read as follows:

No person shall hereafter operate a public livestock market or special open consignment horse sale unless such person has filed a schedule with the application for license to operate such public livestock market or special open consignment horse sale. Such schedule shall show all rates and charges for stockyard services to be furnished by such person at such public livestock market or special open consignment horse sale.

(1) Schedules shall be posted conspicuously at the public livestock market or special open consignment horse sale, and shall plainly state all such rates and charges in such detail as the ~~((director))~~ livestock identification board may require, and shall state any rules ~~((and regulations))~~ which in any manner change, affect, or determine any part of the aggregate of such rates or charges, or the value of the stockyard services furnished. The ~~((director))~~ board may determine and prescribe the form and manner in which such schedule shall be prepared, arranged and posted.

(2) No changes shall be made in rates or charges so filed and published except after thirty days' notice to the ~~((director))~~ board and to the public filed and posted as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect.

(3) No licensee shall charge, demand or collect a greater or a lesser or a different compensation for such service than the rates and charges specified in the schedule filed with the ~~((director))~~ board and in effect at the time; nor shall a licensee refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from properly returning to its members, on a patronage basis, its excess earnings on their livestock); nor shall a licensee extend to any person at such public livestock market or special open consignment horse sale any stockyard services except such as are specified in such schedule.

**Sec. 73.** RCW 16.65.200 and 1983 c 298 s 13 are each amended to read as follows:

Before the license is issued to operate a public livestock market or special open consignment horse sale, the applicant shall execute and deliver to the ~~((director))~~ livestock identification board a surety bond in a sum as herein provided for, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. ~~((Said))~~ The bond shall be a standard form and approved by the ~~((director))~~ board as to terms and conditions. ~~((Said))~~ The bond shall be conditioned that the principal will not commit any fraudulent act and will comply with the provisions of this chapter and the rules ~~((and/or regulations))~~ adopted hereunder. ~~((Said))~~ The bond shall be to the state in favor of every consignor and/or vendor creditor whose livestock was handled or sold through or at the licensee's public livestock market or special open consignment horse sale: PROVIDED, That if such applicant is bonded as a market agency under the provisions of the packers and stockyards act, (7 U.S.C. 181) as amended, on March 20, 1961, in a sum equal to or greater than the sum required under the provisions of this chapter, and such applicant furnishes the ~~((director))~~ board with a bond approved by the United States secretary of agriculture ~~((naming the department as trustee)),~~ the ~~((director))~~ board may accept such bond and its method of termination in lieu of the bond provided for herein and issue a license if such applicant meets all the other requirements of this chapter.

The total and aggregate liability of the surety for all claims upon the bond shall be limited to the face of such bond. Every bond filed with and approved by the ~~((director))~~ board shall, without the necessity of periodic renewal, remain in force and effect until such time as the license of the licensee is revoked for cause or otherwise canceled. The surety on a bond, as provided herein, shall be released and discharged

from all liability to the state accruing on such bond upon compliance with the provisions of RCW 19.72.110 concerning notice and proof of service, as enacted or hereafter amended, but this shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue (due and to become due hereunder) before the expiration period provided for in RCW 19.72.110 concerning notice and proof of service as enacted or hereafter amended, and unless the principal shall before the expiration of such period, file a new bond, the ~~((director))~~ board shall forthwith cancel the principal's license.

**Sec. 74.** RCW 16.65.220 and 1971 ex.s. c 192 s 7 are each amended to read as follows:

If the application for a license to operate a public livestock market is from a new public livestock market which has not operated in the past twelve-month period, the ~~((director))~~ livestock identification board shall determine a bond, in a reasonable sum, that the applicant shall execute in favor of the state, which shall not be less than ten thousand dollars nor greater than twenty-five thousand dollars: PROVIDED, That the ~~((director))~~ board may at any time, upon written notice, review the licensee's operations and determine whether, because of increased or decreased sales, the amount of the bond should be altered.

**Sec. 75.** RCW 16.65.235 and 1973 c 142 s 3 are each amended to read as follows:

In lieu of the surety bond required under the provisions of this chapter, an applicant or licensee may file with the ~~((director))~~ livestock identification board a deposit consisting of cash or other security acceptable to the ~~((director))~~ board. The ~~((director))~~ board may adopt rules ~~((and regulations))~~ necessary for the administration of such security.

**Sec. 76.** RCW 16.65.250 and 1959 c 107 s 25 are each amended to read as follows:

The ~~((director))~~ livestock identification board or any vendor or consignor creditor may also bring action upon ~~((said))~~ the bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by any failure to comply with the provisions of this chapter and the rules ~~((and/or regulations))~~ adopted hereunder.

**Sec. 77.** RCW 16.65.260 and 1983 c 298 s 14 are each amended to read as follows:

In case of failure by a licensee to pay amounts due a vendor or consignor creditor whose livestock was handled or sold through or at the licensee's public livestock market or special open consignment horse sale, as evidenced by a verified complaint filed with the ~~((director))~~ livestock identification board, the ~~((director))~~ board may proceed forthwith to ascertain the names and addresses of all vendor or consignor creditors of such licensee, together with the amounts due and owing to them and each of them by such licensee, and shall request all such vendor and consignor creditors to file a verified statement of their respective claims with the ~~((director))~~ board. Such request shall be addressed to each known vendor or consignor creditor at his or her last known address.

**Sec. 78.** RCW 16.65.270 and 1959 c 107 s 27 are each amended to read as follows:

If a vendor or consignor creditor so addressed fails, refuses or neglects to file in the office of the ~~((director-his))~~ livestock identification board a verified claim as requested by the ~~((director))~~ board within sixty days from the date of such request, the ~~((director))~~ board shall thereupon be relieved of further duty or action hereunder on behalf of ~~((said))~~ the producer or consignor creditor.

**Sec. 79.** RCW 16.65.280 and 1959 c 107 s 28 are each amended to read as follows:

Where by reason of the absence of records, or other circumstances making it impossible or unreasonable for the ~~((director))~~ livestock identification board to ascertain the names and addresses of all ~~((said))~~ the vendor and consignor creditors, the ~~((director))~~ board, after exerting due diligence and making reasonable inquiry to secure ~~((said))~~ the information from all reasonable and available sources, may make demand on ~~((said))~~ the bond on the basis of information then in ~~((his))~~ its possession, and thereafter shall not be liable or responsible for claims or the handling of claims which may subsequently appear or be discovered.

**Sec. 80.** RCW 16.65.290 and 1959 c 107 s 29 are each amended to read as follows:

Upon ascertaining all claims and statements in the manner herein set forth, the ~~((director))~~ livestock identification board may then make demand upon the bond on behalf of those claimants whose statements have been filed, and shall have the power to settle or compromise ~~((said))~~ the claims with the surety company on the bond, and is empowered in such cases to execute and deliver a release and discharge of the bond involved.

**Sec. 81.** RCW 16.65.300 and 1959 c 107 s 30 are each amended to read as follows:

Upon the refusal of the surety company to pay the demand, the ~~((director))~~ livestock identification board may thereupon bring an action on the bond in behalf of ~~((said))~~ the vendor and consignor creditors. Upon any action being commenced on ~~((said))~~ the bond, the ~~((director))~~ board may require the filing of a new bond. Immediately upon the recovery in any action on such bond such licensee shall file a new bond. Upon failure to file the same within ten days, in either case, such failure shall constitute grounds for the suspension or revocation of his or her license.

**Sec. 82.** RCW 16.65.310 and 1959 c 107 s 31 are each amended to read as follows:

In any settlement or compromise by the ~~((director))~~ livestock identification board with a surety company as provided in RCW 16.65.290, where there are two or more consignor and/or vendor creditors that have filed claims, either fixed or contingent, against a licensee's bond, such creditors shall share pro rata in the proceeds of the bond to the extent of their actual damage: PROVIDED, That the claims of the state and the ~~((department))~~ board which may accrue from the conduct of the licensee's public livestock market shall have priority over all other claims.

**Sec. 83.** RCW 16.65.320 and 1985 c 415 s 10 are each amended to read as follows:

For the purpose of enforcing the provisions of this chapter, the ~~((director))~~ livestock identification board on the ~~((director's))~~ board's own motion or upon the verified complaint of any vendor or consignor against any licensee, or agent, or any person assuming or attempting to act as such, shall have full authority to make any and all necessary investigations. The ~~((director))~~ board is empowered to administer oaths of verification of such complaints.

**Sec. 84.** RCW 16.65.330 and 1959 c 107 s 33 are each amended to read as follows:

For the purpose of making investigations as provided for in RCW 16.65.320, the ~~((director))~~ livestock identification board may enter a public livestock market and examine any records required under the provisions of this chapter. The ~~((director))~~ board shall have full authority to issue subpoenas requiring the attendance of witnesses before ~~((him))~~ it, together with all books, memorandums, papers, and other documents relative to the matters under investigation, and to administer oaths and take testimony thereunder.

**Sec. 85.** RCW 16.65.340 and 1967 c 192 s 2 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall, when livestock is sold, traded, exchanged or handled at or through a public livestock market, require such testing, treating, identifying, examining and record keeping of such livestock by a ~~((deputy))~~ state licensed and accredited veterinarian employed by the market as in the ~~((director's))~~ board's judgment may be necessary to prevent the spread of brucellosis, tuberculosis, paratuberculosis, ~~((hog cholera))~~ pseudorabies, or any other infectious, contagious or communicable disease among the livestock of this state. The state veterinarian or his or her authorized representative may conduct additional testing and examinations for the same purpose.

**Sec. 86.** RCW 16.65.350 and 1959 c 107 s 35 are each amended to read as follows:

~~((1))~~ The director of the department of agriculture shall ~~((perform all tests and make all examinations required under the provisions of this chapter and rules and regulations adopted hereunder: PROVIDED, That veterinary inspectors of the United States department of agriculture may be appointed by the director to make such examinations and tests as are provided for in this chapter without bond or compensation, and shall have the same authority and power in this state as a deputy state veterinarian.~~

~~((2))~~ The director shall have the responsibility for the direction and control of adopt rules regarding sanitary practices and health practices and standards and for the examination of animals at public livestock markets. ~~((The deputy state veterinarian at any such public livestock market shall notify the licensee or his managing agent, in writing, of insanitary practices or conditions. Such deputy state veterinarian shall notify the director if the improper sanitary practices or conditions are not corrected within the time specified. The director shall investigate and upon finding such report correct shall take appropriate action to hold a hearing on the suspension or revocation of the licensee's license.))~~

**Sec. 87.** RCW 16.65.360 and 1959 c 107 s 36 are each amended to read as follows:

Licensees shall provide facilities and sanitation for the prevention of livestock diseases at their public livestock markets, as follows:

(1) The floors of all pens and alleys that are part of a public livestock market shall be constructed of concrete or similar impervious material and kept in good repair, with a slope of not less than one-fourth inch per foot to adequate drains leading to an approved sewage system: PROVIDED, That the ~~((director))~~ livestock identification board may designate certain pens within such public livestock markets as feeding and holding pens and the floors and alleys of such pens shall not be subject to the aforementioned surfacing requirements.

(2) Feeding and holding pens maintained in an area adjacent to a public livestock market shall be constructed and separated from such public livestock market, in a manner prescribed by the director of agriculture, in order to prevent the spread of communicable diseases to the livestock sold or held for sale in such public livestock market.

(3) All yards, chutes and pens used in handling livestock shall be constructed of such materials which will render them easily cleaned and disinfected, and such yards, pens and chutes shall be kept clean, sanitary and in good repair at all times, as required by the director of agriculture.

(4) Sufficient calf pens of adequate size to prevent overcrowding shall be provided, and such pens, when used, shall be cleaned and disinfected no later than the day subsequent to each sale.

(5) All swine pens, when used, shall be cleaned and disinfected no later than the day subsequent to each sale.

(6) A water system carrying a pressure of forty pounds and supplying sufficient water to thoroughly wash all pens, floors, alleys and equipment shall be provided.

(7) Sufficient quarantine pens of adequate capacity shall be provided. Such pens shall be used to hold only cattle reacting to brucellosis and tuberculosis or to quarantine livestock with other contagious or communicable diseases and shall be:

(a) hard surfaced with concrete or similar impervious material and shall be kept in good repair;

(b) provided with separate watering facilities;

(c) painted white with the word "quarantine" painted in red letters not less than four inches high on such quarantine pen's gate;

(d) provided with a tight board fence not less than five and one-half feet high;

(e) cleaned and disinfected not later than one day subsequent to the date of sale.

To prevent the spread of communicable diseases among livestock, the director of agriculture shall have the authority to cause the cleaning and disinfecting of any area or all areas of a public livestock market and equipment or vehicles with a complete coverage of disinfectants approved by the director.

**Sec. 88.** RCW 16.65.420 and 1991 c 17 s 3 are each amended to read as follows:

(1) Any application for sales days or days for a new salesyard, and any application for a change of sales day or days or additional sales day or days for an existing yard shall be subject to approval by the ~~((director))~~ livestock identification board, subsequent to a hearing as provided for in this chapter and the ~~((director))~~ board is hereby authorized to allocate these dates and type and class of livestock which may be sold on these dates. In considering the allocation of such sales days, the ~~((director))~~ board shall give appropriate consideration, among other relevant factors, to the following:

- (a) The geographical area which will be affected;
- (b) The conflict, if any, with sales days already allocated in the area;
- (c) The amount and class of livestock available for marketing in the area;
- (d) Buyers available to such market;
- (e) Any other conditions affecting the orderly marketing of livestock.

(2) No special sales shall be conducted by the licensee unless the licensee has applied to the ~~((director))~~ board in writing fifteen days prior to such proposed sale and such sale date shall be approved at the discretion of the ~~((director))~~ board.

(3) In any case that a licensee fails to conduct sales on the sales days allocated to the licensee, the ~~((director))~~ board shall, subsequent to a hearing, be authorized to revoke an allocation for nonuse. The rate of usage required to maintain an allocation shall be established by rule.

**Sec. 89.** RCW 16.65.422 and 1963 c 232 s 17 are each amended to read as follows:

A producer of purebred livestock may, upon obtaining a permit from the ~~((director))~~ livestock identification board, conduct a public sale of the purebred livestock on an occasional or seasonal basis on premises other than his or her own farm. Application for such special sale shall be in writing to the ~~((director))~~ board for ~~((his))~~ its approval at least fifteen days before the proposed public sale is scheduled to be held by such producer.

**Sec. 90.** RCW 16.65.423 and 1983 c 298 s 16 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall have the authority to issue a public livestock market license pursuant to the provisions of this chapter limited to the sale of horses and/or mules and to allocate a sales day or days to such licensee. The ~~((director))~~ board is hereby authorized and directed to adopt ~~((regulations))~~ rules for facilities and sanitation applicable to such a license. The facility requirements of RCW 16.65.360 shall not be applicable to such licensee's operation as provided for in this section.

**Sec. 91.** RCW 16.65.424 and 1963 c 232 s 19 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall have the authority to grant a licensee an additional sales day or days limited to the sale of horses and/or mules and may if requested grant the licensee, by permit, the authority to have the sale at premises other than at his or her public livestock market if the facilities are approved by the ~~((director))~~ board as being adequate for the protection of the health and safety of such horses and/or mules. For the purpose of such limited sale the facility requirements of RCW 16.65.360 shall not be applicable.

**Sec. 92.** RCW 16.65.445 and 1989 c 175 s 55 are each amended to read as follows:

The ~~((director))~~ livestock identification board shall hold public hearings upon a proposal to promulgate any new or amended ~~((regulations))~~ rules and all hearings for the denial, revocation, or suspension of a license issued under this chapter or in any other adjudicative proceeding, and shall comply in all respects with chapter 34.05 RCW, the Administrative Procedure Act.

**Sec. 93.** RCW 16.65.450 and 1991 c 17 s 4 are each amended to read as follows:

Any licensee or applicant who feels aggrieved by an order of the ~~((director))~~ livestock identification board may appeal to the superior court of the county in the state of Washington of the residence of the licensee or applicant where the trial on such appeal shall be held de novo.

**Sec. 94.** RCW 16.04.025 and 1989 c 286 s 21 are each amended to read as follows:

If the owner or the person having in charge or possession such animals is unknown to the person sustaining the damage, the person retaining such animals shall, within twenty-four hours, notify the county sheriff or the nearest state brand inspector as to the number, description, and location of the animals. The county sheriff or brand inspector shall examine the animals by brand, tattoo, or other identifying characteristics and attempt to ascertain ownership. If the animal is marked with a brand or tattoo which is registered with the ~~((director of agriculture))~~ livestock identification board, the brand inspector or county sheriff shall furnish this information and other pertinent information to the person holding the animals who in turn shall send the notice required in RCW 16.04.020 to the animals' owner of record by certified mail.

If the county sheriff or the brand inspector determines that there is no apparent damage to the property of the person retaining the animals, or if the person sustaining the damage contacts the county sheriff or brand inspector to have the animals removed from his or her property, such animals shall be removed in accordance with chapter 16.24 RCW. Such removal shall not prejudice the property owner's ability to recover damages through civil suit.

**Sec. 95.** RCW 41.06.070 and 1996 c 319 s 3, 1996 c 288 s 33, and 1996 c 186 s 109 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;



(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997;

(aa) Staff employed by the department of community, trade, and economic development to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045(2)(m);

(bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

(cc) Officers and employees of the livestock identification board created under RCW 16.57.015.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy,

or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;

(c) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(d) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the Washington personnel resources board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the Washington personnel resources board stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The Washington personnel resources board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (1)(w) and (x) and (2) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v), (y), (z), and (2) of this section, shall be determined by the Washington personnel resources board. However, beginning with changes proposed for the 1997-99 fiscal biennium, changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**NEW SECTION. Sec. 96.** A new section is added to chapter 42.17 RCW to read as follows:

Financial statements provided under RCW 16.65.030(1)(d) are exempt from disclosure under this chapter.

**Sec. 97.** RCW 43.23.230 and 1988 c 254 s 1 are each amended to read as follows:

The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. Except as provided in section 3 of this act, the department may make disbursements from the fund. The fund is not subject to legislative appropriation.

**NEW SECTION. Sec. 98.** (1) On the effective date of this section, all powers, duties, and functions of the department of agriculture under chapters 16.57, 16.58, and 16.65 RCW except those identified as remaining with the department in RCW 16.65.350 and 16.65.360 are transferred to the livestock identification board. The authority to adopt rules regarding those powers, duties, and functions is transferred to the livestock identification board and the administration of those powers, duties, and functions is transferred to the board.

(2)(a) All funds, credits, or other assets, including but not limited to those in the agricultural local fund, held by the department of agriculture in connection with the powers, functions, and duties transferred shall be assigned to the board.

(b) At any time after June 30, 2004, and at the conclusion of a contract under which the department of agriculture conducts by contract activities for the livestock identification board, the board may request the transfer and the department shall, upon such a request, transfer to the custody of the board all reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of

agriculture pertaining to the functions performed by contract by the department for the board and all cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department to perform such duties on behalf of the board.

(c) Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules of the department of agriculture adopted under chapter 16.57 RCW in effect on the effective date of this section, all rules adopted by the department under chapter 16.58 RCW in effect on the effective date of this section, and all rules adopted by the department under chapter 16.65 RCW, except for those adopted under the authorities retained by the department under RCW 16.65.350 and 16.65.360, in effect on the effective date of this section are, on the effective date of this section, rules of the livestock identification board. All proposed rules and all pending business before the department of agriculture pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the board. All existing contracts and obligations shall remain in full force and shall be performed by the board. All registrations made with the department under chapter 16.57 RCW, all licenses issued by the department under chapter 16.58 RCW, and all licenses issued by the department under chapter 16.65 RCW before the effective date of this section shall be considered to be registrations with and licenses issued by the board.

(4) The transfer of the powers, duties, and functions of the department of agriculture shall not affect the validity of any act performed before the effective date of this section. The board shall take action to enforce against violations of chapters 16.57, 16.58, and 16.65 RCW and rules adopted thereunder regarding authorities transferred to the board by this act which occurred before the effective date of this section and for which enforcement is not taken by the department before the effective date of this section with the same force and effect as it may take actions to enforce chapters 16.57 and 16.58 RCW and rules adopted thereunder after the effective date of this section. Any enforcement action taken by the department of agriculture under chapter 16.57, 16.58, or 16.65 RCW regarding authorities transferred to the board by this act, or the rules adopted thereunder and not concluded before the effective date of this section, shall be continued in the name of the board.

(5) As used in this section "livestock identification board" and "board" means the board created under RCW 16.57.015.

**NEW SECTION. Sec. 99.** (1) The following acts or parts of acts are each repealed:

- (a) 1997 c 356 s 3;
- (b) 1997 c 356 s 5;
- (c) 1997 c 356 s 9;
- (d) 1997 c 356 s 11;
- (e) RCW 16.57.380 and 1991 c 110 s 8, 1981 c 296 s 22, & 1974 ex.s. c 38 s 1; and
- (f) RCW 16.65.110 and 1959 c 107 s 11.

(2) This section is null and void unless subsections (1) through (5) of section 2 of this act and section 98 of this act become law.

**NEW SECTION. Sec. 100.** This act takes effect July 1, 1998, except that appointments may be made by the governor and proposed contracts may be developed under RCW 16.57.015 prior to July 1, 1998, to provide for an orderly transition of authority under this act.

**NEW SECTION. Sec. 101.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, sections 1 through 4 and 7 through 100 of this act are null and void."

On page 1, line 1 of the title, after "identification;" strike the remainder of the title and insert "amending RCW 16.57.010, 16.57.015, 16.57.020, 16.57.030, 16.57.040, 16.57.070, 16.57.080, 16.57.090, 16.57.100, 16.57.105, 16.57.110, 16.57.120, 16.57.130, 16.57.140, 16.57.150, 16.57.160, 16.57.165, 16.57.170, 16.57.180, 16.57.200, 16.57.210, 16.57.220, 16.57.230, 16.57.240, 16.57.260, 16.57.270, 16.57.275, 16.57.280, 16.57.290, 16.57.300, 16.57.310, 16.57.320, 16.57.330, 16.57.340, 16.57.350, 16.57.360, 16.57.370, 16.57.400, 16.57.407, 16.57.410, 16.57.420, 16.58.020, 16.58.030, 16.58.040, 16.58.050, 16.58.060, 16.58.070, 16.58.080, 16.58.095, 16.58.100, 16.58.110, 16.58.120, 16.58.130, 16.58.140, 16.58.150, 16.58.160, 16.65.010, 16.65.015, 16.65.020, 16.65.030, 16.65.037, 16.65.040, 16.65.042, 16.65.050, 16.65.080, 16.65.090, 16.65.100, 16.65.140, 16.65.190, 16.65.200, 16.65.220, 16.65.235, 16.65.250, 16.65.260, 16.65.270, 16.65.280, 16.65.290, 16.65.300, 16.65.310, 16.65.320, 16.65.330, 16.65.340, 16.65.350, 16.65.360, 16.65.420, 16.65.422, 16.65.423, 16.65.424, 16.65.445, 16.65.450, 16.04.025, and 43.23.230; reenacting and amending RCW 41.06.070; adding new sections to chapter 16.57 RCW; adding a new section to chapter 42.17 RCW; creating new sections; repealing RCW 16.57.380 and 16.65.110; repealing 1997 c 356 s 3; repealing 1997 c 356 s 5; repealing 1997 c 356 s 9; repealing 1997 c 356 s 11; and providing an effective date.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Morton, Swecker; Representatives Chandler, Schoesler.

## MOTION

Senator Morton moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6204 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Engrossed Substitute Senate Bill No. 6204.

The motion by Senator Morton carried and the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6204 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6204, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6204, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 16; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 33. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Haugen, Kline, Kohl, McAuliffe, Patterson, Prentice, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 16. ENGROSSED SUBSTITUTE SENATE BILL NO. 6204, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SUBSTITUTE SENATE BILL NO. 5582 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### REPORT OF CONFERENCE COMMITTEE

SSB 5582

March 10, 1998

Includes "NEW ITEM": YES

Liquor sales to intoxicated persons

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SUBSTITUTE SENATE BILL NO. 5582, liquor sales to intoxicated persons, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 66.44.200 and 1933 ex.s. c 62 s 36 are each amended to read as follows:

(1) No person shall sell any liquor to any person apparently under the influence of liquor.

(2)(a) No person who is apparently under the influence of liquor may purchase or consume liquor on any premises licensed by the board.

(b) A violation of this subsection is an infraction punishable by a fine of not more than five hundred dollars.

(c) A defendant's intoxication may not be used as a defense in an action under this subsection.

(d) Until July 1, 2000, every establishment licensed under RCW 66.24.330 or 66.24.420 shall conspicuously post in the establishment notice of the prohibition against the purchase or consumption of liquor under this subsection.

(3) An administrative action for violation of subsection (1) of this section and an infraction issued for violation of subsection (2) of this section arising out of the same incident are separate actions and the outcome of one shall not determine the outcome of the other."

On page 1, line 2 of the title, after "liquor;" strike the remainder of the title and insert "amending RCW 66.44.200; and prescribing penalties." , and the bill do pass as recommended by the Conference Committee.

Signed by Senators Kline, Stevens; Representatives Robertson, McDonald.

#### MOTION

Senator Stevens moved that the Report of the Conference Committee on Substitute Senate Bill No. 5582 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Substitute Senate Bill No. 5582.

The motion by Senator Stevens carried and the Report of the Conference Committee on Substitute Senate Bill No. 5582 was adopted.

#### MOTION

On motion of Senator Goings, Senator Brown was excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5582, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5582, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 38. Voting nay: Senators Fairley, Finkbeiner, Franklin, Fraser, Heavey, Kohl, McAuliffe, Spanel, Thibaudeau and Wojahn - 10. Excused: Senator Brown - 1. SUBSTITUTE SENATE BILL NO. 5582, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGES FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE HOUSE BILL NO. 1441,  
SUBSTITUTE HOUSE BILL NO. 2077, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed SENATE CONCURRENT RESOLUTION NO. 8429, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following HOUSE BILLS and passed the bills as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2830,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2935,  
SUBSTITUTE HOUSE BILL NO. 3001.

TIMOTHY A. MARTIN, Chief Clerk

#### SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE HOUSE BILL NO. 1441,  
SUBSTITUTE HOUSE BILL NO. 2077.

MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House refuses to recede from its amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 6187 and insists on its position and asks the Senate to concur therein, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Roach moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6187. Debate ensued.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6187.

The motion by Senator Roach carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6187.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6187, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6187, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senators Finkbeiner and Prince - 2. Excused: Senator Brown - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6187, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 6238 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

**REPORT OF CONFERENCE COMMITTEE**

**ESSB 6238**

**March 11, 1998**

Includes "NEW ITEM": YES

Changing provisions relating to dependent children

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE SENATE BILL NO. 6238, changing provisions relating to dependent children, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.050 and 1979 c 155 s 38 are each amended to read as follows:

(1) The court may enter an order directing a law enforcement officer, probation counselor, or child protective services official to take a child into custody if: (a) A petition is filed with the juvenile court alleging that the child is dependent and that the child's health, safety, and welfare will be seriously endangered if not taken into custody; (b) an affidavit or declaration is filed by the department in support of the petition setting forth specific factual information evidencing reasonable grounds that the child's health, safety, and welfare will be seriously endangered if not taken into custody and at least one of the grounds set forth demonstrates a risk of imminent harm to the child. "Imminent harm" for purposes of this section shall include, but not be limited to, circumstances of sexual abuse, or sexual exploitation as defined in RCW 26.44.020; and (c) the court finds reasonable grounds to believe the child is dependent and that the child's health, safety, and welfare will be seriously endangered if not taken into custody.

(2) Any petition that does not have the necessary affidavit or declaration demonstrating a risk of imminent harm requires notice and an opportunity to be heard by the parents.

(3) The petition and supporting documentation must be served on the parent and the entity with whom the child is in custody at the time the child is removed. Failure to effect service does not invalidate the petition if service was attempted and the parent could not be found.

**Sec. 2.** RCW 13.34.060 and 1990 c 246 s 1 are each amended to read as follows:

(1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. A child taken by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070 shall be placed in shelter care only when permitted under RCW 13.34.055. "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to that section. Whenever a child is taken into such custody pursuant to this section, the supervising agency may authorize evaluations of the child's physical or emotional condition, routine medical and dental examination and care, and all necessary emergency care. In no case may a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Saturdays, Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a shelter care hearing. The court shall hold a shelter care hearing within seventy-two hours after the child is taken into custody, excluding Saturdays, Sundays, and holidays. If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, that such waiver is knowing and voluntary.

(2) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parents, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title as soon as possible and in no event longer than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody. The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.

The written notice of custody and rights shall be in substantially the following form:

"NOTICE

Your child has been placed in temporary custody under the supervision of Child Protective Services (or other person or agency). You have important legal rights and you must take steps to protect your interests.

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody. You should call the court at (insert appropriate phone number here) for specific information about the date, time, and location of the court hearing.

2. You have the right to have a lawyer represent you at the hearing. You have the right to records the department intends to rely upon. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing. If you do not come, the judge will not hear what you have to say.

You may call the Child Protective Services' caseworker for more information about your child. The caseworker's name and telephone number are: (insert name and telephone number) ."

Upon receipt of the written notice, the parent, guardian, or legal custodian shall acknowledge such notice by signing a receipt prepared by child protective services. If the parent, guardian, or legal custodian does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall be made a part of the court's file in the dependency action.

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

(3) If child protective services is not required to give notice under subsection (2) of this section, the juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(4) Reasonable efforts to advise and to give notice, as required in subsections (2) and (3) of this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such reasonable efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the juvenile court counselor or caseworker shall testify at the hearing or state in a declaration:

(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or legal custodian; and

(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.

(5) At the commencement of the shelter care hearing the court shall advise the parties of their basic rights as provided in RCW 13.34.090 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not been retained by the parent or guardian and if the parent or guardian is indigent, unless the court finds that the right to counsel has been expressly and voluntarily waived in court.

(6) The court shall hear evidence regarding notice given to, and efforts to notify, the parent, guardian, or legal custodian and shall examine the need for shelter care. The court shall make an express finding as to whether the notice required under subsections (2) and (3) of this section was given to the parent, guardian, or legal custodian. All parties have the right to present testimony to the court regarding the need or lack of need for shelter care. Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(7) The juvenile court probation counselor shall submit a recommendation to the court as to the further need for shelter care, except that such recommendation shall be submitted by the department of social and health services in cases where the petition alleging dependency has been filed by the department of social and health services, unless otherwise ordered by the court.

(8) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(a) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(b)(i) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(ii) The release of such child would present a serious threat of substantial harm to such child; or

(iii) The parent, guardian, or custodian to whom the child could be released is alleged to have violated RCW 9A.40.060 or 9A.40.070.

If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. The court shall enter a finding as to whether subsections (2) and (3) of this section have been complied with. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090.

(9) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent and give weight to that fact before ordering return of the child to shelter care.

(10) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be detained for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(11) Any parent, guardian, or legal custodian who for good cause is unable to attend the initial shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. The hearing shall be held within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

**Sec. 3.** RCW 13.34.090 and 1990 c 246 s 4 are each amended to read as follows:



(1) Any party has a right to be represented by an attorney in all proceedings under this chapter, to introduce evidence, to be heard in his or her own behalf, to examine witnesses, to receive a decision based solely on the evidence adduced at the hearing, and to an unbiased fact-finder.

(2) At all stages of a proceeding in which a child is alleged to be dependent (~~(pursuant to)~~ as defined in RCW 13.34.030~~((2))~~ (4), the child's parent, guardian, or legal custodian has the right to be represented by counsel, and if indigent, to have counsel appointed for him or her by the court. Unless waived in court, counsel shall be provided to the child's parent, guardian, or legal custodian, if such person (a) has appeared in the proceeding or requested the court to appoint counsel and (b) is financially unable to obtain counsel because of indigency as defined in chapter 10.101 RCW.

(3) If a party to an action under this chapter is represented by counsel, no order shall be provided to that party for his or her signature without prior notice and provision of the order to counsel.

(4) Copies of department of social and health services or supervising agency records to which parents have legal access pursuant to chapter 13.50 RCW shall be given to the child's parent, guardian, legal custodian, or his or her legal counsel, prior to any shelter care hearing and within ~~(twenty)~~ fifteen days after the department or supervising agency receives a written request for such records from the parent, guardian, legal custodian, or his or her legal counsel. These records shall be provided to the child's parents, guardian, legal custodian, or legal counsel a reasonable period of time prior to the shelter care hearing in order to allow an opportunity to review the records prior to the hearing. These records shall be legible and shall be provided at no expense to the parents, guardian, legal custodian, or his or her counsel. When the records are served on legal counsel, legal counsel shall have the opportunity to review the records with the parents and shall review the records with the parents prior to the shelter care hearing.

**Sec. 4.** RCW 13.34.120 and 1996 c 249 s 14 are each amended to read as follows:

(1) To aid the court in its decision on disposition, a social study, consisting of a written evaluation of matters relevant to the disposition of the case, shall be made by the person or agency filing the petition. A parent may submit a counselor's or health care provider's evaluation of the parent, which shall either be included in the social study or considered in conjunction with the social study. The study shall include all social records and may also include facts relating to the child's cultural heritage, and shall be made available to the court. The court shall consider the social file, social study, guardian ad litem report, the court-appointed special advocate's report, if any, and any reports filed by a party at the disposition hearing in addition to evidence produced at the fact-finding hearing. At least ten working days before the disposition hearing, the department shall mail to the parent and his or her attorney a copy of the agency's social study and proposed service plan, which shall be in writing or in a form understandable to the parents or custodians. In addition, the department shall provide an opportunity for parents to review and comment on the plan at the community service office. If the parents disagree with the agency's plan or any part thereof, the parents shall submit to the court at least twenty-four hours before the hearing, in writing, or signed oral statement, an alternative plan to correct the problems which led to the finding of dependency. This section shall not interfere with the right of the parents or custodians to submit oral arguments regarding the disposition plan at the hearing.

(2) In addition to the requirements set forth in subsection (1) of this section, a predisposition study to the court in cases of dependency alleged pursuant to RCW 13.34.030(4) (b) or (c) shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific programs, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such programs are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs which have been considered and rejected; the preventive services that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal. This section should include an exploration of the nature of the parent-child attachment and the meaning of separation and loss to both the parents and the child;

(e) A description of the steps that will be taken to minimize harm to the child that may result if separation occurs; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

**Sec. 5.** RCW 26.44.030 and 1997 c 386 s 25 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child or adult dependent or developmentally disabled person, has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) The reporting requirement shall also apply to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her

employment, any department of corrections personnel has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(c) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child or adult dependent or developmentally disabled person, who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(d) The report shall be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect. The report shall include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children, dependent adults, or developmentally disabled persons are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section shall apply.

(3) Any other person who has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report shall also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services or department case services for the developmentally disabled. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child or developmentally disabled person. Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of alleged abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview shall occur at the earliest possible point in the investigation that will not jeopardize the safety or

protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall provide annual reports to the legislature on the effectiveness of the risk assessment process.

(14) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(15) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.

**Sec. 6.** RCW 43.20A.870 and 1997 c 386 s 47 are each amended to read as follows:

(1) The department shall prepare an annual quality assurance report that shall include but is not limited to: ~~((1))~~ (a) Performance outcomes regarding health and safety of children in the children's services system; ~~((2))~~ (b) children's length of stay in out-of-home placement from each date of referral; ~~((3))~~ (c) adherence to permanency planning timelines; and ~~((4))~~ (d) the response time on child protective services investigations differentiated by risk level determined at intake. The report shall be provided to the governor and legislature not later than July 1.

(2) In cases where a dependency action has been initiated and in cases where a family has been referred to the alternative response system, the department shall report:

(a) The number of cases where substance abuse is an identified risk factor in the risk factor assessment;

(b) The number of cases where substance abuse is the factor or a primary factor in the risk assessment;

(c) The number of cases where substance abuse treatment is recommended for a parent;

(d) The period parent's referred to substance abuse treatment wait before entering substance abuse treatment;

(e) The number of cases where substance abuse is a factor and substance abuse treatment is provided;

(f) The number of cases where substance abuse is a factor and substance abuse treatment is not provided, including the reason why treatment was not provided; and

(g) The number of cases where no dependency is filed because a parent receives substance abuse treatment."

On page 1, line 1 of the title, after "children;" strike the remainder of the title and insert "and amending RCW 13.34.050, 13.34.060, 13.34.090, 13.34.120, 26.44.030, and 43.20A.870.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Long, Hargrove, Stevens; Representatives Cooke, Boldt, Dickerson.

#### MOTION

Senator Long moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6238 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Engrossed Substitute Senate Bill No. 6238.

The motion by Senator Long carried and the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6238 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6238, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6238, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senators Prince and Schow - 2. Excused: Senator Brown - 1. ENGROSSED SUBSTITUTE SENATE BILL NO. 6238, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SUBSTITUTE SENATE BILL NO. 6445 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### REPORT OF CONFERENCE COMMITTEE

SSB 6445

March 11, 1998

Includes "NEW ITEM": NO

Adopting a supplemental capital budget

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SUBSTITUTE SENATE BILL NO. 6455, adopting a supplemental capital budget, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to 1997 c 235 to read as follows:

#### **FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

##### **Infrastructure needs assessment**

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

(1) The public works board ("board"), in consultation with the department of community, trade, and economic development ("department"), shall contract for a local government infrastructure needs assessment. The board shall issue a progress report to the governor, house of representatives capital budget committee, the senate ways and means committee, the joint legislative transportation committee, the house of representatives government administration committee, and the senate government operations committee by January 31, 1999. The final report shall be delivered by June 30, 1999.

(2) The infrastructure needs assessment shall utilize local capital improvement plans, to the extent available, to identify local government infrastructure needs for the planning, acquisition, construction, repair, replacement, rehabilitation, or improvements necessary for the next six years. The definitions and principles to be utilized in determining infrastructure needs shall be those set forth in chapter 36.70A RCW, including economic development. The infrastructure assessment shall also include a listing, description and evaluation of utilization of all private and public financing options, and policy alternatives that would assist in meeting local government infrastructure needs. For the purposes of this infrastructure needs assessment:

(a) Local government shall include each city, county, town, and each water, sewer, storm water, and public utility district providing water or sewer services in the state of Washington.

(b) Infrastructure shall be limited to bridges, roadways, domestic water, sanitary sewer, and storm water systems.

(3) The board shall contract for the collection and review of local capital expenditure data, the evaluation of local government infrastructure needs, the projection of future infrastructure needs, including needs to meet requirements under chapter 36.70A RCW. The board shall also contract for the development of criteria for a data base which can be maintained and updated, and such other matters as the board may deem necessary to provide an adequate representation of local capital needs and the ability of local governments to finance such needs.

(4) The legislative evaluation and accountability program shall cooperate with the department in the completion of the infrastructure needs assessment and may enter into interagency agreements. The legislative evaluation and accountability program shall develop the structure of the local government infrastructure data base and provide recommendations on the maintenance of the data base. The data base shall: Use the data compiled by and be compatible with that developed by the board's contractor; and have a structure to maintain its future use and updates.

The department shall provide a compilation of all capital improvement plans prepared by local governments. The department shall identify: Federal, state, and local infrastructure financing sources currently in use; all revenue sources available, but not fully utilized by each local government, and obstacles to full utilization; and the compilation of local government expenditures for infrastructure investments by source of funds and by jurisdiction for the period beginning January 1, 1993, and ending December 31, 1997, for local governments with a population greater than 50,000; and January 1, 1995, and ending December 31, 1997, for local governments with fewer than 50,000 population.

(6) The board shall convene an advisory committee of stakeholders to include representatives from the department of community, trade, and economic development, the office of financial management, the legislative evaluation and accountability program, the Washington state association of counties, the association of Washington cities, the Washington association of realtors, the national association of industrial office properties, the building industry association of Washington, the associated general contractors, the association of Washington business, Washington state building and construction trades council, and 1000 friends of Washington. The board may, as it deems necessary, utilize technical advisory groups or state agencies in addition to the advisory committee to assist itself in implementing this proviso.

The advisory committee shall serve as the advisory committee to the board to assist in guiding the infrastructure assessment and developing interpretations of this proviso as necessary. The committee shall establish criteria and categorize infrastructure projects as necessary to meet the requirements set forth in chapter 36.70A RCW, or as reflective of other community priorities, and review elements and standards of infrastructure needs identified in the study.

**Appropriation:**

**Public Works Assistance**

**Account--State \$**

**750,000**

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

0

TOTAL \$

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750,000

NEW SECTION. **Sec. 2.** A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

**Emergency flood and erosion repairs**

The appropriation in this section is provided solely for shoreline repairs at Ocean Shores to prevent further erosion and flood control.

**Appropriation:**

**St Bldg Constr Acct--State \$**

**150,000**

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

0

TOTAL \$

150,000

NEW SECTION. **Sec. 3.** A new section is added to 1997 c 235 to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

**Year 2000 building, facility, and equipment date conversion (99-1-001)**

The office of financial management shall allocate appropriations to be used by state agencies and universities in performing Year 2000 assessments of facility management systems, control systems, and other computer systems related to capital facilities and equipment. Funds available in this appropriation may also be allocated for corrective measures on a priority basis to address critical system repairs. As used in this section, "CTC Cap Proj Acct" means Community and Technical Colleges Capital Projects Account.

**Appropriation:**

**CEP & RI Acct--State \$**

	500,000
Thurston County Cap Fac Acct--State \$	
	60,000
TESC Cap Proj Acct--State \$	
	50,000
UW Bldg Acct--State \$	
	100,000
CWU Cap Proj Acct--State \$	
	50,000
WSU Bldg Acct--State \$	
	100,000
EWU Cap Proj Acct--State \$	
	50,000
WWU Cap Proj Acct--State \$	
	180,000
CTC Cap Proj Acct--State \$	
	100,000
St Bldg Constr Acct--State \$	
	1,866,000
Subtotal Appropriation \$	3,056,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	3,056,000

Sec. 4. 1997 c 235 s 152 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

The control and management of the Wellington Hills property which was purchased by the state of Washington as a potential site for the University of Washington Bothell branch campus is transferred to the department of general administration. The site shall be disposed of at fair market value and the proceeds from the sale shall be deposited in the state building construction account. The department may retain from the proceeds of the sale an amount sufficient to provide reimbursement for expenses as approved by the office of financial management.

Prior to sale the department of general administration shall conduct a highest and best use study regarding the alternatives for future use of this site. Alternatives shall include, at a minimum, immediate sale, trade, transfer, lease, and retention for future state use. The study shall identify and consider the development characteristics and opportunities of the site, land use limitations and potential, and the desires and expectations of the surrounding communities. The study shall identify the benefits and risks of each alternative identified. The study shall be completed by June 30, 1998, and shall be transmitted for evaluation and determination of the best use of the property. Copies of the study shall be provided to the legislative fiscal committees, the office of financial management, and the higher education coordinating board.

The University of Washington shall continue to pay all necessary fees and assessments appurtenant to the property until the property is sold.

NEW SECTION. Sec. 5. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Fire safety sprinkler systems (99-1-001)**

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

Funds are provided solely for fire sprinklers in the Douglas building at the Northern State Multi-Service Center.

**Appropriation:**

St Bldg Constr Acct--State \$	600,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0

TOTAL \$

600,000

NEW SECTION. Sec. 6. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Alaska Street Building: Cooling tower and chiller (99-1-002)**

**Appropriation:**

St Bldg Constr Acct--State \$

155,000

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

0

TOTAL \$

155,000

Sec. 7. 1997 c 235 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Green Hill redevelopment(~~(- 416-bed institution)~~) (96-2-230)**

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

(1) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

(2) ~~((If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, \$3,800,000 of the new appropriation in this section shall lapse.))~~ The general fund--federal appropriation shall be transferred to the department of social and health services as a subaward of the violent offender incarceration and truth-in-sentencing grant awarded to the department of corrections.

**Reappropriation:**

St Bldg Constr Acct--State \$

37,234,448

**Appropriation:**

St Bldg Constr Acct--State \$

6,600,000

General Fund--Federal \$

3,466,558

Subtotal Appropriation \$

10,066,558

Prior Biennia (Expenditures) \$

4,669,321

Future Biennia (Projected Costs) \$

11,200,000

TOTAL \$

((59,703,769))

63,170,327

NEW SECTION. Sec. 8. A new section is added to 1997 c 235 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Security improvements at Western State Hospital**

The appropriation in this section is provided solely for facility improvements that are required as a result of the passage of Senate Bill No. 6214. If Senate Bill No. 6214 is not enacted by June 30, 1998, the appropriation in this section shall be used for the same purpose as section 3 of this act.

**Appropriation:**

St Bldg Constr Acct--State \$

654,000

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

0

TOTAL \$

654,000

Sec. 9. 1997 c 235 s 241 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Orting: Main kitchen upgrade (95-1-001)**

**Reappropriation:**

CEP & RI Acct--State \$

~~((1,147,147))~~

1,097,147

Prior Biennia (Expenditures) \$

94,853

Future Biennia (Projected Costs) \$

0

TOTAL \$

((1,242,000))

1,192,000

Sec. 10. 1997 c 235 s 245 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Retsil: Minor works projects (97-1-006)**

**Reappropriation:**

CEP & RI Acct--State \$

410,549

**Appropriation:**

CEP & RI Acct--State \$

~~((755,000))~~

652,000

Prior Biennia (Expenditures) \$

249,451

Future Biennia (Projected Costs) \$

7,050,000

TOTAL \$

-----  
((8,465,000))

8,362,000

Sec. 11. 1997 c 235 s 247 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Emergency fund (97-1-012)**

**Appropriation:**

CEP & RI Acct--State \$

~~((700,000))~~

750,000

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

2,800,000

TOTAL \$

((3,500,000))



3,550,000

Sec. 12. 1997 c 235 s 249 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Retsil: Building feasibility study (97-2-015)**

This appropriation is provided to conduct a study of the ~~((potential for consolidation of program functions and replacement of poor condition housing units into a new multi-use facility. The study will be submitted to the office of financial management and will be the basis of future capital investments at Retsil, based on clear programmatic need or economic benefits and improved efficiency))~~ physical condition of the Retsil and Orting campuses, determine the opportunities and constraints for use of the facilities on those campuses to serve current and future veterans program needs, and identify other options for the provision of services to veterans in the future. The studies will be submitted to the office of financial management and will be the basis upon which future capital plans for the department are developed.

**Appropriation:**

<b>CEP &amp; RI Acct--State</b>	<b>\$</b>	<b>((112,000))</b>
		<b><u>215,000</u></b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
		0
TOTAL	\$	((112,000))
		<b><u>215,000</u></b>

NEW SECTION. Sec. 13. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**Local government criminal justice facilities (99-2-003)**

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

(1) The appropriation in this section is provided solely for the purpose of constructing, developing, expanding, modifying, or improving local jails and other correctional facilities in accordance with the violent offender incarceration and truth-in-sentencing grant requirements.

(2) The department of corrections, in consultation with the Washington association of sheriffs and police chiefs, shall develop criteria for allocating moneys appropriated in this section to local governments.

**Appropriation:**

<b>General Fund--Federal</b>	<b>\$</b>	<b>639,196</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
		0
TOTAL	\$	639,196

NEW SECTION. Sec. 14. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**Washington Corrections Center: Replace razor ribbon wire (99-1-001)**

**Appropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>1,200,000</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
		0
TOTAL	\$	1,200,000

NEW SECTION. Sec. 15. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**McNeil Island Corrections Center: Still Harbor dock (99-2-001)**

**Appropriation:**

St Bldg Constr Acct--State \$	2,700,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	2,700,000

NEW SECTION. Sec. 16. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**Washington State Reformatory Farm: Dairy animal waste lagoon improvements (99-2-002)**

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

The department shall contract with the joint legislative audit and review committee to conduct a cost/benefit review of the operations of the Washington state reformatory farm. The review shall make recommendations regarding the disposition of the farm and provide a report to the office of financial management and the appropriate legislative committees September 30, 1998.

**Appropriation:**

St Bldg Constr Acct--State \$	1,242,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	1,242,000

NEW SECTION. Sec. 17. A new section is added to 1997 c 235 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**Grant administration and minor improvements**

The appropriation in this section is provided solely for costs associated with administration of the violent offender incarceration and truth-in-sentencing grant program to local governments and other agencies receiving a subaward from the grant and minor improvements for correctional facilities.

**Appropriation:**

General Fund--Federal \$	155,550
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	155,550

Sec. 18. 1997 c 235 s 301 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

**Referendum 26 waste disposal facilities (74-2-004)**

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

(1) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

(2) \$378,500 of the appropriation is provided for the waste water treatment plant at the city of Connell.

**Reappropriation:**

<b>LIRA--State</b>	<b>\$</b>	<b>4,028,749</b>
<b>Appropriation:</b>		
<b>LIRA--State</b>	<b>\$</b>	<b>((210,969))</b>
		<b><u>1,039,969</u></b>
Prior Biennia (Expenditures)	\$	4,840,771
Future Biennia (Projected Costs)	\$	800,000
TOTAL	\$	((9,880,489))
		<u>10,709,489</u>

Sec. 19, 1997 c 235 s 302 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

**Referendum 38 water supply facilities (74-2-006)**

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

(1) \$2,500,000 of the state and local improvements revolving account reappropriation is provided solely for funding the state's cost share in the water conservation demonstration project--Yakima river reregulation reservoir.

(2) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

(3) \$1,500,000 of the state and local improvements revolving account appropriation is provided solely for funding the state's cost share of the Methow Valley irrigation district agreement.

**Reappropriation:**

<b>LIRA, Water Sup Fac--State</b>	<b>\$</b>	<b>6,763,571</b>
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**Appropriation:**

<b>LIRA, Water Sup Fac--State</b>	<b>\$</b>	<b>((485,495))</b>
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		<b><u>1,985,495</u></b>
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Prior Biennia (Expenditures)	\$	10,141,668
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Future Biennia (Projected Costs)	\$	1,600,000
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TOTAL	\$	((18,990,734))
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20,490,734

Sec. 20, 1997 c 235 s 305 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

**Centennial clean water fund (86-2-007)**

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

(1) \$25,000,000 of the appropriation is provided solely for the extended grant payment to Metro/King county.

(2) \$10,000,000 of the appropriation is provided solely for an extended grant payment to Spokane for the Spokane-Rathdrum Prairie aquifer.

(3) \$1,850,000 of the appropriation is provided solely for allocation for on-site sewage system projects or programs identified in local watershed plans. Of this amount, \$25,000 is provided solely for the Puyallup Washington state university research and extension center for on-

site septic systems, and \$25,000 is provided solely for the department of health to support the work group making recommendations on the development of an on-site septic system certification program pursuant to chapter 447, Laws of 1997.

(4) \$10,000,000 of the appropriation is provided for the department to establish and administer a reclaimed water demonstration program to provide grants to five demonstration projects consistent with this section, and, if enacted, chapter 355, Laws of 1997. Of this amount:

(a) \$100,000 is provided solely for an interagency agreement with the department of health for monitoring the activities and progress of the demonstration projects and to refine reclaimed water standards from the results of the projects;

(b) \$75,000 is provided for the department of ecology's administrative costs in funding and monitoring the activities and progress of the demonstration projects;

(c) \$1,970,000 is provided solely for a grant to the city of Ephrata for a reclaimed water demonstration project;

(d) \$985,000 is provided solely for a grant to the city of Royal City for a reclaimed water demonstration project;

(e) \$3,398,500 is provided solely for a grant to the city of Sequim for a reclaimed water demonstration project;

(f) \$3,398,500 is provided solely for a grant to the city of Yelm for a reclaimed water demonstration project; and

(g) \$98,500 is provided solely for a grant to Lincoln county for a study of a reclaimed water demonstration project.

(5) A minimum of 80 percent of the remaining appropriation after allocation of subsections (1), (2), (3), and (4) of this section shall be allocated by the department for water quality implementation activities.

(6) A maximum of 20 percent of the remaining appropriation after allocation of subsections (1), (2), (3), and (4) of this section shall be allocated by the department for water quality planning activities.

(7) In awarding state-wide water quality implementation and planning grants and loans, the department shall give priority consideration to:

(a) Proposals submitted by communities with populations less than 2,500 or proposals that will be submitted by communities with populations less than 2,500 who have demonstrated an economic hardship which will prevent the completion or implementation of water quality projects; and

(b) ~~(Projects located in basins with critical or depressed salmonid stocks)~~ Allocate no less than twenty-five percent of the amount which has not been obligated as of July 1, 1998, for projects otherwise eligible under the water quality account and which have a component benefiting the recovery of priority salmonid stocks.

(8) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this subsection (8) for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

**Reappropriation:**

<b>Water Quality Account--State</b>	<b>\$</b>	<b>38,653,000</b>
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**Appropriation:**

<b>Water Quality Account--State</b>	<b>\$</b>	<b>70,000,000</b>
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Prior Biennia (Expenditures)	\$	291,063,221
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Future Biennia (Projected Costs)	\$	311,000,000
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TOTAL	\$	710,716,221
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NEW SECTION. Sec. 21. A new section is added to 1997 c 235 to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

**Storm disaster recovery (99-1-001)**

**Appropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>530,000</b>
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Prior Biennia (Expenditures)	\$	0
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Future Biennia (Projected Costs)	\$	0
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TOTAL \$

-----  
530,000

NEW SECTION. **Sec. 22.** A new section is added to 1997 c 235 to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

**Cama Beach State Park development (99-2-001)**

**Appropriation:**

**Parks Renewal and Stewardship**

**Account--State \$**

**1,000,000**

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

0

TOTAL \$

-----  
1,000,000

**Sec. 23.** 1997 c 235 s 329 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

**Washington Wildlife and Recreation Program (98-2-003)**

The appropriations in this section for the Washington wildlife and recreation program under chapter 43.98A RCW are subject to the following conditions and limitations:

(1) \$22,500,000 of the state building construction account appropriation shall be deposited in the habitat conservation account and is hereby appropriated from the habitat conservation account to the interagency committee for outdoor recreation for the fiscal biennium ending June 30, 1999, for the Washington wildlife and recreation program under chapter 43.98A RCW.

(2) \$20,000,000 of the state building account appropriation and \$2,500,000 from the aquatic lands enhancement account appropriation shall be deposited in the outdoor recreation account, and \$22,500,000 is hereby appropriated from the outdoor recreation account to the interagency committee for outdoor recreation for the fiscal biennium ending June 30, 1999, for the Washington wildlife and recreation program under chapter 43.98A RCW. Funds from the aquatic lands enhancement account appropriation shall be distributed to eligible water access projects under RCW 43.98A.050.

(3) The new appropriations in this section are provided for the approved list of projects included in LEAP CAPITAL DOCUMENT NO. 98-6 as developed on April 15, 1997, at 10:00 a.m., LEAP CAPITAL DOCUMENT NO. 99-1 as adopted on February 23, 1998, at 10:00 a.m., the pilot watershed plan implementation program under subsection (6) of this section, and for other projects approved by the legislature under RCW 43.98A.080 referencing this section.

(4) No moneys from the appropriations in this section may be spent on the Rocky Reach trailway project until an agreement with affected property owners has been reached.

(5) The legislature finds that, since the inception of the Washington wildlife and recreation program, over eighty-five percent of the moneys provided for the state parks category has been used for acquisition of property, and that demands for recreational facilities in state parks require that increased funding be devoted to development projects. The committee and the state parks and recreation commission shall ensure that at least forty percent of new funding provided for the state parks category during the 1997-99 biennium be allocated to development projects.

(6) \$4,000,000 of the habitat conservation account appropriation from the unallocated portion of the fund distribution under RCW 43.98A.040(1)(d) is provided solely for matching grants for riparian zone habitat protection projects that implement watershed plans pursuant to this subsection. The interagency committee for outdoor recreation shall develop a pilot watershed plan implementation program within the Washington wildlife and recreation program. The program shall provide matching grants to eligible agencies for implementation of riparian zone habitat protection projects within watershed restoration plans under RCW 89.08.460(1), watershed action plans developed pursuant to rules adopted by the Puget Sound water quality action team, or plans developed pursuant to chapter 442, Laws of 1997. Projects shall have a useful life of at least thirty years. Eligible agencies include conservation districts, counties, cities, and private nonprofit land trust or nature conservancy organizations. Projects eligible for funding under this section include acquisition of land using less-than-fee-simple instruments such as conservation easements and purchase of development rights; and habitat restoration and enhancement projects on such lands including fencing and revegetation of native trees and shrubs that enhance the long-term habitat values of protected lands. The committee shall develop an application process and project eligibility and evaluation criteria in consultation with the state conservation commission. The committee shall

report to the appropriate committees of the legislature on the implementation of the pilot matching grant program. A preliminary status report shall be submitted by January 1, 1998, and a final report by January 1, 1999.

(7) Up to \$400,000 of the reappropriations in this section is provided to develop an inventory of all lands in the state owned by federal agencies, state agencies, local governments, and Indian tribes. The committee shall develop the inventory in a computer database format that will facilitate the sharing and reporting of inventory data and provide options for future updates. The inventory shall include, at a minimum, the following information: Owner, location, acreage, and principal use. The inventory shall also include resource-based information for state and federally-owned recreation and habitat lands. The committee shall submit a status report on the inventory to the appropriate committees of the legislature by January 1, 1999, and a final report by January 1, 2000.

(8) All land acquired by a state agency with moneys from these appropriations shall comply with class A, B, and C weed control provisions of chapter 17.10 RCW.

**Reappropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b>14,264,419</b>
<b>Aquatic Lands Acct--State \$</b>	<b>33,335</b>
<b>ORA--State \$</b>	<b>21,985,067</b>
<b>Wildlife Account--State \$</b>	<b>1,398,996</b>
<b>Habitat Conservation Account--State \$</b>	<b>18,700,633</b>

Subtotal Reappropriation \$	----- 56,382,450
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**Appropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b>42,500,000</b>
<b>Aquatic Lands Acct--State \$</b>	<b>2,500,000</b>

Subtotal Appropriation \$	----- 45,000,000
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Prior Biennia (Expenditures) \$	101,449,844
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Future Biennia (Projected Costs) \$	200,000,000
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TOTAL \$	----- 402,832,294
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NEW SECTION. **Sec. 24.** A new section is added to 1997 c 235 to read as follows:

**FOR THE STATE CONSERVATION COMMISSION**

**Conservation Reserve Enhancement Program**

The appropriation in this section shall be expended solely for the conservation reserve enhancement program to provide grants to conservation districts to assist land owners to protect and restore riparian zones in areas with salmon stocks and a minimum of \$420,000 shall be allocated to an evolutionarily significant unit east of the Cascade mountain range and a minimum of \$420,000 to the tri-county water resource agency for projects and activities recommended by the Yakima river watershed council.

**Appropriation:**

<b>St Bldg Constr Acct--State \$</b>
--------------------------------------

	<b>4,500,000</b>
<b>Salmon Recovery</b>	
<b>Account--State \$</b>	<b>500,000</b>
	-----
Subtotal Appropriation \$	5,000,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
	-----
TOTAL \$	5,000,000

**Sec. 25.** 1997 c 235 s 344 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF FISH AND WILDLIFE**  
**Water access and development (96-2-027)**

**Reappropriation:**

<b>ORA--State \$</b>	<b>997,000</b>
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**Appropriation:**

<u><b>ORA--State \$</b></u>	<u><b>135,000</b></u>
Prior Biennia (Expenditures) \$	1,057,600
Future Biennia (Projected Costs) \$	0

TOTAL \$	----- ((2,954,600))
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2,189,600

**Sec. 26.** 1997 c 235 s 352 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

**Coast and Puget Sound wild salmonid habitat restoration (98-1-009)**

No less than twenty-five percent of that portion of the appropriation under this section that has not been obligated as of March 1, 1998, shall be expended on projects for the recovery of priority salmonid stocks.

**Reappropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b>1,428,770</b>
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**Appropriation:**

<b>General Fund--Federal \$</b>	<b>800,000</b>
<b>General Fund--Private/Local \$</b>	<b>800,000</b>
<b>St Bldg Constr Acct--State \$</b>	<b>3,500,000</b>

Subtotal Appropriation \$	-----
	5,100,000
Prior Biennia (Expenditures) \$	
	8,986,230
Future Biennia (Projected Costs) \$	
	22,400,000
	-----
TOTAL \$	
	37,915,000

NEW SECTION. Sec. 27. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

**Salmon restoration**

The appropriation in this section shall be expended as follows:

- (1) \$842,000 for the lower Columbia river evolutionarily significant unit.
- (2) Not more than \$1,039,000 for fish passage barrier projects on land owned or managed by the department of fish and wildlife.
- (3) At least \$2,079,000 for the department to establish a program of competitive grants to local governments and regional fisheries enhancement groups for fish passage barrier projects.
- (4) At least \$1,039,000 for fish passage barrier projects that the department has determined to be priority projects. The distribution of money for priority projects may be in the form of grants to local governments, regional fisheries enhancement groups, and other state agencies.
- (5) The projects selected for funding in subsections (2) through (4) of this section shall be based on a priority index developed by the department that yields the highest return of ecological benefit.

**Appropriation:**

<b>Salmon Recovery Account--State \$</b>	
	<b>5,000,000</b>
<b>St Bldg Constr Acct--State \$</b>	
	<b>750,000</b>
	-----
Subtotal Appropriation \$	
	5,750,000
Prior Biennia (Expenditures) \$	
	0
Future Biennia (Projected Costs) \$	
	0
	-----
TOTAL \$	
	5,750,000

NEW SECTION. Sec. 28. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

**Natural Resources real property replacement (99-2-001)**

**Appropriation:**

<b>Nat Res Prop Repl Acct--State \$</b>	
	<b>9,400,000</b>
Prior Biennia (Expenditures) \$	
	0
Future Biennia (Projected Costs) \$	



0

TOTAL \$

-----  
9,400,000

NEW SECTION. Sec. 29. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

**Land bank program to enhance trust land holdings (99-2-002)**

**Appropriation:**

**Resource Management Cost**

**Account--State \$**

**1,800,000**

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

0

TOTAL \$

-----  
1,800,000

NEW SECTION. Sec. 30. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Arlington Survey Boundary Dispute. To purchase land as part of the settlement agreement to resolve claims and litigation over a survey boundary dispute near the town of Arlington in Snohomish county.

**Appropriation:**

**For Dev Acct--State \$**

**2,600,000**

Prior Biennia (Expenditures) \$

0

Future Biennia (Projected Costs) \$

0

TOTAL \$

-----  
2,600,000

Sec. 31. 1997 c 235 s 393 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

**Jobs for the Environment (98-2-009)**

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

(1) The appropriations shall be used solely for the jobs for the environment program to achieve the following goals:

(a) Restore and protect watersheds to benefit anadromous fish stocks, consistent with the limitations of subsection (8) of this section, including critical or depressed stocks as determined by the department of fish and wildlife;

(b) Conduct watershed restoration and protection projects primarily on state lands in coordination with federal, local, tribal, and private sector efforts; and

(c) Create market wage jobs with benefits in environmental restoration for displaced workers in rural natural resource impact areas, as defined under RCW 43.31.601(2).

(2) Except as provided in subsection (5) of this section and consistent with the limitations of this section, the appropriations are solely for projects selected by the department of natural resources, in consultation with an interagency task force consisting of the department of fish and wildlife, other appropriate state agencies, tribal governments, local governments, the federal government, labor and other interested stakeholders. In recommending projects for funding the task force shall use the following criteria:

(a) The extent to which the project, using best available science, addresses habitat factors limiting fish and wildlife populations;

(b) The number, duration and quality of jobs to be created or retained by the project for displaced workers in natural resource impact areas;

(c) The extent to which the project will help avoid the listing of threatened or endangered species or provides for the recovery of species already listed;

(d) The extent to which the project will augment existing federal, state, tribal or local watershed planning efforts or completed watershed restoration and conservation plans;

(e) The cost effectiveness of the project;

(f) The availability of matching funds; and

(g) The demonstrated ability of the project sponsors to administer the project.

(3) Funds expended shall be used for specific projects and not for ongoing operational costs. Eligible projects include, but are not limited to, closure or improvement of forest roads, repair of culverts, cleanup of stream beds, removal of fish barriers, installation of fish screens, fencing of streams, and construction and planting of fish cover. Funds may also be expended for planning, design, engineering, and monitoring of eligible projects.

(4) The department of natural resources and the department of fish and wildlife, in consultation with the office of financial management and other appropriate agencies, shall report to the appropriate committees of the legislature by January 1, 1998, and January 1, 1999, on the results of expenditures from the appropriations.

(5) \$800,000 of the appropriations in this section is provided solely for watershed restoration programs to be completed by the department of ecology's Washington conservation corps crews.

(6) All projects funded under this section shall be consistent with any development regulations or comprehensive plans adopted under the growth management act for the project areas. No funds may be expended to acquire land through condemnation.

(7) Projects under contract as of June 1, 1997, shall be given first priority for funding under the appropriations in this section.

(8) No less than twenty-five percent of the remainder of the appropriations under this section that have not been obligated as of July 1, 1998, shall be expended on projects for the recovery of priority salmonid stocks.

**Appropriation:**

<b>For Dev Acct--State</b>	<b>\$</b>	<b>500,000</b>
<b>Resource Management Cost</b>		
<b>Account--State</b>	<b>\$</b>	<b>1,500,000</b>
<b>Water Quality Account--State</b>	<b>\$</b>	<b>7,133,000</b>
		-----
Subtotal Appropriation	\$	9,133,000
Prior Biennia (Expenditures)	\$	23,067,000
Future Biennia (Projected Costs)	\$	40,000,000
		-----
TOTAL	\$	72,200,000

NEW SECTION. Sec. 32. A new section is added to 1997 c 235 to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

**Distribution of excess funds from the forest development account:** For distribution of state forest land revenues to taxing authorities receiving such revenue during the calendar year 1993 through calendar year 1997

(1) Within fifteen days of the effective date of this act the department shall transmit funds in the amounts specified in subsection (3) of this section to the county treasurers of the counties receiving the funds.

(2) The county treasurer of the counties listed in this section shall distribute funds received from this appropriation to taxing authorities in proportion to the state forest transfer land funds distributed to the taxing authorities based on information available for the calendar

years 1993 through 1997. Funds to be credited to the state of Washington and funds credited to school district general levies shall be remitted to the state of Washington within thirty days after the effective date of this act for deposit into the salmon recovery account.

(3) Funds shall be distributed in the following amounts:

Clallam	\$	1,847,473
Clark	\$	508,782
Cowlitz	\$	433,013
Grays Harbor	\$	454,016
Jefferson	\$	222,289
King	\$	352,016
Kitsap	\$	174,374
Klickitat	\$	62,613
Lewis	\$	1,558,708
Mason	\$	258,289
Pacific	\$	385,900
Pierce	\$	135,405
Skagit	\$	1,606,164
Skamania	\$	258,247
Snohomish	\$	1,590,489
Stevens	\$	4,992
Thurston	\$	893,263
Wahkiakum	\$	411,273
Whatcom	\$	842,685

TOTAL \$ -----  
12,000,000

**Appropriation:**

<b>For Dev Acct--State</b>	<b>\$</b>	<b>12,000,000</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0

TOTAL \$	----- 12,000,000
 <b>Sec. 33.</b> 1997 c 235 s 506 (uncodified) is amended to read as follows:	
<b>FOR THE STATE SCHOOL FOR THE DEAF</b>	
<b>New cottages: Design and construction (98-2-001)</b>	
<b>Appropriation:</b>	
St Bldg Constr Acct--State \$	((4,606,600))
	<u>4,786,600</u>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
	-----
TOTAL \$	((4,606,600))
	<u>4,786,600</u>
 <b>Sec. 34.</b> 1997 c 235 s 510 (uncodified) is amended to read as follows:	
<b>FOR THE UNIVERSITY OF WASHINGTON</b>	
<b>Old Physics Hall (Mary Gates Hall): Design and construction (92-2-008)</b>	
The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.	
<b>Reappropriation:</b>	
St Bldg Constr Acct--State \$	((30,028,248))
	<u>31,328,248</u>
UW Bldg Acct--State \$	305,891
	-----
Subtotal Reappropriation \$	((30,334,139))
	<u>31,634,139</u>
Prior Biennia (Expenditures) \$	4,772,861
Future Biennia (Projected Costs) \$	0
	-----
TOTAL \$	((35,107,000))
	<u>36,407,000</u>

**Sec. 35.** 1997 c 235 s 523 (uncodified) is amended to read as follows:  
**FOR THE UNIVERSITY OF WASHINGTON**

**Health Sciences Center BB Tower Elevators--Design and construction:** To design and construct the addition of one elevator and upgrading of the existing elevators in the health sciences center BB-wing and tower **(96-1-007)**

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

**Reappropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>((4,961,992))</b>
		<b><u>561,992</u></b>
<b>UW Bldg Acct--State</b>	<b>\$</b>	<b>208,546</b>
		-----
Subtotal Reappropriation	\$	((5,170,538))
		<u>770,538</u>
Prior Biennia (Expenditures)	\$	22,061
Future Biennia (Projected Costs)	\$	0
		-----
TOTAL	\$	((5,192,599))
		<u>792,599</u>

**Sec. 36.** 1997 c 235 s 525 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Hogness/Health Sciences Center lobby: Americans with Disabilities Act improvements (96-1-022)**

**Reappropriation:**

<b>St Bldg Constr Acct--State</b>	<b>\$</b>	<b>((1,253,070))</b>
		<b><u>1,353,070</u></b>
Prior Biennia (Expenditures)	\$	46,930
Future Biennia (Projected Costs)	\$	0
		-----
TOTAL	\$	((1,300,000))
		<u>1,400,000</u>

**Sec. 37.** 1997 c 235 s 526 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Fisheries Science-Oceanography Science Building: Construction (96-2-006)**

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

- (1) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

(2) The department of general administration is directed, in keeping with section 152 of this act, to sell the Wellington Hills property as a means of partially offsetting the cost of this project with the proceeds of such sale being deposited into the state building and construction account.

**Reappropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b>3,449,850</b>
<b>UW Bldg Acct--State \$</b>	<b>1,548,150</b>
	-----
Subtotal Reappropriation \$	4,998,000

**Appropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b><del>((33,590,000))</del></b>
	<b><u>36,090,000</u></b>
<b>H Ed Constr Acct--State \$</b>	<b>32,507,000</b>
<b>UW Bldg Acct--State \$</b>	<b>2,834,154</b>
	-----
Subtotal Appropriation \$	<b><del>((68,931,154))</del></b>
	<b><u>71,431,154</u></b>
Prior Biennia (Expenditures) \$	3,865,597
Future Biennia (Projected Costs) \$	0
	-----
TOTAL \$	<b><del>((77,794,751))</del></b>
	<b><u>80,294,751</u></b>

**Sec. 38.** 1997 c 235 s 527 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Social Work third floor addition--Design and construction:** To design and construct a 12,000 gross square foot partial third floor addition to the Social Work and Speech and Hearing Sciences Building (96-2-010)

**Reappropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b><del>((2,708,800))</del></b>
	<b><u>3,208,800</u></b>
<b>UW Bldg Acct--State \$</b>	<b>126,400</b>
	-----

Subtotal Reappropriation \$ ((2,835,200))

Prior Biennia (Expenditures) \$ 3,335,200

Future Biennia (Projected Costs) \$ 80,400

0

TOTAL \$ ((2,915,600))

3,415,600

NEW SECTION. Sec. 39. A new section is added to 1997 c 235 to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Kincaid Fire Damage (99-1-001)**

**Appropriation:**

St Bldg Constr Acct--State \$ 1,424,000

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 1,424,000

NEW SECTION. Sec. 40. A new section is added to 1997 c 235 to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Nuclear reactor: Decommissioning (99-2-009)**

**Appropriation:**

St Bldg Constr Acct--State \$ 1,200,000

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 1,200,000

**Sec. 41.** 1997 c 235 s 542 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

**Veterinary Teaching Hospital--Construction:** To construct, equip, and furnish a new teaching hospital for the department of veterinary medicine and surgery (92-2-013)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

**Reappropriation:**

St Bldg Constr Acct--State \$ 77,884

H ED Constr Acct--State \$ 239,098

Subtotal Reappropriation \$ 316,982

**Appropriation:**

**St Bldg Constr Acct--State \$ 3,000,000**

**WSU Bldg Acct--State \$ 500,000**

Subtotal Appropriation \$ 3,500,000

Prior Biennia (Expenditures) \$ 33,628,518

Future Biennia (Projected Costs) \$ 0

TOTAL \$ ((33,945,500))

37,445,500

Sec. 42. 1997 c 235 s 566 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

**Intercollegiate Center for Nursing Education: Telecommunications (96-2-915)**

**Reappropriation:**

~~(St Bldg Constr Acct--State)~~  
WSU Bldg Acct--State \$ 524,386

Prior Biennia (Expenditures) \$ 975,614

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 1,500,000

Sec. 43. 1997 c 235 s 567 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

**Minor works: Preservation (98-1-004)**

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

The appropriation shall support the detailed list of projects maintained by the office of financial management.

**Appropriation:**

WSU Bldg Acct--State \$ ((5,553,000))



Prior Biennia (Expenditures) \$	<u>5,053,000</u>
Future Biennia (Projected Costs) \$	0
	24,000,000
	-----
TOTAL \$	((29,553,000))
	<u>29,053,000</u>

Sec. 44, 1997 c 235 s 579 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

**Washington State University Vancouver: Phase II (98-2-911)**

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

- (1) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board.
- (2) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.
- (3) The engineering and multimedia buildings to be designed under this appropriation shall serve at least 950 additional student full-time equivalents. Funding is also provided to construct campus infrastructure and physical plant shops.
- (4) \$1,000,000 of the appropriation in this section is provided solely to reserve or acquire transportation capacity and traffic impact fee credits associated with the development of the Vancouver branch campus.

**Appropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b>13,500,000</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	123,000,000
	-----
TOTAL \$	136,500,000

Sec. 45, 1997 c 235 s 594 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

**Minor works: Program (98-2-001)**

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

- (1) The appropriation shall support the detailed list of projects maintained by the office of financial management.
- (2) Up to \$30,000 may be used for design of a residence for the president of the university.

**Appropriation:**

<b>St Bldg Constr Acct--State \$</b>	<b>((500,000))</b>
	<u>530,000</u>
<b>EWU Cap Proj Acct--State \$</b>	<b>1,200,000</b>
	-----
Subtotal Appropriation \$	((1,700,000))

Prior Biennia (Expenditures) \$	<u>1,730,000</u>
Future Biennia (Projected Costs) \$	0
	10,018,000
	-----
TOTAL \$	((11,718,000))
	<u>11,748,000</u>

Sec. 46. 1997 c 235 s 606 (uncodified) is amended to read as follows:  
**FOR CENTRAL WASHINGTON UNIVERSITY**  
 ((~~Boiler Plant Expansion~~) Heating system improvements (98-1-030))  
**Appropriation:**

St Bldg Constr Acct--State \$	<b>1,450,000</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
	-----
TOTAL \$	1,450,000

Sec. 47. 1997 c 235 s 611 (uncodified) is amended to read as follows:  
**FOR CENTRAL WASHINGTON UNIVERSITY**  
 SeaTac Center Building: ((~~Renovation~~) Facility improvements (98-2-010))  
**Appropriation:**

St Bldg Constr Acct--State \$	<b>662,500</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
	-----
TOTAL \$	662,500

Sec. 48. 1997 c 235 s 612 (uncodified) is amended to read as follows:  
**FOR CENTRAL WASHINGTON UNIVERSITY**  
 Lynnwood Extended Degree Center: Facility design (98-2-080)  
**Appropriation:**

<del>(St Bldg Constr Acct--State)</del>	
CWU Cap Proj Acct--State \$	<b>1,000,000</b>
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0

TOTAL \$	-----
	1,000,000
<b>Sec. 49.</b> 1997 c 235 s 659 (uncodified) is amended to read as follows:	
<b>FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES</b>	
<b>Asbestos abatement (96-1-002)</b>	
<b>Reappropriation:</b>	
St Bldg Constr Acct--State \$	484,317
<b><u>Appropriation:</u></b>	
<u>St Bldg Constr Acct--State \$</u>	<u>700,000</u>
Prior Biennia (Expenditures) \$	1,142,040
Future Biennia (Projected Costs) \$	0
TOTAL \$	-----
	((1,626,357))
	<u>2,326,357</u>
<b><u>NEW SECTION.</u> Sec. 50.</b> A new section is added to 1997 c 235 to read as follows:	
<b>FOR THE STATE BOARD OF COMMUNITY AND TECHNICAL COLLEGES</b>	
<b>Lower Columbia College: Library heating system (99-1-003)</b>	
<b>Appropriation:</b>	
St Bldg Constr Acct--State \$	512,000
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	0
TOTAL \$	-----
	512,000
<b>Sec. 51.</b> 1997 c 235 s 661 (uncodified) is amended to read as follows:	
<b>FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES</b>	
<b><u>For roof repairs at various colleges in the system and for stabilization of Corbet Hall at Centralia Community College and development of alternatives for the replacement of Corbet Hall (96-1-010)</u></b>	
<b>Reappropriation:</b>	
St Bldg Constr Acct--State \$	1,824,529
Prior Biennia (Expenditures) \$	3,581,471
Future Biennia (Projected Costs) \$	0
TOTAL \$	-----
	5,406,000

Sec. 52, 1997 c 235 s 681 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

**For roof repairs at various colleges in the system and for stabilization of Corbet Hall at Centralia Community College and development of alternatives for the replacement of Corbet Hall (98-1-010)**

**Appropriation:**

St Bldg Constr Acct--State \$	11,580,400
Prior Biennia (Expenditures) \$	0
Future Biennia (Projected Costs) \$	41,000,000
	-----
TOTAL \$	52,580,400

Sec. 53, 1997 c 235 s 702 (uncodified) is amended to read as follows:

ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS. The following agencies may enter into financial contracts, paid for from operating revenues, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. The director of general administration shall ensure that the clustering of state facilities and the collocation and consolidation of state agencies take place where such configurations are economical and consistent with agency space needs. Agencies shall assist the department of general administration with facility collocation and consolidation efforts.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

(1) Department of general administration:

(a) Enter into a financing contract in the amount of \$8,804,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to purchase an existing office building and associated land in Yakima for use by the department of social and health services.

~~(b) ((Enter into a financing contract on behalf of the joint center for higher education for \$8,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to purchase and make modifications to the Riverpoint One Building adjacent to the Riverpoint Campus. A financial plan identifying all costs related to this project, and the sources and amounts of all payments to cover these costs and a copy of the appraisal and engineering assessment shall be submitted for approval to both the office of financial management and the higher education coordinating board for approval before execution of any contract.~~

~~Copies of the financial plan shall also be submitted to the senate ways and means committee and the house of representatives capital budget committee.)~~ Enter into a financing contract in the amount of \$2,874,100 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to purchase and renovate the old federal building and associated land in Olympia for use by the secretary of state.

(c) Enter into a financing contract in the amount of \$6,990,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to buy out the lease and make improvements to the old Thurston county courthouse for use by the office of attorney general. The department of general administration shall advise and assist the office of attorney general on space and functional planning to improve the efficient use of the facility.

(2) Liquor control board:

Enter into a long-term lease for a headquarters office in Thurston County for approximately 46,000 square feet.

(3) Department of corrections:

(a) Enter into a long-term ground lease for 17 acres in the Tacoma tide flats property from the Puyallup Nation for development of the 400-bed Tacoma prerelease facility for approximately \$360,000 per annum. Prior to entering into the lease, the department shall obtain written confirmation from the city of Tacoma and Pierce county that the prerelease facility planned for the site meets all land use, environmental protection, and community notification requirements that would apply to the facility if the land was not owned by the Puyallup nation.

(b) Enter into a financing contract on behalf of the department of corrections in the amount of \$14,736,900 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a 400-bed Tacoma prerelease facility. The department of corrections shall comply with all land use, environmental protection, and community notification statutes, regulations, and ordinances in the construction and operation of this facility.

(c) Lease-develop with the option to purchase or lease-purchase approximately 100 work release beds in facilities throughout the state for \$5,000,000.

(d) Enter into a financing contract on behalf of the department of corrections in the amount of \$396,369 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a dairy barn at the Monroe farm.

(e) Enter into a financing contract on behalf of the department of corrections in the amount of \$2,100,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase or construct a correctional industries transportation services warehouse.

(4) Community and technical colleges:

(a) Enter into a financing contract on behalf of Whatcom Community College in the amount of \$800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a childcare center costing \$2,410,000. The balance of project cost will be a combination of local capital funds and nonstate funds provided through private gifts or contributions.

(b) Enter into a financing contract on behalf of Pierce College in the amount of \$750,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a new classroom building on the Lakewood campus costing \$1,816,665. The balance of project cost will be provided through a combination of local capital funds and existing minor works appropriation to replace relocatable classrooms that are at the end of their useful lives.

(c) Enter into a financing contract in behalf of Bellingham Technical College in the amount of \$350,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for construction of a new classroom addition to the diesel/heavy equipment instructional shop costing \$411,309.

(d) Enter into a financing contract on behalf of Green River Community College in the amount of \$1,526,150 plus financing expenses and reserves pursuant to chapter 39.94 RCW for remodel of the Lindbloom student center building.

(e) Enter into a financing contract on behalf of Edmonds Community College in the amount of \$2,787,950 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to ~~((purchase and make improvements to several buildings and property contiguous to the college campus))~~ develop a 10,000 square foot music building on the college campus.

(f) Enter into a financing contract on behalf of Highline Community College in the amount of \$2,070,613 plus financing and required reserves pursuant to chapter 39.94 RCW for the purchase of the Federal Way Center, currently being leased by the college.

(g) Enter into a financial contract on behalf of Green River Community College in the amount of \$100,000 plus financing and required reserves pursuant to chapter 39.94 RCW to purchase approximately 1.5 acres of land adjacent to the westside parking lot.

(h) Enter into a financial contract on behalf of South Puget Sound Community College in the amount of \$619,210 plus financing and required reserves pursuant to chapter 39.94 RCW to expand and redevelop the main campus parking lot A.

(i) Enter into a financial contract on behalf of South Puget Sound Community College in the amount of \$5,500,000 plus financing and required reserves pursuant to chapter 39.94 RCW to develop a \$6,500,000 student union facility.

(j) Enter into a financial contract on behalf of Wenatchee Valley College in the amount of \$500,000 plus financing and required reserves pursuant to chapter 39.94 RCW to purchase two buildings and property contiguous to the college campus.

(5) State parks and recreation:

Enter into a financing contract on behalf of state parks and recreation in the amount of \$2,012,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to construct cabin and lodge facilities at Cama Beach, develop new campsite electrical hookups, develop new recreational facilities, and expand campsites at Ocean Beach/Grayland. It is the intent of the legislature that debt service on all projects financed under this authority be paid from operating revenues.

(6) ~~((Central Washington University:~~

~~Enter into a financing contract for \$3,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase and improve the Sno King Building for the Lynnwood Extended Degree Center. A financial plan identifying all costs related to this project, and the sources and amounts of all payments to cover these costs and a copy of the building appraisal and engineering assessment shall be submitted for approval to the office of financial management before execution of any contract. Copies of the financial plan shall also be submitted to the senate ways and means committee and the house of representatives capital budget committee.~~

~~(7))~~ Washington state patrol:

Enter into a financing contract for \$600,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase the Washington state patrol Port Angeles detachment office.

NEW SECTION. Sec. 54. A new section is added to 1997 c 235 to read as follows:

The office of financial management will convene a working group of state agencies, higher education institutions, the office of the attorney general, and representatives of the design profession and construction industry to develop a strategy to manage the risks and reduce the potential for claims and litigation associated with state construction projects. This strategy shall include the enumeration of best practices for the management of project risk and conflicts, in order to minimize future expenses related to construction claims. A report on the findings and recommendations of this working group will be presented to the house of representatives capital budget committee and senate ways and means committee by October 31, 1998.

Sec. 55. RCW 76.12.110 and 1988 c 128 s 31 are each amended to read as follows:

There is created a forest development account in the state treasury. The state treasurer shall keep an account of all sums deposited therein and expended or withdrawn therefrom. Any sums placed in the account shall be pledged for the purpose of paying interest and principal on the bonds issued by the department, and for the purchase of land for growing timber. Any bonds issued shall constitute a first and prior claim and lien against the account for the payment of principal and interest. No sums for the above purposes shall be withdrawn or paid out of the account except upon approval of the department.

Appropriations may be made by the legislature from the forest development account to the department for the purpose of carrying on the activities of the department on state forest lands, lands managed on a sustained yield basis as provided for in RCW 79.68.040, and for reimbursement of expenditures that have been made or may be made from the resource management cost account in the management of state forest lands. For the 1997-99 fiscal biennium, moneys from the account shall be distributed as directed in the omnibus appropriations act to the beneficiaries of the revenues derived from state forest lands. Funds that accrue to the state from such a distribution shall be deposited into the salmon recovery account, hereby created in the state treasury. Funds appropriated from the salmon recovery account shall be used for efforts to restore endangered anadromous fish stocks.

**NEW SECTION. Sec. 56.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "budget;" strike the remainder of the title and insert "amending RCW 76.12.110; amending 1997 c 235 ss 152, 219, 241, 245, 247, 249, 301, 302, 305, 329, 344, 352, 393, 506, 510, 523, 525, 526, 527, 542, 566, 567, 579, 594, 606, 611, 612, 659, 661, 681, and 702 (uncodified); adding new sections to 1997 c 235; making appropriations and authorizing expenditures for capital improvements; and declaring an emergency.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Strannigan, Fraser, Rossi; Representatives Sehlin, Ogden, Honeyford.

#### MOTION

Senator Strannigan moved that the Report of the Conference Committee on Substitute Senate Bill No. 6455 be adopted. Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Substitute Senate Bill No. 6455.

The motion by Senator Strannigan carried and the Report of the Conference Committee on Substitute Senate Bill No. 6455 was adopted.

#### MOTIONS

On motion of Senator Hale, Senators Long, Prince and Schow were excused.

On motion of Senator Franklin, Senators Thibaudeau and Wojahn were excused.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6455, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6455, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 2; Absent, 1; Excused, 5.

Voting yea: Senators Anderson, Bauer, Benton, Deccio, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 41. Voting nay: Senators Fairley and Kline - 2. Absent: Senator Roach - 1. Excused: Senators Brown, Prince, Schow, Thibaudeau and Wojahn - 5. SUBSTITUTE SENATE BILL NO. 6455, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SECOND SUBSTITUTE SENATE BILL NO. 6168 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

**REPORT OF CONFERENCE COMMITTEE**

**2SSB 6168**

**March 10, 1998**

Includes "NEW ITEM": YES

Developing housing for temporary workers

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SECOND SUBSTITUTE SENATE BILL NO. 6168, developing housing for temporary workers, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 19.27 RCW to read as follows:

(1) Temporary worker housing shall be constructed, altered, or repaired as provided in chapter 70.114A RCW and chapter . . . , Laws of 1998 (this act). The construction, alteration, or repair of temporary worker housing is not subject to the codes adopted under RCW 19.27.031, except as provided by rule adopted under chapter 70.114A RCW or chapter . . . , Laws of 1998 (this act).

(2) For the purpose of this section, "temporary worker housing" has the same meaning as provided in RCW 70.114A.020.

(3) This section is applicable to temporary worker housing as of the date of the final adoption of the temporary worker building code by the department of health under section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 70.114A RCW to read as follows:

(1) The department shall adopt by rule a temporary worker building code in conformance with the temporary worker housing standards developed under the Washington industrial safety and health act, chapter 49.17 RCW, the rules adopted by the state board of health under RCW 70.54.110, and the following guidelines:

(a) The temporary worker building code shall provide construction standards for shelter and associated facilities that are safe, secure, and capable of withstanding the stresses and loads associated with their designated use, and to which they are likely to be subjected by the elements;

(b) The temporary worker building code shall permit and facilitate designs and formats that allow for maximum affordability, consistent with the provision of decent, safe, and sanitary housing;

(c) In developing the temporary worker building code the department of health shall consider:

(i) The need for dormitory type housing for groups of unrelated individuals; and

(ii) The need for housing to accommodate families;

(d) The temporary worker building code shall incorporate the opportunity for the use of construction alternatives and the use of new technologies that meet the performance standards required by law;

(e) The temporary worker building code shall include standards for heating and insulation appropriate to the type of structure and length and season of occupancy;

(f) The temporary worker building code shall include standards for temporary worker housing that are to be used only during periods when no auxiliary heat is required; and

(g) The temporary worker building code shall provide that persons operating temporary worker housing consisting of four or fewer dwelling units or combinations of dwelling units, dormitories, or spaces that house nine or fewer occupants may elect to comply with the provisions of the temporary worker building code, and that unless the election is made, such housing is subject to the codes adopted under RCW 19.27.031.

(2) In adopting the temporary worker building code, the department shall make exceptions to the codes listed in RCW 19.27.031 and chapter 19.27A RCW, in keeping with the guidelines set forth in this section. The initial temporary worker building code adopted by the department shall be substantially equivalent with the temporary worker building code developed by the state building code council as directed by section 8, chapter 220, Laws of 1995.

(3) The temporary worker building code authorized and required by this section shall be enforced by the department.

The department shall have the authority to allow minor variations from the temporary worker building code that do not compromise the health or safety of workers. Procedures for requesting variations and guidelines for granting such requests shall be included in the rules adopted under this section.

NEW SECTION. Sec. 3. A new section is added to chapter 49.17 RCW to read as follows:

By December 1, 1998, the department of labor and industries shall adopt rules requiring electricity in all temporary worker housing and establishing minimum requirements to ensure the safe storage, handling, and preparation of food in these camps, regardless of whether individual or common cooking facilities are in use.

**Sec. 4.** RCW 43.22.480 and 1995 c 289 s 2 are each amended to read as follows:

(1) The department shall adopt and enforce rules that protect the health, safety, and property of the people of this state by assuring that all factory built housing or factory built commercial structures are structurally sound and that the plumbing, heating, electrical, and other components thereof are reasonably safe. The rules shall be reasonably consistent with recognized and accepted principles of safety and structural soundness, and in adopting the rules the department shall consider, so far as practicable, the standards and specifications contained in the uniform building, plumbing, and mechanical codes, including the barrier free code and the Washington energy code as adopted by the state building code council pursuant to chapter 19.27A RCW, and the national electrical code, including the state rules as adopted pursuant to chapter 19.28 RCW and published by the national fire protection association or, when applicable, the temporary worker building code adopted under section 2 of this act.

(2) The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of RCW 43.22.450 through 43.22.490.

(3) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.70 RCW to read as follows:

(1) Any person providing temporary worker housing consisting of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants, or any person providing temporary worker housing who makes the election to comply with the temporary worker building code under section 2(1)(g) of this act, shall secure an annual operating license prior to occupancy and shall pay a fee according to RCW 43.70.340. The license shall be conspicuously displayed on site.

(2) Licenses issued under this chapter may be suspended or revoked upon the failure or refusal of the person providing temporary worker housing to comply with the provisions of RCW 70.54.110, or of any rules adopted under this section by the department. All such proceedings shall be governed by the provisions of chapter 34.05 RCW.

(3) The department may assess a civil fine in accordance with RCW 43.70.095 for failure or refusal to obtain a license prior to occupancy of temporary worker housing. The department may refund all or part of the civil fine collected once the operator obtains a valid operating license.

(4) Civil fines under this section shall not exceed twice the cost of the license plus the cost of the initial on-site inspection for the first violation of this section, and shall not exceed ten times the cost of the license plus the cost of the initial on-site inspection for second and subsequent violations within any five-year period. The department may adopt rules as necessary to assure compliance with this section.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.70 RCW to read as follows:

(1) Any person who constructs, alters, or makes an addition to temporary worker housing consisting of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants, or any person who constructs, alters, or makes an addition to temporary worker housing who elects to comply with the temporary worker building code under section 2(1)(g) of this act, shall:

(a) Submit plans and specifications for the alteration, addition, or new construction of this housing prior to beginning any alteration, addition, or new construction on this housing;

(b) Apply for and obtain a temporary worker housing building permit from the department prior to construction or alteration of this housing; and

(c) Submit a plan review and permit fee to the department of health pursuant to RCW 43.70.340.

(2) The department shall adopt rules as necessary, for the application procedures for the temporary worker housing plan review and permit process.

(3) Any alteration of a manufactured structure to be used for temporary worker housing remains subject to chapter 43.22 RCW, and the rules adopted under chapter 43.22 RCW.

**Sec. 7.** RCW 43.70.340 and 1990 c 253 s 3 are each amended to read as follows:

(1) The ~~((farmworker housing inspection))~~ temporary worker housing fund is established in the custody of the state treasury. The department ~~((of health))~~ shall deposit all funds received under subsections ~~(2) and (3)~~ of this section and from the legislature to administer a ~~((labor camp))~~ temporary worker housing permitting, licensing, and inspection program conducted by the department ~~((of health))~~. Disbursement from the fund shall be on authorization of the secretary of health or the secretary's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

(2) There is imposed a fee on each operating license issued by the department ~~((of health))~~ to every operator of ~~((a labor camp))~~ temporary worker housing that is regulated by the state board of health. ~~((The fee paid under this subsection shall include all necessary inspection of the units to ensure compliance with))~~ In establishing the fee to be paid under this subsection the department shall consider the cost of administering a license as well as enforcing applicable state board of health rules on ~~((labor camps.~~

~~(a) Fifty dollars shall be charged for each labor camp containing six or less units.~~



~~(b) Seventy five dollars shall be charged for each labor camp containing more than six units))~~ temporary worker housing.

(3) There is imposed a fee on each temporary worker housing building permit issued by the department to every operator of temporary worker housing as required by section 6 of this act. The fee shall include the cost of administering a permit as well as enforcing the department's temporary worker building code as adopted under section 2 of this act.

(4) The department shall conduct a fee study for:

(a) A temporary worker housing operator's license;

(b) On-site inspections; and

(c) A plan review and building permit for new construction.

After completion of the study, the department shall adopt these fees by rule by no later than December 31, 1998.

(5) The term of the operating license and the application procedures shall be established, by rule, by the department ((of health)).

NEW SECTION. Sec. 8. A new section is added to chapter 43.330 RCW to read as follows:

(1) The department shall work with the advisory group established in subsection (2) of this section to review proposals and make prioritized funding recommendations to the department or funding approval board that oversees the distribution of housing trust fund grants and loans to be used for the development, maintenance, and operation of housing for low-income farmworkers.

(2) A farmworker housing advisory group representing growers, farmworkers, and other interested parties shall be formed to assist the department in the review and priority funding recommendations under this section.

NEW SECTION. Sec. 9. RCW 70.114A.080 and 1995 c 220 s 8 are each repealed."

On page 1, line 2 of the title, after "workers;" strike the remainder of the title and insert "amending RCW 43.22.480 and 43.70.340; adding a new section to chapter 19.27 RCW; adding a new section to chapter 70.114A RCW; adding a new section to chapter 49.17 RCW; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.330 RCW; and repealing RCW 70.114A.080.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Morton, Prentice, Deccio; Representatives Van Luven and Clements.

#### MOTION

On motion of Senator Fairley, the remarks on the final passage of Second Substitute Senate Bill No. 6168 will be spread upon the Journal.

#### MOTION

Senator Morton: "Thank you, Mr. President, I move the adoption of the Conference Committee Report on Second Substitute Senate Bill No. 6168."

#### REMARKS BY SENATOR PRENTICE

Senator Prentice: "Thank you, Mr. President. We've heard this bill before; we know this bill well. It is now time to act. We owe it to the real workers--to pass this bill. We can't afford to let working people down. It's time to continue the work we started in the 1995 Legislature, which was signed by Governor Lowry. This is an issue of our state morality, not only is the safety and the welfare of workers the issue, this has to do with the conscience of our state and our commitment to worker health and safety. It is time to start work on housing or continue to sit in our comfortable homes wrangling forever.

"Do we need to do more? Of course, there is plenty to be done out there. This is only the beginning. Is this the final answer; is this the total answer to the housing problem? We never said it was; we never pretended it was. Of course, it is not. I welcome any legislative efforts in this area. The Legislature has never had the will to do this before--we acted in 1995. We need to ask, why not? This was the question that Senator Deccio and I asked. That is what has brought us to this point. Wishful thinking doesn't build housing. It has to be done carefully in a realistic, sensible way. There has to be a plan to use any funding in a way that fits community needs.

"I am not here to criticize the efforts of others, because there haven't been any. This is my tenth session and no bill has made it out of committee prior to our recent efforts. I challenge the opponents of this bill to work on this issue. Listen to the real workers, analyze what the needs are and come forth with a sensible proposal that can pass the Legislature. Remember, you must count your votes--lesson number one. I'll leave all future efforts up to them. Let's see what they can do. Please vote 'yes.'"

#### REMARKS BY SENATOR DECCIO

Senator Deccio: "Thank you, Mr. President. Senator Prentice, I was really proud to be your cosponsor on the 1995 bill. I just want to say one thing. We talk about the homeless and the unemployed, but what we are talking about here are people

who work who are homeless. Most of them live in the Yakima Valley. Even though you may have some misgivings about the bill and who is for it and who is against it, just remember, when we go home to our comfortable homes and beds, remember there are people--little kids--who are going to be sleeping on the ditch banks or in the back of cars. This bill will enable farmers to build housing on their own farms to house their workers. That is what this is all about. You really should vote 'yes.' Thank you."

#### POINT OF INQUIRY

Senator Franklin: "Thank you, Mr. President, I would like to ask the prime sponsor a question if she will answer. Senator Prentice, there has been a lot of discussion within the past few hours in regards to this particular bill. One which evolves around the use of funds--one in which it says, 'It will not do the job that it is supposed to do.' Can you comment on that?"

Senator Prentice: "I certainly can and I would be very happy to. Remember that there is only two million here. Two million is not going to go very far and it is going to continue programs that we have had for community-based housing under the old building code. It is true that there were not the funds that some of the opponents of this bill now asked for, but let me tell you, they never worked that issue. I asked, 'Did you talk to Senator West, have you gone to Representative Huff, and the answer was 'no.' They expected others to do it. Any money that is there has been because we have scratched and fought and clawed for what is there. But, we also have to have a plan. We have to know what it is we are going to be doing with any steady stream of funds that comes and there is no plan. We need to involve local communities to see what their needs are. Pasco is not the Okanogan, it is not the Skagit, it is not Forks and it is not the Yakima Valley, so we have to take the same pain-staking approach. Whoever works on this bill in the future has got to do that in order to have the money to go to housing."

Senator Franklin: "Thank you, Mr. President, just one quick follow up, am I allowed that?"

#### REPLY BY THE PRESIDENT

President Owen: "It is your time, Senator."

Senator Franklin: "Thank you. Senator Prentice, then you are committing that we will continue to work on the housing issue in order to--with the plan--with working--to answer the ends, because this is just a beginning?"

Senator Prentice: "I think that is really a good question. I am telling you now, I don't have to be the big IT. There are a whole lot of people who are so sympathetic that is what I have been hearing, that they are very sympathetic and I have said, 'Let's hear from those folks, let's see what they have to offer, let's see if they have anything that is realistic, let's see if they know how to work bills, let's see if they know how to develop a plan, let's see if they know how to include communities.' It is very easy to go out there and criticize and take pot shots at the effort--bipartisan efforts-- that have gone out for many years. We have gone out there and seen what the real situation is. There must be something more done and it is time the people--the very vocal critics of this legislation--got busy and did something constructive."

#### REMARKS BY SENATOR RASMUSSEN

Senator Rasmussen: "Thank you, Mr. President. and members of the Senate. What this bill does is something very wonderful--very wonderful not only for the farmers, but most importantly for those who work for them. Remember, this is temporary; this is for someone who is coming to pick cherries for two weeks out of the year. Most of the time it is during the summer. Maybe they are going to cut asparagus, maybe they are going to move with the apple crop and they are only going to be there just during a few weeks or so out of the summer months or during that harvest season. This relaxes the code for housing on the farmer's land. We cannot give money to build on someone else's land--on private land. So, what we are doing here is saying, 'Let the farmer provide all the necessary sanitation, health needs that his workers want--a place to put their stuff, a place to be able to wash and shower and do their laundry, a place to cook temporarily.' If we were doing something permanently, then we would have to move the permanent people out when the temporary people came in.

"This bill makes a lot of sense and I have to commend both Senator Prentice and Senator Deccio for the hard work. Senator Prentice really went out and 'walked the talk.' Very often we have bills that fly through here and different people sponsor them and they know about their bill, but no one has really walked over, walked on the farmlands, met the farmers, met the workers, like Senator Prentice has. Over the years, she has really 'walked the talk.' I think this a real tribute to Senator Prentice, because she really cares and she saw both sides of the issue. She knew what this bill was all about. Yes, this is a beginning, but it's a magnificent beginning for all involved, so I hope you all support it. Thank you."

#### REMARKS BY SENATOR KOHL

Senator Kohl: "Thank you, Mr. President, and members of the Senate. This has really been very agonizing for me. I truly commend Senator Prentice and Senator Deccio for all their efforts. I cannot help but think back to when I was teaching Sociology classes twenty years ago and showing my students, Edward R. Murrow's classic film, Harvest of Shame, that was produced in 1960, as I recall. Then he updated it with another film in 1970 and unfortunately what was brought out in those two films is still applicable today--today, almost thirty years ago after that original documentary.

"The plight of farm workers who do so much for our society--for our state--is just deplorable. This bill does start something that is needed. I will pledge to do everything I can with the budget writers for our next biennial budget, with the Governor's office, to make sure that there is adequate funding for temporary housing that needs codes, but also for permanent housing. We need to put more money into both. I will vote for this bill. I commend the makers of the bill. My heart goes out to all the people who are working and are affected by not having sufficient housing. We need to do a tremendous amount more and I think that it is a real travesty that our budget does not reflect this priority adequately."

MOTION

Senator Johnson: "Mr. President, I move the previous question."

REMARKS BY THE PRESIDENT

President Owen: "Senator Johnson has moved the previous question."

MOTION

Senator Johnson: "Mr. President, I'll withdraw the motion."

REMARKS BY SENATOR KLINE

Senator Kline: "Thank you, Mr. President. I want to publicly commend Senators Prentice and Deccio for the work they have done on this. It is one thing for us Senators to get up and holler about issues that we feel strongly about. It is another managed construction of legislation-- complex legislation--to bring opposite interests to the table, to give them each an opportunity to be heard, to protest, to say what it is they really want and these two colleagues of ours have done that and they are to be commended. This is going to be a hard vote for me, because there are some people in my district who feel strongly that the financial part of this bill is not enough. In answer, I can only echo what Senators Prentice and Deccio and others have said and that is this is a first step. This is not at all going to be the only step. We are starting something here, which if we did not start would probably never happen at all--to no one's satisfaction.

"It is interesting to note that in the Eastern Washington farm community, there are really two groups of farm workers-- very generally speaking. Those who have some shelter who have some place to live, who are permanent residents of Washington State. I understand, varying estimates of up to seventy percent, fifty percent, and those who come who are migrant workers in the true sense of the word, who are here only for the agricultural seasons. I have heard varying estimates of thirty percent or fifty percent. The standard, the code that is, that this bill allows to occur is for shelter for the migrant workers--for those who are, in Senator Deccio's words, sleeping on ditch banks, and sleeping under the trees, digging latrines in the fields, cooking over an open fire or a gas stove. This is shelter and electricity and refrigeration and water for those people.

"We need two million dollars or some further amount, and in future years, further and further amounts for housing for people who already have inadequate housing, but housing. Let's do political triage. Let's take care of those whose needs are the greatest. I urge a 'yes' vote on this bill. Thank you."

REMARKS BY SENATOR MORTON

Senator Morton: "Thank you Mr. President and ladies and gentlemen of the Senate. I want to also thank Senator Prentice for this particular bill and her tenacity, but more than that in her nursing sensitivity from her profession as a nurse and actually having on site personal visitations and talks with these people. But, I want to remind you of something else. I am a migrant worker. I migrate here and I live in my little trailer, along with my wife and I am a migrant worker. I migrated here and I slept in your parking lot out here the first part of December and I had thirty-two square feet of floor space that I lived in very comfortably. So, we are not dealing just here with migrant workers also out there to harvest our agricultural products, but others. I share that with you, as many of you are also migratory workers. I ask you to vote for this, because it is also an aspect in the harvesting of the food that we eat and how much we are blessed with the agricultural products that are produced that we are

able to harvest and have those people come, year after year, back to the same producer to be a part of the harvest process and the economy of this state. We need this bill and I ask for your 'yes' vote."

#### REMARKS BY SENATOR SELLAR

Senator Sellar: "Thank you, Mr. President. I will be very brief as the time goes late, but I would be remiss if I didn't thank Senator Deccio and Senator Prentice for their work on this bill. They kept me informed as they went along the line and I think Senator Kline really summed this up. This does provide better housing than is now available and that is very important to me and it is very important to my district. So, thank you two for all your hard work."

#### REMARKS BY SENATOR McCASLIN

Senator McCaslin: "They have done a tremendous job on this. While we talked, lumber went up twenty cents a board foot."

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Second Substitute Senate Bill No. 6168.

The motion by Senator Morton carried and the Report of the Conference Committee on Second Substitute Senate Bill No. 6168 was adopted.

#### MOTION

On motion of Senator Hale, Senators Long and Roach was excused.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6168, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6168, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Rasmussen, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 44. Absent: Senator Heavey - 1. Excused: Senators Long, Prince, Roach and Schow - 4. SECOND SUBSTITUTE SENATE BILL NO. 6168, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House insists on its position regarding the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2342 and asks the Senate to recede therefrom, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

On motion of Senator West, the Senate refuses to recede from its amendment(s) to Engrossed Second Substitute House Bill No. 2342, adheres to its position and once again asks the House to concur therein.

#### MOTION

At 12:29 p.m., on motion of Senator Johnson, the Senate recessed until 1:30 p.m.

The Senate was called to order at 1:30 p.m. by President Owen.

MOTION

Senator Snyder moved that the Senate advance to the ninth order of business.

MOTION

Senator Johnson moved that the motion to advance to the ninth order of business be deferred.

Senator Snyder demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the motion by Senator Johnson to defer the motion by Senator Snyder to advance to the ninth order of business.

ROLL CALL

The Secretary called the roll and the motion by Senator Johnson to defer the motion by Senator Snyder to advance to the ninth order of business carried, the President voting 'aye', by the following vote: Yeas, 23; Nays, 23; Absent, 3; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, Wood and Zarelli - 23. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. Absent: Senators McCaslin, West and Winsley - 3. MESSAGE FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SUBSTITUTE SENATE BILL NO. 6240 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

**REPORT OF CONFERENCE COMMITTEE**

**SSB 6240**

**March 11, 1998**

Includes "NEW ITEM": YES

Allowing a superior court judge to appoint a stenographic reporter

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SUBSTITUTE SENATE BILL NO. 6240, allowing a superior court judge to appoint a stenographic reporter, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 2.32.180 and 1992 c 189 s 6 are each amended to read as follows:

~~((It shall be and is the duty of)) (1) Each ((and every)) superior court judge ((in counties or judicial districts in the state of Washington having a population of over thirty five thousand inhabitants to appoint, or said judge may, in any county or judicial district having a population of over twenty five thousand and less than thirty five thousand,)) may appoint a stenographic reporter to be attached to the judge's court who shall have had at least three years' experience as a skilled, practical reporter, or ((who upon examination shall be able to report and transcribe accurately one hundred and seventy five words per minute of the judge's charge or two hundred words per minute of testimony each for five consecutive minutes; said test of proficiency, in event of inability to meet qualifications as to length of time of experience, to be given by an examining committee composed of one judge of the superior court and two official reporters of the superior court of the state of Washington, appointed by the president judge of the superior court judges association of the state of Washington: PROVIDED, That a stenographic reporter shall not be required to be appointed for the seven additional judges of the superior court authorized for appointment by section 1, chapter 323, Laws of 1987, the additional superior court judge authorized by section 1, chapter 66, Laws of 1988, the additional superior court judges authorized by sections 2 and 3, chapter 328, Laws of 1989, the additional superior court judges authorized by sections 1 and 2, chapter 186, Laws of 1990, or the additional superior court judges authorized by sections 1 through 5, chapter 189, Laws of 1992)) is a Washington state certified court reporter. Appointment of a stenographic reporter is not required ((for any additional superior court judge authorized after July 1, 1992.~~

The initial judicial appointee shall serve for a period of six years; the two initial reporter appointees shall serve for a period of four years and two years, respectively, from September 1, 1957; thereafter on expiration of the first terms of service, each newly appointed member of said examining committee to serve for a period of six years. In the event of death or inability of a member to serve, the president judge shall appoint a reporter or judge, as the case may be, to serve for the balance of the unexpired term of the member whose inability to serve caused such vacancy. The examining committee shall grant certificates to qualified applicants. Administrative and procedural rules and regulations shall be promulgated by said examining committee, subject to approval by the said president judge). The county governing body shall consult with each judge in whose courtroom an alternative method of making a record is planned.

(2) The stenographic reporter upon appointment shall thereupon become an officer of the court and shall be designated and known as the official reporter for the court or judicial district for which he or she is appointed(~~:-PROVIDED, That~~). In no event shall there be appointed more official reporters in any one county or judicial district than there are superior court judges in such county or judicial district; the appointments in each county with a population of one million or more shall be made by the majority vote of the judges in said county acting en banc; the appointments in each county with a population of from one hundred twenty-five thousand to less than one million may be made by each individual judge therein or by the judges in said county acting en banc. Each official reporter so appointed (~~shall hold office during the term of office of the judge or judges appointing him or her, but~~) may be removed for incompetency, misconduct, or neglect of duty, and before entering upon the discharge of his or her duties shall take an oath to perform faithfully the duties of his or her office, and file a bond in the sum of two thousand dollars for the faithful discharge of his or her duties. (~~Such reporter in each court is hereby declared to be a necessary part of the judicial system of the state of Washington.~~)"

On page 1, line 1 of the title, after "reporters;" strike the remainder of the title and insert "and amending RCW 2.32.180.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Stevens, Zarelli; Representatives Sheahan, Sterk.

#### MOTION

Senator Zarelli moved that the Report of the Conference Committee on Substitute Senate Bill No. 6240 be adopted.  
Debate ensued.

#### MOTION

On motion of Senator Johnson, further consideration of Substitute Senate Bill No. 6240 was deferred.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 6408 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### REPORT OF CONFERENCE COMMITTEE

ESSB 6408

March 10, 1998

Includes "NEW ITEM": YES

Increasing penalties for alcohol violators

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE SENATE BILL NO. 6408, increasing penalties for alcohol violators, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are each reenacted and amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of nine hundred days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether the person was driving or in physical control of a vehicle with one or more passengers at the time of the offense.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock or other biological or technical device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8)(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.



(b) "Within five years" means that the arrest for a prior offense occurred within five years of the arrest for the current offense."

On page 1, line 1 of the title, after "violators;" strike the remainder of the title and insert "reenacting and amending RCW 46.61.5055; and prescribing penalties.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Johnson, Thibaudeau, Stevens; Representatives Sheahan, Sterk, Costa.

#### MOTION

Senator Johnson moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6408 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee Report on Engrossed Substitute Senate Bill No. 6408.

The motion by Senator Johnson carried and the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6408 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6408, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6408, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 3; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 46. Absent: Senators Hargrove, McCaslin and Stevens - 3. ENGROSSED SUBSTITUTE SENATE BILL NO. 6408, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, the Senate advanced to the eighth order of business.

#### MOTION

On motion of Senator Rasmussen, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8721

By Senators Rasmussen, Deccio, Wood, Prentice, Wojahn, Franklin, Johnson, Kohl, Loveland and Fraser

WHEREAS, The distinguished physicians Jack Lein, M.D., and Harold Laws, M.D., had the wisdom and initiative to establish a health clinic on the capitol campus in 1969 for the purpose of serving the medical needs of legislative employees and the public; and

WHEREAS, The health clinic has continued this tradition of service for nearly thirty years, by administering free first aid and medical care to all citizens who walk through its doors; and

WHEREAS, The health clinic is staffed on a daily basis by physicians from all corners of the state who choose to travel to Olympia and volunteer their time and professional services at no small expense to their own private practices; and

WHEREAS, These physicians are assisted by registered nurses Diane Hettinger, R.N., a sixteen year veteran of the clinic, and Betsy Minnick, R.N., and all administrative duties of the health clinic are performed by Winnie Cline; and

WHEREAS, A number of health care institutions and providers, including Blue Cross, Group Health, the Hospital Association, Nurses Association, Pharmacists Association, and Washington State Medical Association, play an integral role in keeping the clinic open by providing essential funding and supplies;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize and honor the dedicated service of the physicians and nurses who, through the generous giving of their time, make the free health care clinic a working reality; and

BE IT FURTHER RESOLVED, That Certificates of Distinguished Citizenship will henceforth be transmitted by the Office of the Lieutenant Governor after the close of every Legislative session to the physicians who have contributed to the public good and health by volunteering their time and service to the citizens of the great state of Washington.

Senators Rasmussen and Deccio spoke to Senate Resolution 1998-8721.

#### MOTION

On motion of Senator Rasmussen, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8724

By Senators Rasmussen, Goings, Oke, B. Sheldon, Haugen, Johnson, Kohl and Fraser

WHEREAS, The Washington National Guard is composed of citizen soldiers and airmen who, in the noble and time-honored tradition of the Minutemen, stand ready to answer the call of duty in defense of freedom and liberty; and

WHEREAS, The Washington National Guard is commanded by Major General Gregory P. Barlow, the Adjutant General of our state's armed forces, who, with his more than thirty years of experience and dedication to excellence in every endeavor, is a tireless patriot and model of service to the citizens of this state; and

WHEREAS, SrA Lorinda Ecklund, 141st Maintenance Squadron; TSgt Michael Brickert, 141st Security Forces Squadron; MSgt Mark Tormanen, Western Air Defense Sector; SPC Stacie L. Buettner, Headquarters STARC-WA; and SGT Kelly M. Pugh, Company A, 181st Support Battalion, represent the best of the best by their selection as the Washington National Guard's Soldiers and Airmen of the Year; and

WHEREAS, These Soldiers and Airmen of the Year, through the giving of their time and personal energy, have served the people of Washington State with honor and distinction;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate do hereby recognize and honor the dedicated service and excellence of the National Guard's Soldiers and Airmen of the Year; and

BE IT FURTHER RESOLVED, That the Senate extend its gratitude to the families and employers of the Soldiers and Airmen of the Year for their continued support; and

BE IT FURTHER RESOLVED, That the Senate recognize the value of a strong National Guard to the security and well-being of this state, and extend its sincere appreciation to the eight thousand men and women who serve in the Washington National Guard; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to each of the distinguished Soldiers and Airmen of the Year, the Adjutant General of the Washington National Guard, and to the Governor of the state of Washington.

Senators Rasmussen and Tim Sheldon spoke to Senate Resolution 1998-8724.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SECOND SUBSTITUTE SENATE BILL NO. 6544 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### REPORT OF CONFERENCE COMMITTEE

2SSB 6544

March 10, 1998

Includes "NEW ITEM: YES

Adult family boarding homes

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SECOND SUBSTITUTE SENATE BILL NO. 6544, Adult family boarding homes, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that many residents of long-term care facilities and recipients of in-home personal care services are exceptionally vulnerable and their health and well-being are heavily dependent on their caregivers. The legislature further finds that the quality of staff in long-term care facilities is often the key to good care. The need for well-trained staff and well-managed facilities is growing as the state's population ages and the acuity of the health care problems of residents increases. In order to better protect and care for residents, the legislature directs that the minimum training standards be reviewed for management and caregiving staff, including those serving residents with special needs, such as mental illness, dementia, or a developmental disability, that management and caregiving staff receive appropriate training, and that the training delivery system be improved.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.20 RCW to read as follows:

(1) The department of social and health services shall review, in coordination with the department of health, the nursing care quality assurance commission, adult family home providers, boarding home providers, in-home personal care providers, and long-term care consumers and advocates, training standards for administrators and resident caregiving staff. The departments and the commission shall submit to the appropriate committees of the house of representatives and the senate by December 1, 1998, specific recommendations on training standards and the delivery system, including necessary statutory changes and funding requirements. Any proposed enhancements shall be consistent with this section, shall take into account and not duplicate other training requirements applicable to boarding homes and staff, and shall be developed with the input of boarding home and resident representatives, health care professionals, and other vested interest groups. Training standards and the delivery system shall be relevant to the needs of residents served by the boarding home and recipients of long-term in-home personal care services and shall be sufficient to ensure that administrators and caregiving staff have the skills and knowledge necessary to provide high quality, appropriate care.

(2) The recommendations on training standards and the delivery system developed under subsection (1) of this section shall be based on a review and consideration of the following: Quality of care; availability of training; affordability, including the training costs incurred by the department of social and health services and private providers; portability of existing training requirements; competency testing; practical and clinical course work; methods of delivery of training; standards for management and caregiving staff training; and necessary enhancements for special needs populations and resident rights training. Residents with special needs include, but are not limited to, residents with a diagnosis of mental illness, dementia, or developmental disability.

(3) The department of social and health services shall report to the appropriate committees of the house of representatives and the senate by December 1, 1998, on the cost of implementing the proposed training standards for state-funded residents, and on the extent to which that cost is covered by existing state payment rates.

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.128 RCW to read as follows:

(1) The department of social and health services shall review, in coordination with the department of health, the nursing care quality assurance commission, adult family home providers, boarding home providers, in-home personal care providers, and long-term care consumers and advocates, training standards for providers, resident managers, and resident caregiving staff. The departments and the commission shall submit to the appropriate committees of the house of representatives and the senate by December 1, 1998, specific recommendations on training standards and the delivery system, including necessary statutory changes and funding requirements. Any proposed enhancements shall be consistent with this section, shall take into account and not duplicate other training requirements applicable to adult family homes and staff, and shall be developed with the input of adult family home and resident representatives, health care professionals, and other vested interest groups. Training standards and the delivery system shall be relevant to the needs of residents served by the adult family home and recipients of long-term in-home personal care services and shall be sufficient to ensure that providers, resident managers, and caregiving staff have the skills and knowledge necessary to provide high quality, appropriate care.

(2) The recommendations on training standards and the delivery system developed under subsection (1) of this section shall be based on a review and consideration of the following: Quality of care; availability of training; affordability, including the training costs incurred by the department of social and health services and private providers; portability of existing training requirements; competency testing; practical and clinical course work; methods of delivery of training; standards for management; uniform caregiving staff training; necessary enhancements for special needs populations; and resident rights training. Residents with special needs include, but are not limited to, residents with a diagnosis of

mental illness, dementia, or developmental disability. Development of training recommendations for developmental disabilities services shall be coordinated with the study requirements in section 6 of this act.

(3) The department of social and health services shall report to the appropriate committees of the house of representatives and the senate by December 1, 1998, on the cost of implementing the proposed training standards for state-funded residents, and on the extent to which that cost is covered by existing state payment rates.

**Sec. 4.** RCW 70.128.070 and 1995 1st sp.s. c 18 s 22 are each amended to read as follows:

~~(1) (A license shall be valid for one year.~~

~~(2) At least sixty days prior to expiration of the license, the provider shall submit an application for renewal of a license. The department shall send the provider an application for renewal prior to this time. The department shall have the authority to investigate any information included in the application for renewal of a license.~~

~~(3)) A license shall remain valid unless voluntarily surrendered, suspended, or revoked in accordance with this chapter.~~

~~(2)(a) Homes applying for a license shall be inspected at the time of licensure.~~

~~(b) Homes licensed by the department shall be inspected at least every eighteen months, subject to available funds.~~

~~(c) The department may make an unannounced inspection of a licensed home at any time to assure that the home and provider are in compliance with this chapter and the rules adopted under this chapter.~~

~~((4)) (3) If the department finds that the home is not in compliance with this chapter, it shall require the home to correct any violations as provided in this chapter. ((If the department finds that the home is in compliance with this chapter and the rules adopted under this chapter, the department shall renew the license of the home.))~~

**Sec. 5.** RCW 70.129.030 and 1997 c 386 s 31 are each amended to read as follows:

(1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. The notification must be made prior to or upon admission. Receipt of the information must be acknowledged in writing.

(2) The resident or his or her legal representative has the right:

(a) Upon an oral or written request, to access all records pertaining to himself or herself including clinical records within twenty-four hours; and

(b) After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard photocopies of the records or portions of them upon request and two working days' advance notice to the facility.

(3) The facility shall only admit or retain individuals whose needs it can safely and appropriately serve in the facility with appropriate available staff and through the provision of reasonable accommodations required by state or federal law. Except in cases of genuine emergency, the facility shall not admit an individual before obtaining a thorough assessment of the resident's needs and preferences. The assessment shall contain, unless unavailable despite the best efforts of the facility, the resident applicant, and other interested parties, the following minimum information: Recent medical history; necessary and contraindicated medications; a licensed medical or other health professional's diagnosis, unless the individual objects for religious reasons; significant known behaviors or symptoms that may cause concern or require special care; mental illness, except where protected by confidentiality laws; level of personal care needs; activities and service preferences; and preferences regarding other issues important to the resident applicant, such as food and daily routine.

(4) The facility must inform each resident in writing in a language the resident or his or her representative understands before (–or at the time of) admission, and at least once every twenty-four months thereafter of: (a) Services, items, and activities customarily available in the facility or arranged for by the facility as permitted by the facility's license; (b) charges for those services, items, and activities including charges for services, items, and activities not covered by the facility's per diem rate or applicable public benefit programs; and (c) the rules of facility operations required under RCW 70.129.140(2). Each resident and his or her representative must be informed in writing in advance of changes in the availability or the charges for services, items, or activities, or of changes in the facility's rules. Except in emergencies, thirty days' advance notice must be given prior to the change. However, for facilities licensed for six or fewer residents, if there has been a substantial and continuing change in the resident's condition necessitating substantially greater or lesser services, items, or activities, then the charges for those services, items, or activities may be changed upon fourteen days' advance written notice.

~~((4)) (5) The facility must furnish a written description of residents rights that includes:~~

~~(a) A description of the manner of protecting personal funds, under RCW 70.129.040;~~

~~(b) A posting of names, addresses, and telephone numbers of the state survey and certification agency, the state licensure office, the state ombudsmen program, and the protection and advocacy systems; and~~

~~(c) A statement that the resident may file a complaint with the appropriate state licensing agency concerning alleged resident abuse, neglect, and misappropriation of resident property in the facility.~~

~~((5)) (6) Notification of changes.~~

~~(a) A facility must immediately consult with the resident's physician, and if known, make reasonable efforts to notify the resident's legal representative or an interested family member when there is:~~

~~(i) An accident involving the resident which requires or has the potential for requiring physician intervention;~~

(ii) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications).

(b) The facility must promptly notify the resident or the resident's representative shall make reasonable efforts to notify an interested family member, if known, when there is:

(i) A change in room or roommate assignment; or

(ii) A decision to transfer or discharge the resident from the facility.

(c) The facility must record and update the address and phone number of the resident's representative or interested family member, upon receipt of notice from them.

**NEW SECTION. Sec. 6.** The division of developmental disabilities in the department of social and health services, in coordination with advocacy, self-advocacy, and provider organizations, shall review administrator and resident caregiver staff training standards for agency contracted supported living services, including intensive tenant support, tenant support, supportive living, and in-home personal care services for children. The division and the advocates shall coordinate specialty training recommendations with the larger study group referenced in sections 2(1) and 3(1) of this act and submit specific recommendations on training standards, including necessary statutory changes and funding requirements to the appropriate committees of the house of representatives and the senate by December 1, 1998.

**NEW SECTION. Sec. 7.** A new section is added to chapter 18.48 RCW to read as follows:

Adult family homes have developed rapidly in response to the health and social needs of the aging population in community settings, especially as the aging population has increased in proportion to the general population. The growing demand for elder care with a new focus on issues affecting senior citizens, including persons with developmental disabilities, mental illness, or dementia, has prompted a growing professionalization of adult family home providers to address quality care and quality of life issues consistent with standards of accountability and regulatory safeguards for the health and safety of the residents. The establishment of an advisory committee to the department of health and the department of social and health services under section 8 of this act formalizes a stable process for discussing and considering these issues among residents and their advocates, regulatory officials, and adult family home providers. The dialogue among all stakeholders interested in maintaining a healthy option for the aging population in community settings assures the highest regard for the well-being of these residents within a benign and functional regulatory environment.

**NEW SECTION. Sec. 8.** A new section is added to chapter 18.48 RCW to read as follows:

(1) The secretary, in consultation with the secretary of social and health services, shall appoint an advisory committee on matters relating to the regulation, administrative rules, enforcement process, staffing, and training requirements of adult family homes. The advisory committee shall be composed of six members, of which two members shall be resident advocates, three members shall represent adult family home providers, and one member shall represent the public and serve as chair. The members shall generally represent the interests of aging residents, residents with dementia, residents with mental illness, and residents with developmental disabilities respectively. Members representing adult family home providers must have at least two years' experience as licensees. The membership must generally reflect urban and rural areas and western and eastern parts of the state. A member may not serve more than two consecutive terms.

(2) The secretary may remove a member of the advisory committee for cause as specified by rule adopted by the department. If there is a vacancy, the secretary shall appoint a member to serve for the remainder of the unexpired term.

(3) The advisory committee shall meet at the times and places designated by the secretary and shall hold meetings during the year as necessary to provide advice to the secretary on matters relating to the regulation of adult family homes. A majority of the members may request a meeting of the committee for any express purpose directly related to the regulation of adult family homes. A majority of members currently serving shall constitute a quorum.

(4) Establishment of the advisory committee shall not prohibit the department of health from utilizing other advisory activities that the department of health deems necessary for program development.

(5) Each member of the advisory committee shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.060.

(6) The secretary, members of the advisory committee, or individuals acting on their behalf are immune from civil liability for official acts performed in the course of their duties.

**NEW SECTION. Sec. 9.** A new section is added to chapter 70.128 RCW to read as follows:

Adult family homes have developed rapidly in response to the health and social needs of the aging population in community settings, especially as the aging population has increased in proportion to the general population. The growing demand for elder care with a new focus on issues affecting senior citizens, including persons with developmental disabilities, mental illness, or dementia, has prompted a growing professionalization of adult family home providers to address quality care and quality of life issues consistent with standards of accountability and regulatory safeguards for the health and safety of the residents. The establishment of an advisory committee to the department of health and the department of social and health services under section 8 of this act formalizes a stable process for discussing and considering these issues among residents and their advocates, regulatory officials, and adult family home providers. The dialogue among all stakeholders interested in maintaining a healthy option for the aging population in community settings assures the highest regard for the well-being of these residents within

a benign and functional regulatory environment. The secretary shall be advised by an advisory committee on adult family homes established under section 8 of this act.

Establishment of the advisory committee shall not prohibit the department of social and health services from utilizing other advisory activities that the department of social and health services deems necessary for program development.

**Sec. 10.** RCW 18.88A.210 and 1995 1st sp.s. c 18 s 46 are each amended to read as follows:

(1) A nurse may delegate specific care tasks to nursing assistants meeting the requirements of this section and who provide care to individuals in community residential programs for the developmentally disabled certified by the department of social and health services under chapter 71A.12 RCW, to individuals residing in adult family homes licensed under chapter 70.128 RCW, and to individuals residing in boarding homes licensed under chapter 18.20 RCW contracting with the department of social and health services to provide assisted living services pursuant to RCW 74.39A.010.

(2) For the purposes of this section, "nursing assistant" means a nursing assistant-registered or a nursing assistant-certified. Nothing in this section may be construed to affect the authority of nurses to delegate nursing tasks to other persons, including licensed practical nurses, as authorized by law.

(3) Before commencing any specific nursing care tasks authorized under this chapter, the nursing assistant must (a) provide to the delegating nurse a certificate of completion issued by the department of social and health services indicating the completion of basic core training as provided in this section, (b) be regulated by the department of health pursuant to this chapter, subject to the uniform disciplinary act under chapter 18.130 RCW, and (c) meet any additional training requirements identified by the nursing care quality assurance commission and authorized by this section.

(4) A nurse may delegate the following care tasks:

- (a) Oral and topical medications and ointments;
- (b) Nose, ear, eye drops, and ointments;
- (c) Dressing changes and catheterization using clean techniques as defined by the nursing care quality assurance commission;
- (d) Suppositories, enemas, ostomy care;
- (e) Blood glucose monitoring;
- (f) Gastrostomy feedings in established and healed condition.

(5) On or before September 1, 1995, the nursing care quality assurance commission, in conjunction with the professional nursing organizations, shall develop rules for nurse delegation protocols and by December 5, 1995, identify training beyond the core training that is deemed necessary for the delegation of complex tasks and patient care.

(6) Nursing task delegation protocols are not intended to regulate the settings in which delegation may occur but are intended to ensure that nursing care services have a consistent standard of practice upon which the public and profession may rely and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task. Protocols shall include at least the following:

- (a) Ensure that determination of the appropriateness of delegation of a nursing task is at the discretion of the nurse;
- (b) Allow delegation of a nursing care task only for patients who have a stable and predictable condition. "Stable and predictable condition" means a situation, as defined by rule by the nursing care quality assurance commission, in which the patient's clinical and behavioral status is known and does not require frequent presence and evaluation of a registered nurse;

(c) ~~Assure that the ((delegations of nursing tasks pursuant to this chapter have the written informed consent of the patient consistent with the provisions for informed consent under chapter 7.70 RCW, as well as with the consent of the delegating nurse and nursing assistant. The delegating nurse shall inform patients of the level of training of all care providers in the setting))~~ initial delegating nurse obtains written consent to the nurse delegation process from the patient or a person authorized under RCW 7.70.065. Written consent is only necessary at the initial use of the nurse delegation process for each patient and is not necessary for task additions or changes or if a different nurse or nursing assistant will be participating in the process. The written consent must include at a minimum the following:

- (i) A list of the tasks that could potentially be delegated per RCW 18.88A.210; and
- (ii) A statement that a nursing assistant through the nurse delegation process will be performing a task that would previously have been performed by a registered or licensed practical nurse;

(d) Verify that the nursing assistant has completed the core training;

(e) Require assessment by the nurse of the ability and willingness of the nursing assistant to perform the delegated nursing task in the absence of direct nurse supervision and to refrain from delegation if the nursing assistant is not able or willing to perform the task;

(f) Require the nurse to analyze the complexity of the nursing task that is considered for delegation and determine the appropriate level of training and any need of additional training for the nursing assistant;

(g) Require the teaching of the nursing care task to the nursing assistant ~~((including))~~ utilizing one or more of the following: (i) Verification of competency via return demonstration ((under observation while performing the task)); (ii) other methods for verification of competency to perform the nursing task; or (iii) assurance that the nursing assistant is competent to perform the nursing task as a result of systems

in place in the community residential program for the developmentally disabled, adult family home, or boarding home providing assisted living services;

(h) Require a plan of nursing supervision and reevaluation of the delegated nursing task. "Nursing supervision" means that the registered nurse monitors by direct observation or by whatever means is deemed appropriate by the registered nurse the skill and ability of the nursing assistant to perform delegated nursing tasks. Frequency of supervision is at the discretion of the registered nurse but shall occur at least every sixty days;

(i) Require instruction to the nursing assistant that the delegated nursing task is specific to a patient and is not transferable;

(j) Require documentation and written instruction related to the delegated nursing task be provided to the nursing assistant and a copy maintained in the patient record;

(k) Ensure that the nursing assistant is prepared to effectively deal with the predictable outcomes of performing the nursing task;

(l) Include in the delegation of tasks an awareness of the nature of the condition requiring treatment, risks of the treatment, side effects, and interaction of prescribed medications;

(m) Require documentation in the patient's record of the rationale for delegating or not delegating nursing tasks.

(7) A basic core training curriculum on providing care for individuals in community residential programs for the developmentally disabled certified by the department of social and health services under chapter 71A.12 RCW shall be in addition to the training requirements specified in subsection (5) of this section. Basic core training shall be developed and adopted by rule by the secretary of the department of social and health services. The department of social and health services shall appoint an advisory panel to assist in the development of core training comprised of representatives of the following:

(a) The division of developmental disabilities;

(b) The nursing care quality assurance commission;

(c) Professional nursing organizations;

(d) A state-wide organization of community residential service providers whose members are programs certified by the department under chapter 71A.12 RCW.

(8) A basic core training curriculum on providing care to residents in residential settings licensed under chapter 70.128 RCW, or in assisted living pursuant to RCW 74.39A.010 shall be mandatory for nursing assistants prior to assessment by a nurse regarding the ability and willingness to perform a delegated nursing task. Core training shall be developed and adopted by rule by the secretary of the department of social and health services, in conjunction with an advisory panel. The advisory panel shall be comprised of representatives from, at a minimum, the following:

(a) The nursing care quality assurance commission;

(b) Professional nurse organizations;

(c) A state-wide association of community residential service providers whose members are programs certified by the department under chapter 71A.12 RCW;

(d) Aging consumer groups;

(e) Associations representing homes licensed under chapters 70.128 and 18.20 RCW; and

(f) Associations representing home health, hospice, and home care agencies licensed under chapter 70.127 RCW.

**Sec. 11.** RCW 18.88A.230 and 1997 c 275 s 6 are each amended to read as follows:

(1) The nurse and nursing assistant shall be accountable for their own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority shall be immune from liability for any action performed in the course of their delegation duties. Nursing assistants following written delegation instructions from registered nurses performed in the course of their accurately written, delegated duties shall be immune from liability.

(2) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the Washington nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety. Nursing assistants shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to accept delegation of a nursing task based on patient safety issues. No community residential program, adult family home, or boarding home contracting to provide assisted-living services may discriminate or retaliate in any manner against a person because the person made a complaint or cooperated in the investigation of a complaint.

(3) The department of social and health services (~~shall~~) may impose a civil fine of not less than two hundred fifty dollars nor more than one thousand dollars on a community residential program, adult family home, or boarding home under chapter 18, Laws of 1995 1st sp. sess. that knowingly permits an employee to perform a nursing task except as delegated by a nurse pursuant to chapter 18, Laws of 1995 1st sp. sess.

**Sec. 12.** 1995 1st sp.s. c 18 s 54 (uncodified) is amended to read as follows:

A special legislative task force is established to monitor implementation of sections 45 through 53 of this act. The task force shall consist of four members from the house of representatives, no more than two of whom shall be members of the same caucus, who shall be

appointed by the speaker of the house of representatives, and four members from the senate, no more than two of whom shall be members of the same caucus, who shall be appointed by the president of the senate. The task force shall:

- (1) Review the proposed nurse delegation protocols developed by the nursing care quality assurance commission;
- (2) Review the proposed core and specialized training curricula developed by the department of social and health services and by the nursing care quality assurance commission;
- (3) Review the program and reimbursement policies, and the identified barriers to nurse delegation, developed by the department of health and department of social and health services;
- (4) Submit an interim report of its findings and recommendations on the above actions to the legislature by January 1, 1996;
- (5) During 1996, conduct hearings to assess the effectiveness with which the delegation protocols, the core training, and nurse oversight are being implemented, and their impact on patient care and quality of life;
- (6) Review and approve the proposed study designs;
- (7) By February 1, 1997, recommend to the legislature a mechanism and time frame for extending nurse delegation provisions similar to those described in this act to persons residing in their own homes;
- (8) During ~~((1997))~~ 1998, receive interim reports on the findings of the studies conducted in accordance with this act, and conduct additional fact-finding hearings on the implementation and impact of the nurse delegation provisions of sections 45 through 53 of this act.

The office of program research and senate committee services shall provide staff support to the task force. The department of health, the department of social and health services, and the nursing care quality assurance commission shall provide technical support as needed. The task force shall cease to exist on January 1, ~~((1998))~~ 1999, unless extended by act of the legislature.

**NEW SECTION. Sec. 13.** A new section is added to chapter 18.20 RCW to read as follows:

(1) Powers and duties regarding boarding homes, previously assigned under this chapter to the department of health and to the secretary of health, are by this section transferred to the department of social and health services and to the secretary of social and health services, respectively. This section further provides that, regarding boarding homes, all references within the Revised Code of Washington to the department of health and to the secretary of health mean the department of social and health services and the secretary of social and health services, respectively.

(2)(a) The department of health shall deliver to the department of social and health services all reports, documents, surveys, books, records, data, files, papers, and written material pertaining to boarding homes and the powers, functions, and duties transferred by this section. The department of health shall make available to the department of social and health services all cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of health in carrying out the powers, functions, and duties transferred by this section. The department of health shall assign to the department of social and health services all funds, credits, and other assets that the department of health possesses in connection with the power, functions, and duties transferred by this section.

(b) On the effective date of this section, the department of health shall transfer to the department of social and health services any appropriations and license fees made to or possessed by the department of health for carrying out the powers, functions, and duties transferred by this section.

(c) When a question arises regarding the transfer of personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers, functions, and duties transferred by this section, the director of financial management shall determine the proper allocation and shall certify that determination to the state agencies concerned.

(3) The department of social and health services shall continue and shall act upon all rules and pending business before the department of health pertaining to the powers, functions, and duties transferred by this section.

(4) The transfer of powers, functions, duties, and personnel from the department of health to the department of social and health services, as mandated by this section, will not affect the validity of any act performed by the department of health regarding boarding homes before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers mandated by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the necessary transfers and adjustments in funds, appropriation accounts, and equipment records in accordance with the certification.

(6) Nothing contained in this section alters any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement expires or until the bargaining unit is modified by action of the personnel board as provided by law.

**Sec. 14.** RCW 18.20.020 and 1991 c 3 s 34 are each amended to read as follows:

As used in this chapter:

(1) "Aged person" means a person of the age sixty-five years or more, or a person of less than sixty-five years who by reason of infirmity requires domiciliary care.

(2) "Boarding home" means any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such



home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

(3) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(4) "Secretary" means the secretary of social and health services.

(5) "Department" means the state department of social and health services.

(6) "Authorized department" means any city, county, city-county health department or health district authorized by the secretary ((of health)) to carry out the provisions of this chapter.

**Sec. 15.** RCW 18.20.190 and 1995 1st sp.s. c 18 s 18 are each amended to read as follows:

(1) The department of social and health services is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that a boarding home provider has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under this chapter;

(b) Operated a boarding home without a license or under a revoked license;

(c) Knowingly, or with reason to know, made a false statement of material fact on his or her application for license or any data attached thereto, or in any matter under investigation by the department; or

(d) Willfully prevented or interfered with any inspection or investigation by the department.

(2) When authorized by subsection (1) of this section, the department may take one or more of the following actions:

(a) Refuse to issue a license;

(b) Impose reasonable conditions on a license, such as correction within a specified time, training, and limits on the type of clients the provider may admit or serve;

(c) Impose civil penalties of not more than one hundred dollars per day per violation;

(d) Suspend, revoke, or refuse to renew a license; or

(e) Suspend admissions to the boarding home by imposing stop placement.

(3) When the department orders stop placement, the facility shall not admit any new resident until the stop placement order is terminated. The department may approve readmission of a resident to the facility from a hospital or nursing home during the stop placement. The department shall terminate the stop placement when: (a) The violations necessitating the stop placement have been corrected; and (b) the provider exhibits the capacity to maintain adequate care and service.

(4) Chapter 34.05 RCW applies to department actions under this section, except that orders of the department imposing license suspension, stop placement, or conditions for continuation of a license are effective immediately upon notice and shall continue pending any hearing.

**NEW SECTION. Sec. 16.** A new section is added to chapter 18.20 RCW to read as follows:

The secretary may adopt rules and policies as necessary to entitle the state to participate in federal funding programs and opportunities and to facilitate state and federal cooperation in programs under the department's jurisdiction. The secretary shall ensure that any internal reorganization carried out under the terms of this chapter complies with prerequisites for the receipt of federal funding for the various programs under the department's control. When interpreting any department-related section or provision of law susceptible to more than one interpretation, the secretary shall construe that section or provision in the manner most likely to comply with federal laws and rules entitling the state to receive federal funds for the various programs of the department. If any law or rule dealing with the department is ruled to be in conflict with federal prerequisites to the allocation of federal funding to the state, the department, or its agencies, the secretary shall declare that law or rule inoperative solely to the extent of the conflict.

**NEW SECTION. Sec. 17.** (1) The governor shall establish a joint legislative and executive task force on long-term care, safety, quality, and oversight. The joint task force shall consist of seven members. The governor shall appoint three members that include: (a) The secretary of the department of social and health services or his or her designee; (b) the secretary of the department of health or his or her designee; and (c) the state long-term care ombudsman. Four legislative members shall serve on the joint task force as ex officio members and include: Two members of the senate appointed by the president of the senate, one of whom shall be a member of the majority caucus and one whom shall be a member of the minority caucus; and two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be a member of the majority caucus and one whom shall be a member of the minority caucus. Primary staff assistance to the joint task force shall be provided by the office of financial management with assistance, as directed by legislative members, by the health care committee of the house of representatives office of program research and the senate health and long-term care committee of senate committee services.

(2) The joint task force shall elect a chair and vice-chair. The chair shall serve a one-year term as the chair of the joint task force. The following year, the previously elected vice-chair shall serve as the chair of the joint task force and a new vice-chair shall be elected by the members of the joint task force.

(3) The joint task force shall have the ability to create advisory committees and appoint individuals from a variety of disciplines and perspectives including but not limited to patient and resident advocates and representatives of provider organizations, to assist the joint task force with specific issues related to chapter . . . , Laws of 1998 (this act).

(4) The joint task force may hold meetings, including hearings, to receive public testimony, which shall be open to the public in accordance with law. Records of the joint task force shall be subject to public disclosure in accordance with law. Members shall not receive compensation, but may be reimbursed for travel expenses as authorized under RCW 43.03.050 and 43.03.060. Advisory committee members, if appointed, shall not receive compensation or reimbursement for travel or expenses.

(5) The joint task force shall:

(a) Review all long-term care quality and safety standards for all long-term care facilities and services developed, revised, and enforced by the department of social and health services;

(b) In cooperation with aging and adult services, the division of developmental disabilities, and the division of mental health and the department of health, develop recommendations to simplify, strengthen, reduce, or eliminate rules, procedures, and burdensome paperwork that prove to be barriers to providing the highest standard of client safety, effective quality of care, effective client protections, and effective coordination of direct services;

(c) Review the need for reorganization and reform of long-term care administration and service delivery, including administration and services provided for the aged, for those with mental health needs, and for the developmentally disabled, and recommend the establishment of a single long-term care department or a division of long-term care within the department of social and health services;

(d) Suggest cost-effective methods for reallocating funds to unmet needs in direct services;

(e) List all nonmeans tested programs and activities funded by the federal older Americans act and state-funded senior citizens act or other such state-funded programs, and recommend methods for integrating such services into existing long-term care programs for the functionally disabled;

(f) Suggest methods to establish a single point of entry for service eligibility and delivery for all functionally disabled persons;

(g) Evaluate the need for long-term care training and review all long-term care training and education programs conducted by the department of social and health services, and suggest modifications to enhance client safety, to create greater access to training through the use of innovative technology, to reduce training costs, to improve coordination of training between the appropriate divisions and departments and, to enhance the overall uniformity of the long-term care training system;

(h) Evaluate the current system used by the department of social and health services for placement of functionally disabled clients, including aging, mentally ill, and developmentally disabled persons, into long-term care settings and services and assess the capacity of each long-term care service or setting to appropriately meet the health and safety needs of functionally disabled clients or residents referred to each service or setting;

(i) Evaluate the need for uniform client assessments for determining functional long-term care needs of all persons who receive state-funded, long-term care services;

(j) Evaluate the success of the transfer of boarding home responsibilities outlined in chapter . . . , Laws of 1998 (this act) and recommend if any further administrative changes should be made; and

(k) Evaluate the need to establish a dementia and Alzheimer's certification requirement for long-term care facilities who choose to provide care to persons who have been diagnosed with Alzheimer's or a related dementia. The evaluation shall also identify the level of disability a resident or client must have before the resident or client is considered for care in a certified long-term care Alzheimer's facility; and

(l) Evaluate the effect of requiring regular visits to bedbound patients of boarding homes and adult family homes by licensed practitioners.

(6) The joint task force shall report its initial findings and recommendations to the governor and appropriate committees of the legislature by January 1, 1999. The joint task force shall report its final findings and recommendations to the governor and appropriate committees of the legislature by December 12, 1999.

**Sec. 18.** RCW 18.20.160 and 1985 c 297 s 2 are each amended to read as follows:

(1) No person operating a boarding home licensed under this chapter shall admit to or retain in the boarding home any aged person requiring nursing or medical care of a type provided by institutions licensed under chapters 18.51, 70.41 or 71.12 RCW, except that when registered nurses are available, and upon a doctor's order that a supervised medication service is needed, it may be provided. Supervised medication services, as defined by the department, may include an approved program of self-medication or self-directed medication. Such medication service shall be provided only to boarders who otherwise meet all requirements for residency in a boarding home.

(2)(a) Notwithstanding any provision contained in this section, in no case shall a resident be bedbound, as a result of illness or disease, for any continuous period of time exceeding ten days, unless a licensed practitioner has seen the resident and assessed the resident's medical condition, prescribed a plan of care, and determined that a continued stay in the boarding home is appropriate.

(b) Residents who continue to be bedbound for more than ten consecutive days shall be seen by a licensed practitioner at least every thirty days, counting from the date of the initial bedbound-related licensed practitioner visit, for as long as the resident continues to be bedbound.

(c) The licensed practitioner and the boarding home shall document each visit and the licensed practitioner shall, at each visit, prescribe a plan of care and redetermine the appropriateness of the resident's continued stay in the boarding home.

(3) For the purposes of this section, an illness or disease does not include any illness or disease for which the resident has elected to receive hospice care and chooses to remain in the boarding home. When the resident elects to receive hospice care, an outside licensed agency is responsible for performing timely and appropriate visits and for developing a plan of care.

**NEW SECTION. Sec. 19.** A new section is added to chapter 18.20 RCW to read as follows:

For the purposes of RCW 18.20.160, "licensed practitioner" includes a physician licensed under chapter 18.71 RCW, a registered nurse licensed under chapter 18.79 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician assistant licensed under chapter 18.71A RCW.

**Sec. 20.** RCW 70.128.060 and 1995 c 260 s 4 are each amended to read as follows:

(1) An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires.

(2) The department shall issue a license to an adult family home if the department finds that the applicant and the home are in compliance with this chapter and the rules adopted under this chapter, unless (a) the applicant has prior violations of this chapter relating to the adult family home subject to the application or any other adult family home, or of any other law regulating residential care facilities within the past five years that resulted in revocation or nonrenewal of a license; or (b) the applicant has a history of significant noncompliance with federal, state, or local laws, rules, or regulations relating to the provision of care or services to vulnerable adults or to children.

(3) The license fee shall be submitted with the application.

(4) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of his or her application for a license as provided in chapter 34.05 RCW by requesting a hearing in writing within twenty-eight days after receipt of the notice of denial.

(5) The department shall not issue a license to a provider if the department finds that the provider or any partner, officer, director, managerial employee, or owner of five percent or more if the provider has a history of significant noncompliance with federal or state regulations, rules, or laws in providing care or services to vulnerable adults or to children.

(6)(a) The department shall license an adult family home for the maximum level of care that the adult family home may provide. However, in no case shall the adult family home admit or retain residents who are bedbound, as a result of illness or disease, for any continuous period of time exceeding ten days, unless a licensed practitioner has seen the resident to assess their medical condition, prescribed a plan of care, and determined that a continued stay in the adult family home is appropriate.

(b) Residents who continue to be bedbound for more than ten consecutive days shall be seen by a licensed practitioner at least every thirty days, counting from the date of the initial bedbound-related licensed practitioner visit, for as long as the resident continues to be bedbound.

(c) The licensed practitioner and adult family home shall document each visit and the licensed practitioner shall, at each visit, prescribe a plan of care and redetermine the continued appropriateness of the resident remaining in the adult family home.

(d) The department shall further define, in rule, license levels based upon the education, training, and caregiving experience of the licensed provider or staff.

(e) For the purposes of this section, an illness or disease does not include any illness or disease for which the resident has elected to receive hospice care and chooses to remain in the adult family home. When the resident elects to receive hospice care, an outside licensed agency is responsible for performing timely and appropriate visits and for developing a plan of care.

(7) The department shall establish, by rule, standards used to license nonresident providers and multiple facility operators.

(8) The department shall establish, by rule, for multiple facility operators educational standards substantially equivalent to recognized national certification standards for residential care administrators.

(9) The license fee shall be set at fifty dollars per year for each home. The licensing fee is due each year within thirty days of the anniversary date of the license. A fifty dollar processing fee shall also be charged each home when the home is initially licensed.

**NEW SECTION. Sec. 21.** A new section is added to chapter 70.128 RCW to read as follows:

For the purposes of RCW 70.128.060, "licensed practitioner" includes a physician licensed under chapter 18.71 RCW, a registered nurse licensed under chapter 18.79 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician assistant licensed under chapter 18.71A RCW.

**NEW SECTION. Sec. 22.** The sum of fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 1999, from the general fund to the office of financial management solely for the purposes of implementing section 17 of this act.

**NEW SECTION. Sec. 23.** Section 5 of this act takes effect July 1, 1998.

**NEW SECTION. Sec. 24.** (1) Sections 13 through 16 of this act expire July 1, 2000, unless reauthorized by the legislature.

(2) Section 17 of this act expires December 12, 1999.

**NEW SECTION. Sec. 25.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 26. Except for section 5 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "care;" strike the remainder of the title and insert "amending RCW 70.128.070, 70.129.030, 18.88A.210, 18.88A.230, 18.20.020, 18.20.190, 18.20.160, and 70.128.060; amending 1995 1st sp.s. c 18 s 54 (uncodified); adding new sections to chapter 18.20 RCW; adding new sections to chapter 70.128 RCW; adding new sections to chapter 18.48 RCW; creating new sections; making an appropriation; providing an effective date; providing an expiration date; providing a contingent expiration date; and declaring an emergency." , and the bill do pass as recommended by the Conference Committee.

Signed by Senators Deccio, Wood, Wojahn; Representatives Dyer, Backlund, Cody.

#### MOTION

On motion of Senator Deccio, the Report of the Conference Committee on Second Substitute Senate Bill No. 6544 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute Senate Bill No. 6544, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6544, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 3; Excused, 0.

Voting yea: Senators Anderson, Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Wood - 43. Voting nay: Senators Benton, Stevens and Zarelli - 3. Absent: Senators Finkbeiner, McCaslin and Sellar - 3. SECOND SUBSTITUTE SENATE BILL NO. 6544, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### NOTICE FOR RECONSIDERATION

Having voted on the prevailing side, Senator Strannigan served notice that he would move to reconsider the vote by which Second Substitute Senate Bill No. 6544, as recommended by the Conference Committee, was adopted.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SUBSTITUTE SENATE BILL NO. 6751 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### REPORT OF CONFERENCE COMMITTEE

**SSB 6751**

**March 10, 1998**

Includes "NEW ITEM: YES

Ensuring a choice of service and residential options for citizens with developmental disabilities

MR. PRESIDENT:

MR. SPEAKER:

We of your Conference Committee, to whom was referred SUBSTITUTE SENATE BILL NO. 6751, ensuring a choice of service and residential options for citizens with developmental disabilities, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 71A.10 RCW to read as follows:

It is the intent of the legislature to affirm its long-time commitment to secure for eligible persons with developmental disabilities in partnership with their families or legal guardians the opportunity to choose where they live. Consistent with this commitment, the legislature supports the existence of a complete spectrum of options, including community support services and residential habilitation centers.

The choice of service options must be supported by state policy, whether the choice is residential habilitation centers or community support services. The intent of the legislature is to ensure choice of service options to persons with developmental disabilities allowing, to the maximum extent possible, that they not have to leave their home or community.

The legislature supports the respective roles that both residential habilitation centers and community support services play in providing options and resources for people with developmental disabilities and their families who need services. The legislature recognizes that services must ensure credibility, responsiveness, and reasonable quality, whether they are state, county, or community funded.

**Sec. 2.** RCW 71A.10.020 and 1988 c 176 s 102 are each amended to read as follows:

As used in this title, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Community residential support services," or "community support services," and "in-home services" means one or more of the services listed in RCW 71A.12.040.

(2) "Department" means the department of social and health services.

~~((2))~~ (3) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual. By January 1, 1989, the department shall promulgate rules which define neurological or other conditions in a way that is not limited to intelligence quotient scores as the sole ~~((determine~~ ~~[determinant]))~~ determinant of these conditions, and notify the legislature of this action.

~~((3))~~ (4) "Eligible person" means a person who has been found by the secretary under RCW 71A.16.040 to be eligible for services.

~~((4))~~ (5) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and to raise their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

~~((5))~~ (6) "Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of the limited guardianship, a person's attorney at law, a person's attorney in fact, or any other person who is authorized by law to act for another person.

~~((6))~~ (7) "Notice" or "notification" of an action of the secretary means notice in compliance with RCW 71A.10.060.

~~((7))~~ (8) "Residential habilitation center" means a state-operated facility for persons with developmental disabilities governed by chapter 71A.20 RCW.

~~((8))~~ (9) "Secretary" means the secretary of social and health services or the secretary's designee.

~~((9))~~ (10) "Service" or "services" means services provided by state or local government to carry out this title.

(11) "Vacancy" means an opening at a residential habilitation center, which when filled, would not require the center to exceed its biannually budgeted capacity.

**Sec. 3.** RCW 71A.16.010 and 1988 c 176 s 401 are each amended to read as follows:

(1) It is the intention of the legislature in this chapter to establish a single point of referral for persons with developmental disabilities and their families so that they may have a place of entry and continuing contact for services authorized under this title to persons with developmental disabilities. Eligible persons with developmental disabilities, whether they live in the community or residential habilitation centers, should have the opportunity to choose where they live.

(2) Until June 30, 2003, and subject to subsection (3) of this section, if there is a vacancy in a residential habilitation center, the department shall offer admittance to the center to any eligible adult, or eligible adolescent on an exceptional case-by-case basis, with developmental disabilities if his or her assessed needs require the funded level of resources that are provided by the center.

(3) The department shall not offer a person admittance to a residential habilitation center under subsection (2) of this section unless the department also offers the person appropriate community support services listed in RCW 71A.12.040.

(4) Community support services offered under subsection (3) of this section may only be offered using funds specifically designated for this purpose in the state operating budget. When these funds are exhausted, the department may not offer admittance to a residential habilitation center, or community support services under this section.

(5) Nothing in this section shall be construed to create an entitlement to state services for persons with developmental disabilities.

(6) Subsections (2) through (6) of this section expire June 30, 2003.

**Sec. 4.** RCW 71A.16.030 and 1988 c 176 s 403 are each amended to read as follows:

(1) The department will develop an outreach program to ensure that any eligible person with developmental disabilities services in homes, the community, and residential habilitation centers will be made aware of these services. This subsection (1) expires June 30, 2003.

(2) The secretary shall establish a single procedure for persons to apply for a determination of eligibility for services provided to persons with developmental disabilities.

~~((2))~~ (3) Until June 30, 2003, the procedure set out under subsection (1) of this section must require that all applicants and all persons with developmental disabilities currently receiving services from the division of developmental disabilities within the department be given notice of the existence and availability of residential habilitation center and community support services. For genuine choice to exist, people must know what the options are. Available options must be clearly explained, with services customized to fit the unique needs and circumstances of developmentally disabled clients and their families. Choice of providers and design of services and supports will be determined by the individual in conjunction with the department. When the person cannot make these choices, the person's legal guardian may make them, consistent with chapter 11.88 or 11.92 RCW. This subsection expires June 30, 2003.

(4) An application may be submitted by a person with a developmental disability, by the legal representative of a person with a developmental disability, or by any other person who is authorized by rule of the secretary to submit an application.

**NEW SECTION. Sec. 5.** A new section is added to chapter 71A.12 RCW to read as follows:

(1) The legislature recognizes that residential habilitation center and community support services should be available to each eligible person with developmental disabilities in our state within appropriated funds.

(2) The legislature recognizes that there have been substantially increasing demands for all of these services. Therefore, the legislature believes that any reductions in the capacity of these services could jeopardize a needed balance in the developmental disabilities system. The legislature intends to stabilize the capacity of community support services and residential habilitation center services. The capacity of the residential habilitation centers shall not be reduced below the capacity provided for in chapter 149, Laws of 1997, subject to budget direction from the governor or reductions needed to adhere to an agreement with the federal department of justice regarding Fircrest School. The capacity of community support services shall not be reduced below the capacity provided for by the appropriation specified in chapter 149, Laws of 1997, subject to budget direction from the governor. If the direction from the governor requires reductions in the division of developmental disabilities, the budgets of both the residential habilitation centers and community support services shall be considered.

(3) If such capacity is not needed for current clients of the department, any vacancies that may occur in community support services or residential habilitation center services shall be used to expand services to eligible persons with developmental disabilities not now receiving services. If a vacancy is created it will be made available to any eligible individual who is seeking and desires the services of a residential habilitation center under RCW 71A.16.010. If residential habilitation center capacity is not being used for permanent residents, the department shall make any residential habilitation center vacancies available for respite care and any other services needed to care for this population in residential habilitation centers, other than permanent residents.

**NEW SECTION. Sec. 6.** A new section is added to chapter 71A.20 RCW to read as follows:

As a means of implementing a choice-oriented system for people with developmental disabilities, staff of residential habilitation centers will continue to increase vocational and community access for current residents. Likewise, specialized residential habilitation services will be more easily accessed by community residents within available funds.

**NEW SECTION. Sec. 7.** A new section is added to chapter 71A.12 RCW to read as follows:

The department shall conduct an analysis whereby it identifies all persons with developmental disabilities who are eligible for services under Title 71A RCW, and whether they are served, unserved, or underserved. The department will gather data on the services and supports required by this population, their families or their guardians, and the cost of providing these services. This analysis will include assessing services such as those at residential habilitation centers, those community support services listed in RCW 71A.12.040, and including, but not limited to, supported employment, family support, post high school transition programs, crisis intervention services, supports for persons who have a developmental disability and also a mental illness, alternative uses for residential habilitation centers, community vocational services, respite care, specialized medical treatment, and appropriate placements for persons with developmental disabilities who are also offenders. The assessment shall be done with the participation of the developmental disabilities stakeholder work group. The assessment will commence no later than July 1, 1998.

The assessment data will not be used to determine or allocate services for individual people. It will be used by the department, with the participation of the developmental disabilities stakeholder work group, to develop a long-term strategic plan. The plan will include three phases, the first one beginning December 1, 1998; the second beginning December 1, 2000; and the third beginning December 1, 2002. For each phase the department will provide incremental data and assessment of programs, services, and funding for persons with developmental disabilities and their families. For each phase the plan must also include budget and statutory recommendations intended to secure for all persons with developmental disabilities the opportunity to choose where they live, and shall support the existence of a complete spectrum of options including community support services, and residential habilitation centers that are consistent with those needs.

**NEW SECTION. Sec. 8.** A new section is added to chapter 71A.12 RCW to read as follows:

For the purposes of section 7 of this act, the developmental disabilities stakeholder work group is the division of developmental disabilities strategies for the future stakeholder work group established by the secretary in 1997 to develop recommendations on future directions and strategies for service delivery improvement, resulting in an agreement on the directions the department should follow in considering the respective roles of the residential habilitation centers and community support services, including a focus on the resources for people in need of services.

**NEW SECTION. Sec. 9.** Sections 1 and 5 through 8 of this act expire June 30, 2003.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 3 of the title, after "centers;" strike the remainder of the title and insert "amending RCW 71A.10.020, 71A.16.010, and 71A.16.030; adding a new section to chapter 71A.10 RCW; adding new sections to chapter 71A.12 RCW; adding a new section to chapter 71A.20 RCW; providing an expiration date; and declaring an emergency.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Deccio, Wood, Wojahn; Representatives Cooke, Boldt, Tokuda.

#### MOTION

Senator Snyder moved that the Report of the Conference Committee on Substitute Senate Bill No. 6751 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Conference Committee on Substitute Senate Bill No. 6751.

The motion by Senator Snyder carried and the Report of the Conference Committee on Substitute Senate Bill No. 6751 was adopted.

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 6751, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6751, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator McCaslin - 1. SUBSTITUTE SENATE BILL NO. 6751, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, the Senate advanced to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6470, by Senators West, Anderson, Kohl, Snyder, Loveland, Fairley, T. Sheldon and Jacobsen) (by request of Governor Locke)

Specifying the tax treatment of canned and custom software.

#### MOTIONS

On motion of Senator West, Substitute Senate Bill No. 6470 was substituted for Senate Bill No. 6470 and the substitute bill was placed on second reading and read the second time.

Senator Hargrove moved that the following amendment be adopted:

On page 6, after line 5, insert the following:

"NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW to read as follows:

The creation, sale, and distribution of software by businesses located in distressed counties is exempt from the business and occupation tax. A distressed county means a county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state employment for those years by twenty percent."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Debate ensued.

MOTION

On motion of Senator West, further consideration of the amendment by Senator Hargrove on page 6, after line 5, to Substitute Senate Bill No. 6470, was deferred.

MOTION

On motion of Senator Johnson, further consideration of Substitute Senate Bill No. 6470, was deferred. There being no objection, the President returned the Senate to the fourth order of business.

MESSAGES FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354 and has passed the bill as recommended by the Conference Committee.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on SUBSTITUTE HOUSE BILL NO. 2556 and has passed the bill as recommended by the Conference Committee.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The House has adopted the Report of the Conference Committee on ENGROSSED HOUSE BILL NO. 3041 and has passed the bill as recommended by the Conference Committee.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

On motion of Senator Johnson, the Senate advanced to the sixth order of business.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2879, by House Committee on Appropriations (originally sponsored by Representatives Buck, Butler, Chandler, DeBolt, Sehlin, Hatfield, McCune, Doumit, Kessler, Morris, Kenney, Constantine, Ogden, Regala, Tokuda, Anderson, Thompson and Conway)

Facilitating the review and approval of fish habitat enhancement projects.

The bill was read the second time.

MOTION

Senator Swecker moved that the following Committee on Natural Resources and Parks amendment be adopted: Strike everything after the enacting clause and insert the following:



**"NEW SECTION. Sec. 1.** The legislature finds that fish habitat enhancement projects play a key role in the state's salmon and steelhead recovery efforts. The legislature finds that there are over two thousand barriers to fish passage at road crossings throughout the state, blocking fish access to as much as three thousand miles of freshwater spawning and rearing habitat. The legislature further finds that removal of these barriers and completion of other fish habitat enhancement projects should be done in a cost-effective manner, which includes providing technical assistance and training to people who will undertake projects such as removal of barriers to salmon passage and minimizing the expense and delays of various permitting processes. The purpose of this act is to take immediate action to facilitate the review and approval of fish habitat enhancement projects, to encourage efforts that will continue to improve the process in the future, to address known fish passage barriers immediately, and to develop over time a comprehensive system to inventory and prioritize barriers on a state-wide basis.

**NEW SECTION. Sec. 2.** The department of ecology permit assistance center shall immediately modify the joint aquatic resource permit application form to incorporate the permit process established in section 3 of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 75.20 RCW to read as follows:

(1) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (a) and (b) of this subsection:

(a) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

- (i) Elimination of human-made fish passage barriers, including culvert repair and replacement;
- (ii) Restoration of an eroded or unstable stream bank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
- (iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The department shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

(b) A fish habitat enhancement project must be approved in one of the following ways:

- (i) By the department pursuant to chapter 75.50 or 75.52 RCW;
- (ii) By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;
- (iii) By the department as a department-sponsored fish habitat enhancement or restoration project;
- (iv) Through the review and approval process for the jobs for the environment program;
- (v) Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States fish and wildlife service and the natural resource conservation service;
- (vi) Through a formal grant program established by the legislature or the department for fish habitat enhancement or restoration; and
- (vii) Through other formal review and approval processes established by the legislature.

(2) Fish habitat enhancement projects meeting the criteria of subsection (1) of this section are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of subsection (1) of this section and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2)(c).

(3) Hydraulic project approval is required for projects that meet the criteria of subsection (1) of this section and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the department of ecology permit assistance center to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The department shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. In no more than forty-five days, the department shall either issue hydraulic project approval, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by hydraulic project approval. If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

Any person aggrieved by the approval, denial, conditioning, or modification of hydraulic project approval under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of this chapter.

(4) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of subsection (1) of this section and that are reviewed and approved according to the provisions of this section.

**Sec. 4.** RCW 90.58.147 and 1995 c 333 s 1 are each amended to read as follows:

(1) A public or private project that is designed to improve fish or wildlife habitat or fish passage shall be exempt from the substantial development permit requirements of this chapter when all of the following apply:

~~((1))~~ (a) The project has been approved by the department of fish and wildlife;

~~((2))~~ (b) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 75.20 RCW; and

~~((3))~~ (c) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

(2) Fish habitat enhancement projects that conform to the provisions of section 3 of this act are determined to be consistent with local shoreline master programs.

**Sec. 5.** RCW 35.63.230 and 1995 c 378 s 8 are each amended to read as follows:

A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of section 3(1) of this act shall be reviewed and approved according to the provisions of section 3 of this act.

**Sec. 6.** RCW 35A.63.250 and 1995 c 378 s 9 are each amended to read as follows:

A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of section 3(1) of this act shall be reviewed and approved according to the provisions of section 3 of this act.

**Sec. 7.** RCW 36.70.992 and 1995 c 378 s 10 are each amended to read as follows:

A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of section 3(1) of this act shall be reviewed and approved according to the provisions of section 3 of this act.

**NEW SECTION. Sec. 8.** A new section is added to chapter 36.70 RCW to read as follows:

A county is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of section 3 of this act and has been permitted by the department of fish and wildlife.

**Sec. 9.** RCW 36.70A.460 and 1995 c 378 s 11 are each amended to read as follows:

A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of section 3(1) of this act shall be reviewed and approved according to the provisions of section 3 of this act.

**Sec. 10.** RCW 43.21C.0382 and 1995 c 378 s 12 are each amended to read as follows:

Decisions pertaining to watershed restoration projects as defined in RCW 89.08.460 are not subject to the requirements of RCW 43.21C.030(2)(c). Decisions pertaining to fish habitat enhancement projects meeting the criteria of section 3(1) of this act and being reviewed and approved according to the provisions of section 3 of this act are not subject to the requirements of RCW 43.21C.030(2)(c).

**Sec. 11.** RCW 89.08.470 and 1995 c 378 s 3 are each amended to read as follows:

(1) By January 1, 1996, the Washington conservation commission shall develop, in consultation with other state agencies, tribes, and local governments, a consolidated application process for permits for a watershed restoration project developed by an agency or sponsored by an agency on behalf of a volunteer organization. The consolidated process shall include a single permit application form for use by all responsible state and local agencies. The commission shall encourage use of the consolidated permit application process by any federal agency responsible for issuance of related permits. The permit application forms to be consolidated shall include, at a minimum, applications for: ~~((+))~~ (a) Approvals related to water quality standards under chapter 90.48 RCW; ~~((2))~~ (b) hydraulic project approvals under chapter 75.20 RCW; and ~~((3))~~ (c) section 401 water quality certifications under 33 U.S.C. Sec. 1341 and chapter 90.48 RCW.

(2) If a watershed restoration project is also a fish habitat enhancement project that meets the criteria of section 3(1) of this act, the project sponsor shall instead follow the permit review and approval process established in section 3 of this act with regard to state and local government permitting requirements. The sponsor shall so notify state and local permitting authorities.

**NEW SECTION. Sec. 12.** A new section is added to chapter 19.27 RCW to read as follows:

A fish habitat enhancement project meeting the criteria of section 3(1) of this act is not subject to grading permits, inspections, or fees and shall be reviewed according to the provisions of section 3 of this act.

**NEW SECTION. Sec. 13.** The legislature finds that, while the process created in this act can improve the speed with which fish habitat enhancement projects are put into place, additional efforts can improve the review and approval process for the future. The legislature directs the department of fish and wildlife, the conservation commission, local governments, fish habitat enhancement project applicants, and other interested parties to work together to continue to improve the permitting review and approval process. Specific efforts shall include the following:

- (1) Development of common acceptable design standards, best management practices, and standardized hydraulic project approval conditions for each type of fish habitat enhancement project;
- (2) An evaluation of the potential for using technical evaluation teams in evaluating specific project proposals or stream reaches;
- (3) An evaluation of techniques appropriate for restoration and enhancement of pasture and crop land adjacent to riparian areas;
- (4) A review of local government shoreline master plans to identify and correct instances where the local plan does not acknowledge potentially beneficial instream work;

(5) An evaluation of the potential for local governments to incorporate fish habitat enhancement projects into their comprehensive planning process; and

(6) Continued work with the federal government agencies on federal permitting for fish habitat enhancement projects.

The department of fish and wildlife shall coordinate this joint effort and shall report back to the legislature on the group's progress by December 1, 1998.

**NEW SECTION. Sec. 14.** A new section is added to chapter 75.50 RCW to read as follows:

(1) The department of transportation is authorized to administer a grant program to assist state agencies, local governments, private landowners, tribes, and volunteer groups in identifying and removing impediments to anadromous fish passage. The program shall be administered consistent with the following:

(a) Eligible projects include corrective projects, inventory, assessment, and prioritization efforts;

(b) Projects shall be subject to a competitive application process;

(c) Priority shall be given to projects that immediately increase access to available and improved spawning and rearing habitat for depressed, threatened, and endangered stocks. Priority shall also be given to project applications that are coordinated with other efforts within a watershed;

(d) All projects shall be reviewed and approved by the fish passage barrier removal task force; and

(e) A match of at least twenty-five percent per project shall be required. For local, private, and volunteer projects, in-kind contributions may be counted toward the match requirement.

(2) The department of transportation shall proceed expeditiously in implementing the grant program during the 1998 summer construction season.

**NEW SECTION. Sec. 15.** By January 1, 1999, the fish passage barrier removal task force as specified in RCW 75.50.160 shall report to the legislature on its progress in implementing the provisions in sections 14 and 17 of this act. The report shall also include recommendations on future governance and administrative structures to coordinate local, state, and private fish passage correction projects and to administer state fish passage grants.

**NEW SECTION. Sec. 16.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

## MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove, Jacobsen and Oke to the Committee on Natural Resources and Parks striking amendment be adopted:

On page 5, after line 5, insert the following:

**"NEW SECTION. Sec. 9.** A new section is added to chapter 35.21 RCW to read as follows:

A city or town is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of section 3 of this act and has been permitted by the department of fish and wildlife.

**"NEW SECTION. Sec. 10.** A new section is added to chapter 35A.21 RCW to read as follows:

A code city is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of section 3 of this act and has been permitted by the department of fish and wildlife."

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove, Jacobsen and Oke on page 5, after line 5, to the Committee on Natural Resources and Parks striking amendment to Second Substitute House Bill No. 2879.

The motion by Senator Hargrove carried and the amendment to the committee striking amendment was adopted.

The President declared the question before the Senate to be the adoption of the Committee on Natural Resources and Parks striking amendment, as amended, to Second Substitute House Bill No. 2879.

The motion by Senator Swecker carried and the committee striking amendment, as amended, was adopted.

## MOTIONS

On motion of Senator Swecker, the following title amendments were considered simultaneously and were adopted:

On page 1, line 2 of the title, after "projects;" strike the remainder of the title and insert "amending RCW 90.58.147, 35.63.230, 35A.63.250, 36.70.992, 36.70A.460, 43.21C.0382, and 89.08.470; adding a new section to chapter 75.20 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 19.27 RCW; adding a new section to chapter 75.50 RCW; creating new sections; and declaring an emergency."

On page 8, line 13 of the title amendment, after "36.70 RCW;" insert "adding a new section to chapter 35.21 RCW; adding a new section to chapter 35.21A RCW;" On motion of Senator Swecker, the rules were suspended, Second Substitute House Bill No. 2879, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Second Substitute House Bill No. 2879, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2879, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Haugen - 1. SECOND SUBSTITUTE HOUSE BILL NO. 2879, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2434, by Representatives Pennington, Delvin, Mielke and L. Thomas

Increasing maximum height for motorcycle handlebars.

The bill was read the second time.

#### POINT OF ORDER

Senator Snyder: "Mr. President, I reluctantly rise to a point of order. I don't necessarily disagree with this bill, but I don't think it comes under the cutoff resolution that was expanded the other day or is necessary to implement the budget. I would think that we shouldn't be considering the bill. I know all of us have a lot of bills on the calendar. There were about eighty that were left last Friday when we ceased considering House Bills and I am sure we can go in and dive in and bring up a bill or two that we would like to have for some of our house members, but I think in order to keep some decorum in the place that I must raise the point on this bill."

Debate ensued.

#### PERSONAL PRIVILEGE

Senator Wojahn: "Mr. President, a point of personal privilege. I am getting very disturbed, because I don't have these bills on my desk. I don't know what I am voting on. Senator Snyder has already said that we don't know what we are voting on. I don't know this bill; I was not on the committee that heard the bill. I have had no chance to recover it and I don't have anything on my desk to tell me whether it is a Conference Report or what it is. We're voting blindly and I think that is a mistake. We are all elected to represent the same number of people and I think that my people have the right for me to know what I am doing. I would suggest we clear this up, because there are calendars that are not here that have been disposed of already. I'm told that the old yellow calendar had all these bills on it, but the old yellow calendar is gone down the tube--about a week ago."

#### REPLY BY THE PRESIDENT

President Owen: "Message received."

Further debate ensued.

#### PERSONAL PRIVILEGE

Senator Franklin: "A point of personal privilege, Mr. President. Many years ago, there was a legislator who was here who was from the Twenty-sixth District and that Senator--many of you probably will know--he was quoted as saying, 'Mr. President, I am confused, I am confused.' Well, Mr. President, at this present time, I am confused, because of the process that is

taking place. As was said earlier, papers keep coming on our desk and I don't know what they are. So, we really need some process clarification here as to what is going on. I am confused, so please unconfuse me at this point in time."

#### RULING BY THE PRESIDENT

President Owen: "The President believes that the concurrent resolution is very vague. However, he also believes that the bill is relative to motorcycle equipment, not to state and local transportation."

"Therefore, Senator Snyder's point is well taken and the President believes that the bill is beyond the cutoff."

House Bill No. 2434 was ruled to be beyond the cutoff resolution.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3110, by House Committee on Transportation Policy and Budget (originally sponsored by Representatives Mastin, Buck and K. Schmidt)

Considering fish in advanced environmental mitigation.

The bill was read the second time.

#### MOTION

On motion of Senator Swecker, the rules were suspended, Substitute House Bill No. 3110 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 3110.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3110 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Absent: Senators McDonald and Schow - 2.

SUBSTITUTE HOUSE BILL NO. 3110, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1939, by House Committee on Government Administration (originally sponsored by Representatives Ogden, Cooper, Lantz, Anderson, Scott, O'Brien, Hatfield, Blalock, Kessler, Conway, Cody and Gardner)

Covering reserve law enforcement officers under volunteer fire fighters relief benefits.

The bill was read the second time.

#### MOTION

On motion of Senator McCaslin, the rules were suspended, Substitute House Bill No. 1939 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Substitute House Bill No. 1939.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1939 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Newhouse - 1. SUBSTITUTION HOUSE BILL NO. 1939, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### SECOND REPORT OF CONFERENCE COMMITTEE

ESHB 2439

March 11, 1998

Includes "NEW ITEM: YES

Traffic safety education

MR. PRESIDENT:

MR. SPEAKER:

We of your Second Conference Committee, to whom was referred ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439, traffic safety education, have had the same under consideration and we recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This act may be known and cited as the Cooper Jones Act.

Sec. 2. RCW 43.59.010 and 1967 ex.s. c 147 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to establish a new agency of state government to be known as the Washington traffic safety commission. The functions and purpose of this commission shall be to find solutions to the problems that have been created as a result of the tremendous increase of motor vehicles on our highways and the attendant traffic death and accident tolls; to plan and supervise programs for the prevention of accidents on streets and highways including but not limited to educational campaigns designed to reduce traffic accidents in cooperation with all official and unofficial organizations interested in traffic safety; to coordinate the activities at the state and local level in the development of state-wide and local traffic safety programs; to promote a uniform enforcement of traffic safety laws and establish standards for investigation and reporting of traffic accidents; to promote and improve driver education; and to authorize the governor to perform all functions required to be performed by him under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731).

(2) The legislature finds and declares that bicycling and walking are becoming increasingly popular in Washington as clean and efficient modes of transportation, as recreational activities, and as organized sports. Future plans for the state's transportation system will require increased access and safety for bicycles and pedestrians on our common roadways, and federal transportation legislation and funding programs have created strong incentives to implement these changes quickly. As a result, many more people are likely to take up bicycling in Washington both as a leisure activity and as a convenient, inexpensive form of transportation. Bicyclists are more vulnerable to injury and accident than motorists, and should be as knowledgeable as possible about traffic laws, be highly visible and predictable when riding in traffic, and be encouraged to wear bicycle safety helmets. Hundreds of bicyclists and pedestrians are seriously injured every year in accidents, and millions of dollars are spent on health care costs associated with these accidents. There is clear evidence that organized training in the rules and techniques of safe and effective cycling can significantly reduce the incidence of serious injury and accidents, increase cooperation among road users, and significantly increase the incidence of bicycle helmet use, particularly among minors. A reduction in accidents benefits the entire community. Therefore it is appropriate for businesses and community organizations to provide donations to bicycle and pedestrian safety training programs.

NEW SECTION. Sec. 3. A new section is added to chapter 43.59 RCW to read as follows:

(1) The Washington state traffic safety commission shall establish a program for improving bicycle and pedestrian safety, and shall cooperate with the stakeholders and independent representatives to form an advisory committee to develop programs and create public private partnerships which promote bicycle and pedestrian safety. The traffic safety commission shall report and make recommendations to the legislative transportation committee and the fiscal committees of the house of representatives and the senate by December 1, 1998, regarding the conclusions of the advisory committee.

(2) The bicycle and pedestrian safety account is created in the state treasury. Donations from industries and community organizations to the traffic safety commission for the purposes of bicycle and pedestrian safety education programs shall be deposited in the account.

**NEW SECTION. Sec. 4.** A new section is added to chapter 46.20 RCW to read as follows:

The department of licensing shall incorporate a section on bicycle safety and sharing the road into its instructional publications for drivers and shall include questions in the written portion of the driver's license examination on bicycle safety and sharing the road with bicycles.

**Sec. 5.** RCW 46.20.095 and 1986 c 93 s 3 are each amended to read as follows:

The department shall include information on the proper use of the left-hand lane by motor vehicles on multilane highways and on bicyclists' and pedestrians' rights and responsibilities in its instructional publications for drivers.

**Sec. 6.** RCW 46.82.430 and 1986 c 93 s 5 are each amended to read as follows:

Instructional material used in driver training schools shall include information on the proper use of the left-hand lane by motor vehicles on multilane highways and on bicyclists' and pedestrians' rights and responsibilities and suggested riding procedures in common traffic situations.

**Sec. 7.** RCW 46.83.040 and 1961 c 12 s 46.83.040 are each amended to read as follows:

It shall be the purpose of every traffic school which may be established hereunder to instruct, educate, and inform all persons appearing for training in the proper, lawful, and safe operation of motor vehicles, including but not limited to rules of the road and the limitations of persons, vehicles, and bicycles and roads, streets, and highways under varying conditions and circumstances.

**Sec. 8.** RCW 46.52.070 and 1967 c 32 s 57 are each amended to read as follows:

(1) Any police officer of the state of Washington or of any county, city, town or other political subdivision, present at the scene of any accident or in possession of any facts concerning any accident whether by way of official investigation or otherwise shall make report thereof in the same manner as required of the parties to such accident and as fully as the facts in his possession concerning such accident will permit.

(2) The police officer shall report to the department, on a form prescribed by the director: (a) When an accident has occurred that results in a fatality or serious injury; (b) the identity of the operator of a vehicle involved in the accident when the officer has reasonable grounds to believe the operator who caused the fatality or serious injury may not be competent to operate a motor vehicle; and (c) the reason or reasons for such belief.

**Sec. 9.** RCW 46.52.100 and 1995 c 219 s 3 are each amended to read as follows:

Every district court, municipal court, and clerk of superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to the court or a traffic violations bureau, and shall keep a record of every official action by the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or penalty resulting from every traffic complaint, citation, or notice of infraction deposited with or presented to the district court, municipal court, superior court, or traffic violations bureau.

The Monday following the conviction, forfeiture of bail, or finding that a traffic infraction was committed for violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, every magistrate of the court or clerk of the court of record in which such conviction was had, bail was forfeited, or the finding made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the record of the court covering the case, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any finding involving the illegal parking or standing of a vehicle.

The abstract must be made upon a form or forms furnished by the director and shall include the name and address of the party charged, the number, if any, of the party's driver's or chauffeur's license, the registration number of the vehicle involved if required by the director, the nature of the offense, the date of hearing, the plea, the judgment, whether the offense was an alcohol-related offense as defined in RCW 46.01.260(2), whether the incident that gave rise to the offense charged resulted in any fatality, whether bail forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty as the case may be.

Every court of record shall also forward a like report to the director upon the conviction of any person of a felony in the commission of which a vehicle was used.

The failure of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

The director shall keep all abstracts received hereunder at the director's office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all district courts shall be before one of the two nearest district judges in incorporated cities and towns nearest to the point the violation allegedly occurred: PROVIDED, That in counties with populations of one hundred twenty-five thousand or more such cases may be tried in the county seat at the request of the defendant.

It shall be the duty of the officer, prosecuting attorney, or city attorney signing the charge or information in any case involving a charge of driving under the influence of intoxicating liquor or any drug immediately to make request to the director for an abstract of convictions and forfeitures which the director shall furnish.

**Sec. 10.** RCW 46.52.120 and 1993 c 501 s 12 are each amended to read as follows:

(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident and whether or not the accident resulted in any fatality. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents.

(2) The records shall be for the confidential use of the director, the chief of the Washington state patrol, the director of the Washington traffic safety commission, and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license.

(3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. The director shall also suspend a person's driver's license if the person fails to attend or complete a driver improvement interview or fails to abide by conditions of probation under RCW 46.20.335. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law.

**Sec. 11.** RCW 46.52.130 and 1997 c 66 s 12 are each amended to read as follows:

A certified abstract of the driving record shall be furnished only to the individual named in the abstract, an employer or prospective employer or an agent acting on behalf of an employer or prospective employer, the insurance carrier that has insurance in effect covering the employer or a prospective employer, the insurance carrier that has insurance in effect covering the named individual, the insurance carrier to which the named individual has applied, an alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment, or city and county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment. The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies. Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years. Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract or to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual. The abstract, whenever possible, shall include an enumeration of motor vehicle accidents in which the person was driving; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether the vehicles were occupied at the time of the accident; whether the accident resulted in any fatality; any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law; and the status of the person's driving privilege in this state. The enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer. Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(b)(i).

The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

The director shall collect for each abstract the sum of four dollars and fifty cents which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer receiving the certified abstract shall use it exclusively for his or her own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon the public highways of this state and shall not divulge any information contained in it to a third party.



Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

Release of a certified abstract of the driving record of an employee or prospective employee requires a statement signed by: (1) The employee or prospective employee that authorizes the release of the record, and (2) the employer attesting that the information is necessary to determine whether the licensee should be employed to operate a commercial vehicle or school bus upon the public highways of this state. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

Any violation of this section is a gross misdemeanor.

**Sec. 12.** RCW 46.20.291 and 1997 c 58 s 806 are each amended to read as follows:

The department is authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

- (1) Has committed an offense for which mandatory revocation or suspension of license is provided by law;
- (2) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any person or serious property damage;
- (3) Has been convicted of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways;
- (4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3);
- (5) Has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289;
- (6) Is subject to suspension under RCW 46.20.305;
- (7) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.336; or
- ~~((7))~~ (8) Has been certified by the department of social and health services as a person who is not in compliance with a child support order or a residential or visitation order as provided in RCW 74.20A.320.

**Sec. 13.** RCW 46.20.305 and 1965 ex.s. c 121 s 26 are each amended to read as follows:

- (1) The department, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed may upon notice require him or her to submit to an examination.
- (2) The department shall require a driver reported under RCW 46.52.070(2), when a fatality occurred, to submit to an examination. The examination must be completed no later than one hundred twenty days after the accident report required under RCW 46.52.070(2) is received by the department unless the department, at the request of the operator, extends the time for examination.
- (3) The department may require a driver reported under RCW 46.52.070(2) to submit to an examination, or suspend the person's license subject to RCW 46.20.322, when a serious injury occurred. The examination must be completed no later than one hundred twenty days after the accident report required under RCW 46.52.070(2) is received by the department.
- (4) The department may in addition to an examination under this section require such person to obtain a certificate showing his or her condition signed by a licensed physician or other proper authority designated by the department.
- (5) Upon the conclusion of ~~((such))~~ an examination under this section the department shall take driver improvement action as may be appropriate and may suspend or revoke the license of such person or permit him or her to retain such license, or may issue a license subject to restrictions as permitted under RCW 46.20.041. The department may suspend or revoke the license of such person who refuses or neglects to submit to such examination.
- (6) The department may require payment of a fee by a person subject to examination under this section. The department shall set the fee in an amount that is sufficient to cover the additional cost of administering examinations required by this section.

NEW SECTION. **Sec. 14.** The department of licensing may adopt rules as necessary to implement this act.

NEW SECTION. **Sec. 15.** Sections 8 through 14 of this act take effect January 1, 1999.

**Sec. 16.** RCW 46.37.280 and 1987 c 330 s 713 are each amended to read as follows:

- (1) During the times specified in RCW 46.37.020, any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps, warning lamps authorized by the state patrol and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.
- (2) Except as required in RCW 46.37.190 no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof.
- (3) Flashing lights are prohibited except as required in RCW 46.37.190, 46.37.200, 46.37.210, 46.37.215, and 46.37.300, ~~((and))~~ warning lamps authorized by the state patrol, and light-emitting diode flashing taillights on bicycles.

**Sec. 17.** RCW 46.61.780 and 1987 c 330 s 746 are each amended to read as follows:

(1) Every bicycle when in use during the hours of darkness as defined in RCW 46.37.020 shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the state patrol which shall be visible from all distances (~~from one hundred feet~~) up to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector. A light-emitting diode flashing taillight visible from a distance of five hundred feet to the rear may also be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement."

On line 1 of the title, after "education;" strike the remainder of the title and insert "amending RCW 43.59.010, 46.20.095, 46.82.430, 46.83.040, 46.52.070, 46.52.100, 46.52.120, 46.52.130, 46.20.291, 46.20.305, 46.37.280, and 46.61.780; adding new sections to chapter 43.59 RCW; adding a new section to chapter 46.20 RCW; creating a new section; prescribing penalties; and providing an effective date.", and the bill do pass as recommended by the Conference Committee.

Signed by Senators Benton, Prince; Representatives D. Sommers, Mitchell.

#### MOTION

Senator Prince moved that the Second Report of the Conference Committee on Engrossed Substitute House Bill No. 2439 be adopted.

Debate ensued.

The President declared the question before the Senate to be the adoption of the Second Report of the Conference Committee on Engrossed Substitute House Bill No. 2439.

The motion by Senator Prince carried and the Second Report of the Conference Committee on Engrossed Substitute House Bill No. 2439 was adopted on a rising vote.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 2439, as recommended by the Conference Committee.

Debate ensued.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2439, as recommended by the Conference Committee, and the bill failed to pass the Senate by the following vote: Yeas, 24; Nays, 23; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Benton, Deccio, Fraser, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, Winsley and Wood - 24. Voting nay: Senators Bauer, Brown, Fairley, Finkbeiner, Franklin, Goings, Hargrove, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, West, Wojahn and Zarelli - 23. Absent: Senator Thibaudeau - 1. Excused: Senator Haugen - 1. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439, as recommended by the Conference Committee, having failed to receive the constitutional majority, was declared lost.

#### MESSAGE FROM THE HOUSE

March 11, 1998

MR. PRESIDENT:

Under suspension of the rules, ENGROSSED SENATE BILL NO. 6628 was returned to second reading for the purpose of an amendment and the bill passed the House with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.06.040 and 1994 c 258 s 5 are each amended to read as follows:

The department shall develop a state-wide multimodal transportation plan under RCW 47.01.071(3) and in conformance with federal requirements, to ensure the continued mobility of people and goods within regions and across the state in a safe, cost-effective manner. The state-wide multimodal transportation plan shall consist of:

(1) A state-owned facilities component, which shall guide state investment for state highways including bicycle and pedestrian facilities, and state ferries; and

(2) A state-interest component, which shall define the state interest in aviation, marine ports and navigation, freight rail, intercity passenger rail, bicycle transportation and pedestrian walkways, and public transportation, and recommend actions in coordination with appropriate public and private transportation providers to ensure that the state interest in these transportation modes is met.

The plans developed under each component must be consistent with the state transportation policy plan and with each other, reflect public involvement, be consistent with regional transportation planning, high-capacity transportation planning, and local comprehensive plans prepared under chapter 36.70A RCW, and include analysis of intermodal connections and choices. A primary emphasis for these plans shall be the relief of congestion, the preservation of existing investments, the improvement of traveler safety, the efficient movement of freight and goods, and the improvement and integration of all transportation modes to create a seamless intermodal transportation system for people and goods.

In the development of the state-wide multimodal transportation plan, the department shall identify and document potential affected environmental resources, including, but not limited to, wetlands, storm water runoff, flooding, air quality, fish passage, and wildlife habitat. The department shall conduct its environmental identification and documentation in coordination with all relevant environmental regulatory authorities, including, but not limited to, local governments. The department shall give the relevant environmental regulatory authorities an opportunity to review the department's environmental plans. The relevant environmental regulatory authorities shall provide comments on the department's environmental plans in a timely manner. Environmental identification and documentation as provided for in RCW 47.01.300 and this section is not intended to create a private right of action or require an environmental impact statement as provided in chapter 43.21C RCW.

**Sec. 2.** RCW 47.06.050 and 1993 c 446 s 5 are each amended to read as follows:

The state-owned facilities component of the state-wide transportation plan shall identify the most cost-effective combination of highway, ferry, passenger rail, and high-capacity transportation improvements that maximizes the efficient movement of people, freight, and goods within state transportation corridors and will consist of:

(1) The state highway system plan, which identifies program and financing needs and recommends specific and financially realistic improvements to preserve the structural integrity of the state highway system, ensure acceptable operating conditions, and provide for enhanced access to scenic, recreational, and cultural resources. The state highway system plan shall contain the following elements:

(a) A system preservation element, which shall establish structural preservation objectives for the state highway system including bridges, identify current and future structural deficiencies based upon analysis of current conditions and projected future deterioration, and recommend program funding levels and specific actions necessary to preserve the structural integrity of the state highway system consistent with adopted objectives. This element shall serve as the basis for the preservation component of the six-year highway program and the two-year biennial budget request to the legislature;

(b) A capacity and operational improvement element, which shall establish operational objectives, including safety considerations, for moving people and goods on the state highway system, identify current and future capacity, operational, and safety deficiencies, and recommend program funding levels and specific improvements and strategies necessary to achieve the operational objectives. In developing capacity and operational improvement plans the department shall first assess strategies to enhance the operational efficiency of the existing system before recommending system expansion. Congestion relief must be a primary emphasis of the capacity and operational improvement element. Strategies to enhance the operational efficiencies include but are not limited to access management, transportation system management, demand management, and high-occupancy vehicle facilities. The capacity and operational improvement element must conform to the state implementation plan for air quality and be consistent with regional transportation plans adopted under chapter 47.80 RCW, and shall serve as the basis for the capacity and operational improvement portions of the six-year highway program and the two-year biennial budget request to the legislature;

(c) A scenic and recreational highways element, which shall identify and recommend designation of scenic and recreational highways, provide for enhanced access to scenic, recreational, and cultural resources associated with designated routes, and recommend a variety of management strategies to protect, preserve, and enhance these resources. The department, affected counties, cities, and towns, regional transportation planning organizations, and other state or federal agencies shall jointly develop this element;

(d) A paths and trails element, which shall identify the needs of nonmotorized transportation modes on the state transportation systems and provide the basis for the investment of state transportation funds in paths and trails, including funding provided under chapter 47.30 RCW.

(2) The state ferry system plan, which shall guide capital and operating investments in the state ferry system. The plan shall establish service objectives for state ferry routes, forecast travel demand for the various markets served in the system, and develop strategies for ferry system investment that consider regional and state-wide vehicle and passenger needs, support local land use plans, and assure that ferry services are fully integrated with other transportation services. The plan shall assess the role of private ferries operating under the authority of the utilities and transportation commission and shall coordinate ferry system capital and operational plans with these private operations. The ferry system plan must be consistent with the regional transportation plans for areas served by the state ferry system, and shall be developed in conjunction with the ferry advisory committees.

**Sec. 3.** RCW 47.06.090 and 1993 c 446 s 9 are each amended to read as follows:

The state-interest component of the state-wide multimodal transportation plan shall include an intercity passenger rail plan, which shall analyze existing intercity passenger rail service and recommend improvements to that service under the state passenger rail service program including depot improvements, potential service extensions, and ways to achieve higher train speeds. The plan must include:

(1) A service preservation element that outlines the trackage, depots, and train investments needed to maintain established service levels; and

(2) A service improvement element that establishes service improvement objectives and outlines the trackage, depot, and train investments needed to meet improvement service objectives.

NEW SECTION. Sec. 4. A new section is added to chapter 81.104 RCW to read as follows:

Any regional transit authority imposing taxes under this chapter shall consult with the department of community, trade, and economic development to explore the potential for developing contracting methods and procedures that encourage the establishment of a manufacturing base in the state of Washington for the purpose of constructing and assembling commuter and light rail train sets and components. The regional transit authority shall report its findings and recommendations to the legislative transportation committee by January 1, 1999."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Benton moved that the Senate concur in the House amendment to Engrossed Senate Bill No. 6628.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Benton to concur in the House amendment to Engrossed Senate Bill No. 6628.

The motion by Senator Benton carried and the Senate concurred in the House amendment to Engrossed Senate Bill No. 6628.

#### POINT OF INQUIRY

Senator Rasmussen: "Senator Benton, when this bill left the Senate and went to the House, it had a very good amendment that we put on concerning the way the Department of Transportation treated access routes onto highways in a construction project. Can you tell me what happened and whether or not there is an ongoing review of that particular problem?"

Senator Benton: "When the bill originally left the Senate, we had amended that to it, as you know. That was removed and was not part of the consideration when it came back over here to concur or not concur. That piece is still not part of this. However, it is my understanding that the department has agreed to look at changing the way they operate when it comes to access management. So, we do have--it is my understanding--that we have a commitment from the secretary and the department and I think you will agree with that. Is that your understanding, as well?"

Senator Rasmussen: "That is my understanding."

Senator Benton: "Great."

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Senate Bill No. 6628, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6628, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Voting nay: Senator Kohl - 1. ENGROSSED SENATE BILL NO. 6628, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

The House recedes from its amendment to SENATE BILL NO. 6541 on page 3, line 10, and passed the bill with the amendments on page 2, line 33, and page 3, line 6, but without the amendment on page 3, line 10, and the same are herewith transmitted.

MOTION

On motion of Senator Hale, Senators Schow and Wood were excused.

The President declared the question before the Senate to be the roll call on the final passage of Senate Bill No. 6541, as amended by the House on page 2, line 33, and page 3, line 6, but without the House amendment on page 3, line 10.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6541, as amended by the House on page 2, line 33, and page 3, line 6, but without the House amendment on page 3, line 10, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn and Zarelli - 47. Excused: Senators Schow and Wood - 2. SENATE BILL NO. 6541, as amended by the House on page 2, line 33, and page 3, line 6, but without the House amendment on page 3, line 10, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the sixth order of business.

There being no objection, the Senate resumed consideration of Substitute Senate Bill No. 6470 and the pending amendment by Senator Hargrove on page 6, after line 5, deferred earlier today.

MOTION

On motion of Senator Hargrove, and there being no objection, the amendment on page 6, after line 5, to Substitute Senate Bill No. 6470 was withdrawn.

MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and West be adopted:

On page 10, after line 22, insert the following:

"NEW SECTION. Sec. 8. A new section is added to chapter 82.04 RCW to read as follows:

(1) A credit is authorized against the tax otherwise due under this chapter for persons engaged in the business of the creation, distribution, wholesaling, or warehousing of canned or custom software in accordance with the terms of this section.

(2) To qualify for the credit, the principal place of business of the person must be located in a distressed county.

(3) For taxes payable on income received in the first thirty-six months in which the person is engaged in business in the distressed county, the amount of the credit shall be equal to one hundred percent of the amount of tax otherwise due under this chapter. For taxes payable on income received after the first thirty-six months in which the person is engaged in business in the distressed county, the amount of the credit shall equal ninety percent of the amount of tax otherwise due under this chapter for persons engaged in the business of the creation or distribution of canned or custom software and in the amount of seventy percent of the amount of tax otherwise due under this chapter for persons engaged in the business of the wholesaling or warehousing of canned or custom software.

(4) This section does not apply to the retail distribution or sale of canned or custom software.

(5) As used in this section, "distressed county" means any county in which the average level of unemployment for the previous three years exceeds the average state unemployment for those years by twenty percent."

Renumber the sections consecutively and correct any internal references accordingly.

Debate ensued.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and West on page 10, after line 22, to Substitute Senate Bill No. 6470.

The motion by Senator Hargrove carried and the amendment was adopted.

MOTION

On motion of Senator West, the rules were suspended, Engrossed Substitute Senate Bill No. 6470 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6470.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6470 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE SENATE BILL NO. 6470, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the Senate resumed consideration of House Bill No. 2335, deferred on March 11, 1998, after the President ruled the amendment by Senators Thibaudeau, Brown and Kohl on page 7, after line 3, to be in order.

The President declared the question before the Senate to be the adoption of the amendment by Senators Thibaudeau, Brown and Kohl on page 7, after line 3, to House Bill No. 2335.

Debate ensued.

The motion by Senator Thibaudeau carried and the amendment was adopted.

#### MOTIONS

On motion of Senator West, the following title amendment was adopted:

On page 1, line 3 of the title, after "82.04.270," strike "and 82.04.440; adding a new section" and insert "82.04.290, and 82.04.440; adding new sections"

On motion of Senator West, the rules were suspended, House Bill No. 2335, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTIONS

On motion of Senator Hale, Senator Schow was excused.

On motion of Senator Franklin, Senator Prentice was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2335, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2335, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Oke, Patterson, Prince, Rasmussen, Roach, Rossi, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senators Newhouse and Sellar - 2. Excused: Senators Prentice and Schow - 2. HOUSE BILL NO. 2335, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

At 4:18 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 5:18 p.m. by President Owen.

MOTION

On motion of Senator Johnson, the Senate advanced to the eighth order of business.

MOTION

On motion of Senator Morton, the following resolution was adopted:

SENATE RESOLUTION 1998-8695

By Senators Morton, Rasmussen, Fraser and Loveland

WHEREAS, The Washington Contract Loggers Association organized the "Log-A-Load For Kids" Program in 1995 to raise money to allow children's hospitals located across the state of Washington to continue to accept young patients in need of medical care regardless of their ability to pay; and

WHEREAS, The "Log-A-Load For Kids" is an annual, state-wide event sponsored by the Washington Contract Loggers Association, whereby loggers and others within the timber community donate their proceeds from a load of logs, about five hundred dollars per load, to benefit various children's hospitals across the great state of Washington; and

WHEREAS, The "Log-A-Load For Kids" Program has collected over sixty-two thousand dollars during the last two years, by way of the

Children's Miracle Network Telethon, which is a tribute to the hard-working Washington State loggers, foresters, manufacturers, suppliers, and others within the timber industry, whose generous contributions mean so much to the health and well-being of Washington State's children; and

WHEREAS, The money raised benefits children's hospitals located all across the state of Washington, including, Seattle Children's Hospital, Deaconess Medical Center, Deer Park Health Center and Hospital, Holy Family Hospital in Spokane, Mount Carmel Hospital in Colville, Regional Center for Child Abuse and Neglect, St. Joseph's Hospital in Chewelah, St. Luke's Rehabilitation Institute, Sacred Heart Medical Center, and Valley Hospital and Medical Center; and

WHEREAS, All funds raised by the "Log-A-Load For Kids" Program return to the local community, with a total of ninety-eight percent of the money donated going to enable the various hospitals to continue to provide necessary medical care to those children who are unable to pay for the necessary treatment;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize the "Log-A-Load For Kids" Program for its outstanding contribution to the various communities across the great State of Washington and the State itself; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the President of the Senate to the Washington Contract Loggers Association and the Children's Miracle Network.

Senators Morton and Tim Sheldon spoke to Senate Resolution 1998-8695.

MOTION

On motion of Senator Wood, the following resolution was adopted:

SENATE RESOLUTION 1998-8719

By Senators Wood and Spanel

WHEREAS, Chronic Hepatitis C has been classified as the silent killer, where no recognizable signs or symptoms occur until severe liver damage has occurred; and

WHEREAS, Chronic Hepatitis C has been characterized by the World Health Organization as a disease of primary concern to humanity; and

WHEREAS, Chronic Hepatitis C currently infects approximately four million five hundred thousand Americans and there are thirty thousand new infections each year in the United States; and

WHEREAS, This disease is considered such a public health threat that the National Institute of Health convened an international conference of health experts in March of 1997, to issue guidelines for diagnosis, control, and treatment of Hepatitis C; and

WHEREAS, The United States Department of Health and Human Services has launched a comprehensive plan to address this significant public health problem, beginning with the identification and notification of the hundreds of thousands of persons inadvertently exposed to Hepatitis C through blood transfusions; and

WHEREAS, In the absence of a vaccine, emphasis must be placed on other means of disease prevention including the education of health care workers and the general public;

NOW, THEREFORE, BE IT RESOLVED, By the Senate of the state of Washington, that we designate the month of October as Hepatitis C Education Awareness Month urging public awareness on behalf of the Department of Health through increased public education during this month.

#### SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5582,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6165,  
SECOND SUBSTITUTE SENATE BILL NO. 6168,  
SUBSTITUTE SENATE BILL NO. 6181,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6187,  
SECOND SUBSTITUTE SENATE BILL NO. 6190,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6204,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6238,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6408,  
SUBSTITUTE SENATE BILL NO. 6455.

There being no objection, the President returned the Senate to the sixth order of business.

There being no objection, the Senate resumed consideration of Engrossed Substitute House Bill No. 2871 and the Committee on Ways and Means amendment on page 5, beginning on line 22, deferred earlier today.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator McDonald to the scope and object of the Committee on Ways and Means amendment on page 5, beginning on line 22, the President finds that Engrossed Substitute House Bill No. 2871 is a measure which addresses the current use classification of agricultural land only.

"The committee amendment would provide new criteria for classifying land as open space land based on aquatic habitat protection.

"The President, therefore, finds that the proposed committee amendment does change the scope and object of the bill and the point of order is well taken."

The Committee on Ways and Means amendment on page 5, beginning on line 22, to Engrossed Substitute House Bill No. 2871 was ruled out of order.



#### MOTION

On motion of Senator West, the rules were suspended, Engrossed Substitute House Bill No. 2871 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Franklin, Senator Loveland was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2871.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2871 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 47. Excused: Senators Loveland and Schow - 2.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2871, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, the Senate advanced to the eighth order of business.

#### MOTION

On motion of Senator Roach, the following resolution was adopted:

#### SENATE RESOLUTION 1998-8734

By Senators Roach, Strannigan, Stevens, Prentice, Heavey, Kline, Zarelli, Patterson, Finkbeiner, Long, Hochstatter, Schow, McCaslin, Oke, Benton, Hargrove, Prince, Swecker, T. Sheldon, Morton, Rossi, Franklin, Jacobsen, West and Johnson

WHEREAS, Appellate courts have remanded or overturned the convictions of persons convicted of sexual abuse of their children in Wenatchee; and

WHEREAS, Appellate courts have indicated that Child Protective Services and law enforcement officials might have conducted flawed child sex abuse investigations; and

WHEREAS, Media investigations of the alleged child sex abuse cases indicate that there were possible violations of basic fairness and due process to both parents and children in the conduct of the Wenatchee cases; and

WHEREAS, There are allegations of coerced confessions of persons who were frightened and scared of long prison terms and the potential loss of their children; and

WHEREAS, Many of the individuals conducting the investigation of sexual abuse for state and local agencies were not properly trained to conduct such investigations; and

WHEREAS, There are at least seventeen children whose parents have had their parental rights terminated and there are twenty-one more children still in foster homes or in state custody; and

WHEREAS, There are media reports that the Department of Social and Health Services might still be in the process of continuing with proceedings to terminate parental rights and finalize adoptions in which legal rights might have been seriously violated; and

WHEREAS, The state of Washington has a duty to ensure fairness in such vital and critical proceedings where the rights of birth parents and adoptive parents may be negatively affected;

NOW, THEREFORE, BE IT RESOLVED, That the Senate urge the Department of Social and Health Services to suspend any final termination of parental rights or final adoptions of children from families who were convicted as part of the Wenatchee child sex abuse investigations until many serious issues surrounding these cases can be resolved.

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Lyle Quasim, Secretary of Social and Health Services.

Senators Roach, Hargrove, Thibaudeau and Long spoke to Senate Resolution 1998-8734.

#### MOTION FOR RECONSIDERATION

Having voted on the prevailing side, Senator West moved to reconsider the vote by which Engrossed Substitute House Bill No. 2439, as recommended by the Second Conference Committee, failed to pass the Senate earlier today.

The President declared the question before the Senate to be the motion by Senator West to reconsider the vote by which Engrossed Substitute House Bill No. 2439, as recommended by the Second Conference Committee, failed to pass the Senate earlier today.

The motion by Senator West carried and the Senate will reconsider the vote by which Engrossed Substitute House Bill No. 2439, as recommended by the Second Conference Committee, failed to pass the Senate earlier today.

#### MOTION

On motion of Senator West, the Second Conference Committee on Engrossed Substitute House Bill No. 2439 was relieved of further consideration of the bill.

#### MOTIONS

On motion of Senator West, the rules were suspended, Engrossed Substitute House Bill No. 2439 was returned to second reading and read the second time.

Senator West moved that the following amendment by Senators West and Brown be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This act may be known and cited as the Cooper Jones Act.

Sec. 2. RCW 43.59.010 and 1967 ex.s. c 147 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to establish a new agency of state government to be known as the Washington traffic safety commission. The functions and purpose of this commission shall be to find solutions to the problems that have been created as a result of the tremendous increase of motor vehicles on our highways and the attendant traffic death and accident tolls; to plan and supervise programs for the prevention of accidents on streets and highways including but not limited to educational campaigns designed to reduce traffic accidents in cooperation with all official and unofficial organizations interested in traffic safety; to coordinate the activities at the state and local level in the development of state-wide and local traffic safety programs; to promote a uniform enforcement of traffic safety laws and establish standards for investigation and reporting of traffic accidents; to promote and improve driver education; and to authorize the governor to perform all functions required to be performed by him under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731).

(2) The legislature finds and declares that bicycling and walking are becoming increasingly popular in Washington as clean and efficient modes of transportation, as recreational activities, and as organized sports. Future plans for the state's transportation system will require increased access and safety for bicycles and pedestrians on our common roadways, and federal transportation legislation and funding programs have created strong incentives to implement these changes quickly. As a result, many more people are likely to take up bicycling in Washington both as a leisure activity and as a convenient, inexpensive form of transportation. Bicyclists are more vulnerable to injury and accident than motorists, and should be as knowledgeable as possible about traffic laws, be highly visible and predictable when riding in traffic, and be encouraged to wear bicycle safety helmets. Hundreds of bicyclists and pedestrians are seriously injured every year in accidents, and millions of dollars are spent on health care costs associated with these accidents. There is clear evidence that organized training in the rules and techniques of safe and effective cycling can significantly reduce the incidence of serious injury and accidents, increase cooperation among road users, and significantly increase the incidence of bicycle helmet use, particularly among minors. A reduction in accidents benefits the entire community. Therefore it is appropriate for businesses and community organizations to provide donations to bicycle and pedestrian safety training programs.

NEW SECTION. Sec. 3. A new section is added to chapter 43.59 RCW to read as follows:

(1) The Washington state traffic safety commission shall establish a program for improving bicycle and pedestrian safety, and shall cooperate with the stakeholders and independent representatives to form an advisory committee to develop programs and create public private partnerships which promote bicycle and pedestrian safety. The traffic safety commission shall report and make recommendations to the

legislative transportation committee and the fiscal committees of the house of representatives and the senate by December 1, 1998, regarding the conclusions of the advisory committee.

(2) The bicycle and pedestrian safety account is created in the state treasury. To the extent that private contributions are received by the traffic safety commission for the purposes of bicycle and pedestrian safety programs established under this section, the appropriations from the highway safety account for this purpose shall lapse.

**NEW SECTION. Sec. 4.** A new section is added to chapter 46.20 RCW to read as follows:

The department of licensing shall incorporate a section on bicycle safety and sharing the road into its instructional publications for drivers and shall include questions in the written portion of the driver's license examination on bicycle safety and sharing the road with bicycles.

**Sec. 5.** RCW 46.20.095 and 1986 c 93 s 3 are each amended to read as follows:

The department shall include information on the proper use of the left-hand lane by motor vehicles on multilane highways and on bicyclists' and pedestrians' rights and responsibilities in its instructional publications for drivers.

**Sec. 6.** RCW 46.82.430 and 1986 c 93 s 5 are each amended to read as follows:

Instructional material used in driver training schools shall include information on the proper use of the left-hand lane by motor vehicles on multilane highways and on bicyclists' and pedestrians' rights and responsibilities and suggested riding procedures in common traffic situations.

**Sec. 7.** RCW 46.83.040 and 1961 c 12 s 46.83.040 are each amended to read as follows:

It shall be the purpose of every traffic school which may be established hereunder to instruct, educate, and inform all persons appearing for training in the proper, lawful, and safe operation of motor vehicles, including but not limited to rules of the road and the limitations of persons, vehicles, and bicycles and roads, streets, and highways under varying conditions and circumstances.

**Sec. 8.** RCW 46.52.070 and 1967 c 32 s 57 are each amended to read as follows:

(1) Any police officer of the state of Washington or of any county, city, town or other political subdivision, present at the scene of any accident or in possession of any facts concerning any accident whether by way of official investigation or otherwise shall make report thereof in the same manner as required of the parties to such accident and as fully as the facts in his possession concerning such accident will permit.

(2) The police officer shall report to the department, on a form prescribed by the director: (a) When an accident has occurred that results in a fatality or serious injury; (b) the identity of the operator of a vehicle involved in the accident when the officer has reasonable grounds to believe the operator who caused the fatality or serious injury may not be competent to operate a motor vehicle; and (c) the reason or reasons for such belief.

**Sec. 9.** RCW 46.52.100 and 1995 c 219 s 3 are each amended to read as follows:

Every district court, municipal court, and clerk of superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to the court or a traffic violations bureau, and shall keep a record of every official action by the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or penalty resulting from every traffic complaint, citation, or notice of infraction deposited with or presented to the district court, municipal court, superior court, or traffic violations bureau.

The Monday following the conviction, forfeiture of bail, or finding that a traffic infraction was committed for violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, every magistrate of the court or clerk of the court of record in which such conviction was had, bail was forfeited, or the finding made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the record of the court covering the case, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any finding involving the illegal parking or standing of a vehicle.

The abstract must be made upon a form or forms furnished by the director and shall include the name and address of the party charged, the number, if any, of the party's driver's or chauffeur's license, the registration number of the vehicle involved if required by the director, the nature of the offense, the date of hearing, the plea, the judgment, whether the offense was an alcohol-related offense as defined in RCW 46.01.260(2), whether the incident that gave rise to the offense charged resulted in any fatality, whether bail forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty as the case may be.

Every court of record shall also forward a like report to the director upon the conviction of any person of a felony in the commission of which a vehicle was used.

The failure of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

The director shall keep all abstracts received hereunder at the director's office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all district courts shall be before one of the two nearest district judges in incorporated cities and towns nearest to the point the violation allegedly occurred: PROVIDED, That in counties with populations of one hundred twenty-five thousand or more such cases may be tried in the county seat at the request of the defendant.

It shall be the duty of the officer, prosecuting attorney, or city attorney signing the charge or information in any case involving a charge of driving under the influence of intoxicating liquor or any drug immediately to make request to the director for an abstract of convictions and forfeitures which the director shall furnish.

**Sec. 10.** RCW 46.52.120 and 1993 c 501 s 12 are each amended to read as follows:

(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident and whether or not the accident resulted in any fatality. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents.

(2) The records shall be for the confidential use of the director, the chief of the Washington state patrol, the director of the Washington traffic safety commission, and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license.

(3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. The director shall also suspend a person's driver's license if the person fails to attend or complete a driver improvement interview or fails to abide by conditions of probation under RCW 46.20.335. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law.

**Sec. 11.** RCW 46.52.130 and 1997 c 66 s 12 are each amended to read as follows:

A certified abstract of the driving record shall be furnished only to the individual named in the abstract, an employer or prospective employer or an agent acting on behalf of an employer or prospective employer, the insurance carrier that has insurance in effect covering the employer or a prospective employer, the insurance carrier that has insurance in effect covering the named individual, the insurance carrier to which the named individual has applied, an alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment, or city and county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment. The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies. Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years. Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract or to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual. The abstract, whenever possible, shall include an enumeration of motor vehicle accidents in which the person was driving; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether the vehicles were occupied at the time of the accident; whether the accident resulted in any fatality; any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law; and the status of the person's driving privilege in this state. The enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer. Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(b)(i).

The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

The director shall collect for each abstract the sum of four dollars and fifty cents which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting

purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer receiving the certified abstract shall use it exclusively for his or her own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon the public highways of this state and shall not divulge any information contained in it to a third party.

Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

Release of a certified abstract of the driving record of an employee or prospective employee requires a statement signed by: (1) The employee or prospective employee that authorizes the release of the record, and (2) the employer attesting that the information is necessary to determine whether the licensee should be employed to operate a commercial vehicle or school bus upon the public highways of this state. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

Any violation of this section is a gross misdemeanor.

**Sec. 12.** RCW 46.20.291 and 1997 c 58 s 806 are each amended to read as follows:

The department is authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

- (1) Has committed an offense for which mandatory revocation or suspension of license is provided by law;
- (2) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any person or serious property damage;
- (3) Has been convicted of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways;
- (4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3);
- (5) Has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289;

(6) Is subject to suspension under RCW 46.20.305;

(7) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.336; or

~~((7))~~ (8) Has been certified by the department of social and health services as a person who is not in compliance with a child support order or a residential or visitation order as provided in RCW 74.20A.320.

**Sec. 13.** RCW 46.20.305 and 1965 ex.s. c 121 s 26 are each amended to read as follows:

(1) The department, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed may upon notice require him or her to submit to an examination.

(2) The department shall require a driver reported under RCW 46.52.070(2), when a fatality occurred, to submit to an examination. The examination must be completed no later than one hundred twenty days after the accident report required under RCW 46.52.070(2) is received by the department unless the department, at the request of the operator, extends the time for examination.

(3) The department may require a driver reported under RCW 46.52.070(2) to submit to an examination, or suspend the person's license subject to RCW 46.20.322, when a serious injury occurred. The examination must be completed no later than one hundred twenty days after the accident report required under RCW 46.52.070(2) is received by the department.

(4) The department may in addition to an examination under this section require such person to obtain a certificate showing his or her condition signed by a licensed physician or other proper authority designated by the department.

(5) Upon the conclusion of ~~((such))~~ an examination under this section the department shall take driver improvement action as may be appropriate and may suspend or revoke the license of such person or permit him or her to retain such license, or may issue a license subject to restrictions as permitted under RCW 46.20.041. The department may suspend or revoke the license of such person who refuses or neglects to submit to such examination.

(6) The department may require payment of a fee by a person subject to examination under this section. The department shall set the fee in an amount that is sufficient to cover the additional cost of administering examinations required by this section.

**NEW SECTION. Sec. 14.** The department of licensing may adopt rules as necessary to implement this act.

**NEW SECTION. Sec. 15.** Sections 8 through 14 of this act take effect January 1, 1999.

**Sec. 16.** RCW 46.37.280 and 1987 c 330 s 713 are each amended to read as follows:

(1) During the times specified in RCW 46.37.020, any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps, warning lamps authorized by the state patrol and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part

of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(2) Except as required in RCW 46.37.190 no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof.

(3) Flashing lights are prohibited except as required in RCW 46.37.190, 46.37.200, 46.37.210, 46.37.215, and 46.37.300, ~~((and))~~ warning lamps authorized by the state patrol, and light-emitting diode flashing taillights on bicycles.

**Sec. 17.** RCW 46.61.780 and 1987 c 330 s 746 are each amended to read as follows:

(1) Every bicycle when in use during the hours of darkness as defined in RCW 46.37.020 shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the state patrol which shall be visible from all distances ~~((from one hundred feet))~~ up to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector. A light-emitting diode flashing taillight visible from a distance of five hundred feet to the rear may also be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

**NEW SECTION. Sec. 18.** The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1999, from the highway safety account to the bicycle and pedestrian safety account for the purposes of this act."

Debate ensued.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators West and Brown to Engrossed Substitute House Bill No. 2439, under suspension of the rules.

The motion by Senator West carried and the striking amendment was adopted.

#### MOTIONS

On motion of Senator West, the following title amendment was adopted:

On line 1 of the title, after "education;" strike the remainder of the title and insert "amending RCW 43.59.010, 46.20.095, 46.82.430, 46.83.040, 46.52.070, 46.52.100, 46.52.120, 46.52.130, 46.20.291, 46.20.305, 46.37.280, and 46.61.780; adding new sections to chapter 43.59 RCW; adding a new section to chapter 46.20 RCW; creating a new section; prescribing penalties; making an appropriation; and providing an effective date."

On motion of Senator West, the rules were suspended, Engrossed Substitute House Bill No. 2439, as amended by the Senate under suspension of the rules, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2439, as amended by the Senate under suspension of the rules.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2439, as amended by the Senate under suspension of the rules, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439, as amended by the Senate under suspension of the rules, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator West, Engrossed Substitute House Bill No. 2439, as amended by the Senate under suspension of the rules, was immediately transmitted to the House of Representatives.

There being no objection, the President advanced the Senate to the sixth order of business.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2339, by House Committee on Appropriations (originally sponsored by Representatives Thompson, Mulliken, Pennington, Gardner, Romero, Chopp, Anderson, Boldt and Lantz)

Authorizing wetlands mitigation banking.

The bill was read the second time.

MOTION

Senator Swecker moved that the following Committee on Agriculture and Environment amendment not be adopted:  
Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that wetlands mitigation banks are an important tool for providing compensatory mitigation for unavoidable impacts to wetlands. The legislature further finds that the benefits of mitigation banks include: (a) Maintenance of the ecological functioning of a watershed by consolidating compensatory mitigation into a single large parcel rather than smaller individual parcels; (b) increased potential for the establishment and long-term management of successful mitigation by bringing together financial resources, planning, and scientific expertise not practicable for many project-specific mitigation proposals; (c) increased certainty over the success of mitigation and reduction of temporal losses of wetlands since mitigation banks are typically implemented and functioning in advance of project impacts; (d) potential enhanced protection and preservation of the state's highest value and highest functioning wetlands; (e) a reduction in permit processing times and increased opportunity for more cost-effective compensatory mitigation for development projects; and (f) the ability to provide compensatory mitigation in an efficient, predictable, and economically and environmentally responsible manner. Therefore, the legislature declares that it is the policy of the state to authorize wetland mitigation banking.

(2) The purpose of this chapter is to support the establishment of mitigation banks by: (a) Authorizing state agencies and local governments, as well as private entities, to achieve the goals of this chapter; and (b) providing a predictable, efficient, regulatory framework, including timely review of mitigation bank proposals. The legislature intends that, in the development and adoption of rules for banks, the department establish and use a collaborative process involving interested public and private entities.

**NEW SECTION. Sec. 2.** This chapter does not create any new authority for regulating wetlands or wetlands banks beyond what is specifically provided for in this chapter. No authority is granted to the department under this chapter to adopt rules or guidance that apply to wetland projects other than banks under this chapter.

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

(1) "Banking instrument" means the documentation of agency and bank sponsor concurrence on the objectives and administration of the bank that describes in detail the physical and legal characteristics of the bank, including the service area, and how the bank will be established and operated.

(2) "Bank sponsor" means any public or private entity responsible for establishing and, in most circumstances, operating a bank.

(3) "Credit" means a unit of trade representing the increase in the ecological value of the site, as measured by acreage, functions, and/or values, or by some other assessment method.

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

(5) "Wetlands mitigation bank" or "bank" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

(6) "Mitigation" means sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts.

(7) "Practicable" means available and capable of being done after taking into consideration cost, existing technology, the functions and values of the wetland, including fish habitat, ground water quality, and protection of adjacent properties, and logistics in light of overall project purposes.

(8) "Service area" means the designated geographic area in which a bank can reasonably be expected to provide appropriate compensation for unavoidable impacts to wetlands.

(9) "Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

**NEW SECTION. Sec. 4.** Subject to the requirements of this chapter, the department, through a collaborative process, shall adopt rules for:

(1) Certification, operation, and monitoring of wetlands mitigation banks. The rules shall include procedures to assure that:

(a) Priority is given to banks providing for the restoration of degraded or former wetlands;

(b) Banks involving the creation and enhancement of wetlands are certified only where there are adequate assurances of success and that the bank will result in an overall environmental benefit; and

(c) Banks involving the preservation of wetlands or associated uplands are certified only when the preservation is in conjunction with the restoration, enhancement, or creation of a wetland, or in other exceptional circumstances as determined by the department consistent with this chapter;

(2) Determination and release of credits from banks. Procedures regarding credits shall authorize the use and sale of credits to offset adverse impacts and the phased release of credits as different levels of the performance standards are met;

(3) Public involvement in the certification of banks, using existing statutory authority;

(4) Coordination of governmental agencies;

(5) Establishment of criteria for determining service areas for each bank;

(6) Performance standards; and

(7) Long-term management, financial assurances, and remediation for certified banks.

Before adopting rules under this chapter, the department shall submit the proposed rules to the appropriate standing committees of the legislature. By January 30, 1999, the department shall submit a report to the appropriate standing committees of the legislature on its progress in developing rules under this chapter.

**NEW SECTION. Sec. 5.** (1) The department may certify only those banks that meet the requirements of this chapter. Certification shall be accomplished through a banking instrument. The local jurisdiction in which the bank is located shall be signatory to the banking instrument.

(2) State agencies and local governments may approve use of credits from a bank for any mitigation required under a permit issued or approved by that state agency or local government to compensate for the proposed impacts of a specific public or private project.

**NEW SECTION. Sec. 6.** Prior to authorizing use of credits from a bank as a means of mitigation under a permit issued or approved by the department, the department must assure that all appropriate and practicable steps have been undertaken to first avoid and then minimize adverse impacts to wetlands. The department may approve use of credits from a bank when:

(1) The credits represent the creation or restoration of wetlands of like kind and in close proximity to the wetlands being mitigated;

(2) There is no practicable opportunity for on-site compensation; and

(3) Use of credits from a bank is environmentally preferable to on-site compensation.

**NEW SECTION. Sec. 7.** The interpretation of this chapter and rules adopted under this chapter must be consistent with applicable federal guidance for the establishment, use, and operation of wetlands mitigation banks as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this chapter.

**NEW SECTION. Sec. 8.** This chapter applies to public and private mitigation banks.

**NEW SECTION. Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 10.** The director of the department of ecology may take the necessary steps to ensure that this act is implemented on its effective date.

**NEW SECTION. Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 12.** Sections 1 through 9 of this act constitute a new chapter in Title 90 RCW."

The President declared the question before the Senate to be the motion by Senator Swecker that the Committee on Agriculture and Environment striking amendment to Engrossed Second Substitute House Bill No. 2339 not be adopted.

The motion by Senator Swecker carried and the committee striking amendment was not adopted.

## MOTION

On motion of Senator Swecker, the following amendment by Senators Swecker and Fraser was adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that wetlands mitigation banks are an important tool for providing compensatory mitigation for unavoidable impacts to wetlands. The legislature further finds that the benefits of mitigation banks include: (a) Maintenance of the ecological functioning of a watershed by consolidating compensatory mitigation into a single large parcel rather than smaller individual parcels; (b) increased potential for the establishment and long-term management of successful mitigation by bringing together financial resources, planning, and scientific expertise not practicable for many project-specific mitigation proposals; (c) increased certainty over the success of mitigation and reduction of temporal losses of wetlands since mitigation banks are typically implemented and functioning in advance of project impacts; (d) potential enhanced protection and preservation of the state's highest value and highest functioning wetlands; (e) a reduction in permit processing times and increased opportunity for more cost-effective compensatory mitigation for development projects; and (f) the ability to provide compensatory mitigation in an efficient, predictable, and economically and environmentally responsible manner. Therefore, the legislature declares that it is the policy of the state to authorize wetland mitigation banking.



(2) The purpose of this chapter is to support the establishment of mitigation banks by: (a) Authorizing state agencies and local governments, as well as private entities, to achieve the goals of this chapter; and (b) providing a predictable, efficient, regulatory framework, including timely review of mitigation bank proposals. The legislature intends that, in the development and adoption of rules for banks, the department establish and use a collaborative process involving interested public and private entities.

**NEW SECTION. Sec. 2.** This chapter does not create any new authority for regulating wetlands or wetlands banks beyond what is specifically provided for in this chapter. No authority is granted to the department under this chapter to adopt rules or guidance that apply to wetland projects other than banks under this chapter.

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

(1) "Banking instrument" means the documentation of agency and bank sponsor concurrence on the objectives and administration of the bank that describes in detail the physical and legal characteristics of the bank, including the service area, and how the bank will be established and operated.

(2) "Bank sponsor" means any public or private entity responsible for establishing and, in most circumstances, operating a bank.

(3) "Credit" means a unit of trade representing the increase in the ecological value of the site, as measured by acreage, functions, and/or values, or by some other assessment method.

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

(5) "Wetlands mitigation bank" or "bank" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

(6) "Mitigation" means sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts.

(7) "Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(8) "Service area" means the designated geographic area in which a bank can reasonably be expected to provide appropriate compensation for unavoidable impacts to wetlands.

(9) "Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

**NEW SECTION. Sec. 4.** Subject to the requirements of this chapter, the department, through a collaborative process, shall adopt rules for:

(1) Certification, operation, and monitoring of wetlands mitigation banks. The rules shall include procedures to assure that:

(a) Priority is given to banks providing for the restoration of degraded or former wetlands;

(b) Banks involving the creation and enhancement of wetlands are certified only where there are adequate assurances of success and that the bank will result in an overall environmental benefit; and

(c) Banks involving the preservation of wetlands or associated uplands are certified only when the preservation is in conjunction with the restoration, enhancement, or creation of a wetland, or in other exceptional circumstances as determined by the department consistent with this chapter;

(2) Determination and release of credits from banks. Procedures regarding credits shall authorize the use and sale of credits to offset adverse impacts and the phased release of credits as different levels of the performance standards are met;

(3) Public involvement in the certification of banks, using existing statutory authority;

(4) Coordination of governmental agencies;

(5) Establishment of criteria for determining service areas for each bank;

(6) Performance standards; and

(7) Long-term management, financial assurances, and remediation for certified banks.

Before adopting rules under this chapter, the department shall submit the proposed rules to the appropriate standing committees of the legislature. By January 30, 1999, the department shall submit a report to the appropriate standing committees of the legislature on its progress in developing rules under this chapter.

**NEW SECTION. Sec. 5.** (1) The department may certify only those banks that meet the requirements of this chapter. Certification shall be accomplished through a banking instrument. The local jurisdiction in which the bank is located shall be signatory to the banking instrument.

(2) State agencies and local governments may approve use of credits from a bank for any mitigation required under a permit issued or approved by that state agency or local government to compensate for the proposed impacts of a specific public or private project.

**NEW SECTION. Sec. 6.** Prior to authorizing use of credits from a bank as a means of mitigation under a permit issued or approved by the department, the department must assure that all appropriate and practicable steps have been undertaken to first avoid and then minimize adverse impacts to wetlands. In determining appropriate steps to avoid and minimize adverse impacts to wetlands, the department shall take into consideration the functions and values of the wetland, including fish habitat, ground water quality, and protection of adjacent properties. The department may approve use of credits from a bank when:

(1) The credits represent the creation, restoration, or enhancement of wetlands of like kind and in close proximity when estuarine wetlands are being mitigated;

(2) There is no practicable opportunity for on-site compensation; or

(3) Use of credits from a bank is environmentally preferable to on-site compensation.

NEW SECTION. Sec. 7. The interpretation of this chapter and rules adopted under this chapter must be consistent with applicable federal guidance for the establishment, use, and operation of wetlands mitigation banks as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this chapter.

NEW SECTION. Sec. 8. This chapter applies to public and private mitigation banks.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 10. The director of the department of ecology may take the necessary steps to ensure that this act is implemented on its effective date.

NEW SECTION. Sec. 11. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1998, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 12. Sections 1 through 9 of this act constitute a new chapter in Title 90 RCW."

## MOTIONS

On motion of Senator Swecker, the following title amendment was adopted:

On page 1, line 1 of the title, after "banking;" strike the remainder of the title and insert "adding a new chapter to Title 90 RCW; and creating new sections."

On motion of Senator Swecker, the rules were suspended, Engrossed Second Substitute House Bill No. 2339, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

## POINT OF INQUIRY

Senator Hargrove: "Senator Swecker, on page 3, line 32, it says, 'The local jurisdiction in which the bank is located shall be signatory to the banking instrument.' Does this mean that no local jurisdiction would have to accept a wetlands bank unless their local legislative authority approved it?"

Senator Swecker: "To my knowledge, that is correct and I have consulted with the attorneys on that matter and they indicate to me that that is virtual veto power over any kind of wetlands banking."

Senator Hargrove: "Let's say 'veto power.'"

Senator Swecker: "Veto power, yes."

Further debate ensued

## MOTION

On motion of Senator Anderson, Senator Deccio was excused.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Second Substitute House Bill No. 2339, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2339, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 1; Excused, 1.

Voting yea: Senators Anderson, Bauer, Benton, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Horn, Jacobsen, Johnson, Long, Loveland, McDonald, Morton, Newhouse, Oke, Prentice, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 35. Voting nay: Senators Brown, Fairley, Heavey, Hochstatter, Kline, Kohl, McAuliffe, McCaslin, Patterson, Stevens, Thibaudeau and Wojahn - 12. Absent: Senator Prince - 1. Excused: Senator Deccio - 1. ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2339, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 3060, by Representative Chandler

Changing provisions relating to sufficient cause for nonuse of water rights.

The bill was read the second time.

## MOTION

Senator Morton moved that the following Committee on Agriculture and Environment amendment be adopted:

On page 2, beginning on line 21, strike all material through "leased" on line 23, and insert the following:

"(f) If such right or portion of the right is leased to another person for use on land other than the land to which the right is appurtenant as long as the lessee makes beneficial use of the right in accordance with this chapter and a transfer or change of the right has been approved by the department in accordance with RCW 90.03.380, 90.03.383, 90.03.390, or 90.44.100"

## POINT OF INQUIRY

Senator Fraser: "Senator Morton, could you please explain what is clarified here compared to the original bill?"

Senator Morton: "This clarifies the part of the lease and if a federal or state agency leases or holds an option on the purchase of land, that precludes the use of the water right and the holder of the water right has then sufficient cause not to have the right taken away from them. This addresses that and clarifies it from the original part of the bill."

The President declared the question before the Senate to be the adoption of the Committee on Agriculture and Environment amendment on page 2, beginning on line 21, to House Bill No. 3060.

The motion by Senator Morton carried and the committee amendment was adopted.

## MOTION

On motion of Senator Morton, the rules were suspended, House Bill No. 3060, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage

## MOTION

On motion of Senator Franklin, Senator Patterson was excused.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 3060, as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3060, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 2; Absent, 4; Excused, 2.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Franklin, Fraser, Goings, Hale, Haugen, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, West, Wojahn, Wood and Zarelli - 41. Voting nay: Senators Thibaudeau and Winsley - 2. Absent: Senators Fairley, Finkbeiner, Hargrove and Heavey - 4. Excused: Senators Deccio and Patterson - 2. HOUSE BILL NO. 3060, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

## MOTION

At 6:29 p.m., on motion of Senator Johnson, the Senate was declared to be at ease.

The Senate was called to order at 7:00 p.m by President Owen.

SECOND READING  
GUBERNATORIAL APPOINTMENT

MOTION

On motion of Senator Johnson, Gubernatorial Appointment No. 9333, Linda Sprenger, as a member of the Board of Trustees for Green River Community College District No. 10, was confirmed.

APPOINTMENT OF LINDA SPRENGER

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 4; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 45. Absent: Senators Finkbeiner, Kline, McCaslin and Schow - 4.

There being no objection, the President returned the Senate to the fourth order of business.

MESSAGES FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following HOUSE BILLS and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 2051,  
SUBSTITUTE HOUSE BILL NO. 2312,  
SECOND SUBSTITUTE HOUSE BILL NO. 2849,  
SECOND SUBSTITUTE HOUSE BILL NO. 2879.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5703,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6108,  
SUBSTITUTE SENATE BILL NO. 6119,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6205,  
SUBSTITUTE SENATE BILL NO. 6253,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6328,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6497,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6533,  
SENATE BILL NO. 6588, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE HOUSE BILL NO. 1088,  
SUBSTITUTE HOUSE BILL NO. 1126,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1328,  
SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1374,  
SUBSTITUTE HOUSE BILL NO. 1447,  
SUBSTITUTE HOUSE BILL NO. 1541,  
HOUSE BILL NO. 1549,  
HOUSE BILL NO. 2278,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2417,  
HOUSE BILL NO. 2566,  
SUBSTITUTE HOUSE BILL NO. 2659,  
SUBSTITUTE HOUSE BILL NO. 2711,  
ENGROSSED HOUSE BILL NO. 2772,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2830,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2933,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2935,  
SUBSTITUTE HOUSE BILL NO. 3001,  
SECOND SUBSTITUTE HOUSE BILL NO. 3058,  
SUBSTITUTE HOUSE BILL NO. 3109, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE HOUSE BILL NO. 1088,  
SUBSTITUTE HOUSE BILL NO. 1126,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1328,  
SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1354,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1374,  
SUBSTITUTE HOUSE BILL NO. 1447,  
SUBSTITUTE HOUSE BILL NO. 1541,  
HOUSE BILL NO. 1549,  
HOUSE BILL NO. 2278,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2417,  
HOUSE BILL NO. 2566,  
SUBSTITUTE HOUSE BILL NO. 2659,  
SUBSTITUTE HOUSE BILL NO. 2711,  
ENGROSSED HOUSE BILL NO. 2772,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2830,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2933,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2935,  
SUBSTITUTE HOUSE BILL NO. 3001,  
SECOND SUBSTITUTE HOUSE BILL NO. 3058,  
SUBSTITUTE HOUSE BILL NO. 3109.

There being no objection, the President advanced the Senate to the sixth order of business.

SECOND READING  
GUBERNATORIAL APPOINTMENT

MOTION

On motion of Senator Haugen, Gubernatorial Appointment No. 9249, Dr. Barbara Anderson, as a member of the Board of Trustees for Skagit Valley Community College District No. 4, was confirmed.

## APPOINTMENT OF DR. BARBARA ANDERSON

The Secretary called the roll. The appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 48. Absent: Senator Kline - 1.

### SECOND READING

HOUSE BILL NO. 2945, by Representatives McCune and Cairnes

Notifying the legislature regarding transportation funding and planning.

The bill was read the second time.

### MOTION

Senator Sellar moved that the following amendment be adopted:

On page 6, after line 3, insert the following:

"**NEW SECTION. Sec. 5.** (1) The 1998 final supplemental transportation budget, engrossed substitute senate bill 6456 (chapter \_\_, laws of 1998) incorporates three discrete, supplemental budget items appropriated to the improvement program of the department of transportation that specify appropriation amounts to be used to fund preconstruction activities and corridor analyses. The budget items left the selection of specific projects to the transportation commission. The budget items are as follows:

- (a) \$20,000,000 for preconstruction activities;
- (b) \$25,000,000 for preconstruction activities; and
- (c) \$2,000,000 for corridor analyses, of which \$250,000 is specified for the Spokane beltway and \$400,000 is for the I-605 corridor analysis.

(2) Four projects received funding for preconstruction activity in the version of engrossed substitute senate bill 6456 passed by the Washington state senate on February 27, 1998, that will not be funded in the enacted version of engrossed substitute senate bill 6456 (chapter \_\_, laws of 1998). It is the legislature's intent to provide funding from revenue sources enacted as of the effective date of this act for preconstruction activity for these four projects from the items described in subsection (1) of this section. The projects, and the project lists in which they are identified, are listed below:

- (a) SR 20, sharps corner vic. to SR 536 vic.;
- (b) SR 166, ross point slide;
- (c) SR 270, johnson road to Idaho state line; and
- (d) I-405 corridor MIS and predesign.

(3) Additionally, it is the intent of the legislature, following approval by the voters of the transportation revenue referendum in November 1998, to give the seven projects listed below priority status for construction funding:

- (a) SR17/26 grade separation;
- (b) I-90, sprague avenue;
- (c) SR 522, SR 9 to paradise lake road;
- (d) SR 525, SR 99 interchange ;
- (e) SR 536, memorial highway bridge;
- (f) Spokane street viaduct; and
- (g) SR 166, ross point slide, construction phase.

(4) If additional transportation project funding is enacted in chapter \_\_, laws of 1998 (SHB 2615), then the projects listed in subsection (3) of this section shall receive construction funding from that source during the 1997-1999 biennium."

### POINT OF ORDER

Senator Fairley: "I raise a point of order, Mr. President. I believe that the amendment by Senator Sellar changes the scope and object of the bill. As passed by the House, House Bill No. 2945 dealt with two matters--the disposition of unanticipated receipts by a transportation agency and the submission of strategic information technology plans to the Legislative Transportation Committees by the Department of Information Systems.

"The amendment proposed by Senator Sellar changes the scope and object of the bill as passed by the House. The amendment proposed addresses the disposition of certain appropriated funds by the Transportation Commission. The amendment also expresses the Legislature's intent with regard to using these funds for four specific projects, and lists those projects. The amendment also expresses the Legislature's intent that, contingent upon voter approval of a transportation funding plan in November, seven specific projects have priority status for funding. Another subsection would provide that these projects would receive funding contingent on passage of another piece of legislation.

For these reasons and others, I believe the amendment changes the scope and object of the bill as passed by the House."

Further debate ensued.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Fairley, the President finds that House Bill No. 2945 is a measure which: (1) requires agencies to notify the Legislative Transportation Committee of requests for allotment amendments necessary to spend unanticipated receipts; and (2) requires the Department of Information Services to submit its Strategic Information Plan to the Legislative Transportation Committee.

"The amendment by Senator Sellar on page 6, after line 3, does not concern submissions of information to the Legislative Transportation Committee. Rather, the amendment provides for the funding of specified transportation projects.

"The President, therefore, finds that the proposed amendment does change the scope and object of the bill and the point of order is well taken."

The amendment by Senator Sellar on page 6, after line 3, to House Bill No. 2945 was ruled out of order.

#### MOTION

On motion of Senator Prince, the rules were suspended, House Bill No. 2945 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 2945.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2945 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Heavey, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 28. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 21. HOUSE BILL NO. 2945, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 5, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6456 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

#### "LEGISLATIVE INTENT FOR 1998 TRANSPORTATION BUDGET

NEW SECTION. **Sec. 1.** PURPOSE OF ENHANCED STATE AND LOCAL TRANSPORTATION FUNDING PROGRAM. (1) The legislature finds and declares that it is essential for the economic, social and environmental well-being of the state and the maintenance of a high quality of life that the people of the state have an efficient and effective transportation system.

(2) This act provides funding, beyond that already provided in the 1997-99 biennium, from currently available revenue that is needed to prepare for and advance the timely construction of essential transportation projects and improve transportation services in preparation for meeting the following objectives:

(a) Investment strategies that deal equitably with the transportation needs of both eastern and western Washington and local governments, critical to maintaining and expanding essential multimodal, motorized and nonmotorized, urban, suburban and rural transportation programs and systems;

(b) Cost-effective funding strategies that address the most critical state-wide transportation needs for: Highway congestion relief, economic development and freight mobility, highway safety and bridge improvements, flood mitigation and fish passages, local government funding, ferry system capital improvements, and passenger and freight rail capital improvements; and

(c) Greater reliance on funding partnerships between the public and private sectors to leverage the state's investment and assign transportation project costs to the entities to which benefits accrue.

(3) State and federal fiscal constraints have resulted in sprinkling limited resources over a wide variety of costly, critical transportation needs. This fragmented approach has hindered the development of a multimodal, state-wide system; failed to address regional transportation improvements essential to addressing congestion, expanding local economies, and maintaining environmental quality; and created competition for transportation dollars among various public beneficiaries. A legislative solution that addresses long-term funding for critical transportation priorities is highly dependent on public and private stakeholders coalescing to: Identify and prioritize those critical elements that must be addressed if the state is to continue to provide a transportation system that offers the level of safe, unfettered travel and economic and environmental well-being Washington's citizens expect and deserve; develop a funding strategy for the future that provides adequacy and reliability; and develop policy and program changes that will ensure the timely, cost-effective delivery of transportation programs, projects, and services.

**PART I**  
**GENERAL GOVERNMENT AGENCIES--OPERATING**

**Sec. 101.** 1997 c 457 s 101 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

Motor Vehicle Fund--State Appropriation \$

((304,000))

314,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The department of agriculture shall report to the legislative transportation committee by January 15, 1998, and January 15, 1999, on the number of fuel samples tested and the findings of the tests for the motor fuel quality program.

(2) \$10,000 of this appropriation is provided solely for laboratory analysis of diesel fuel samples taken from retailers selling diesel fuel. The purpose of this testing is to detect the possible presence of illegally-blended diesel fuel.

**Sec. 102.** 1997 c 457 s 108 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Motor Vehicle Fund--State Appropriation \$

((252,000))

126,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: The entire appropriation is for the contracted staff at the Gateway Visitor Information Centers, and may not be used for any other purpose.

**Sec. 103.** 1997 c 457 s 107 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Motor Vehicle Fund--State Appropriation \$

((116,000))

58,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: The entire amount is provided as funding to the office of financial management for a policy and budget analyst for the transportation agencies.



**PART II  
TRANSPORTATION AGENCIES**

**Sec. 201.** 1997 c 457 s 201 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

Highway Safety Fund--State Appropriation \$	((491,000))
	<u>741,000</u>
Highway Safety Fund--Federal Appropriation \$	5,216,000
Transportation Fund--State Appropriation \$	950,000
TOTAL APPROPRIATION \$	((6,657,000))
	<u>6,907,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

- (1) The transportation fund--state appropriation includes \$900,000 to fund community DUI task forces. Funding from the transportation fund for any community DUI task force may not exceed twenty-five percent of total expenditures in support of that task force.
- (2) \$50,000 of the transportation fund--state appropriation is provided to support local law enforcement implementing the drug recognition expert (DRE) and drugged driving programs. Any funds not required for the DRE program may be used for programs related to heavy trucks that improve safety and enforcement of Washington state laws.
- (3) \$250,000 of the highway safety fund--state appropriation is provided solely to advertise the changes to the DUI statutes enacted by the 1998 legislature. This appropriation shall lapse if changes to the DUI statutes are not enacted by June 30, 1998.

**Sec. 202.** 1997 c 457 s 205 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE TRANSPORTATION COMMITTEE**

Motor Vehicle Fund--State Appropriation \$	((2,822,000))
	<u>3,822,000</u>
Transportation Fund--State Appropriation \$	((200,000))
	<u>250,000</u>
<u>Central Puget Sound Public Transportation</u>	
<u>Account--State Appropriation \$</u>	<u>100,000</u>
TOTAL APPROPRIATION \$	((3,022,000))
	<u>4,172,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

- (1) In order to meet the growing demand for services the legislative transportation committee shall seek accountability and efficiencies within transportation agency programs through in-depth program evaluations. These program evaluations shall consider:
  - (a) Whether or not strategic planning and performance-based budgeting is a preferable planning and budgeting tool to the current incremental budgeting process for agency administrative programs and capital program budgeting;
  - (b) How the programs are performing currently and how service would be affected at different funding levels using performance measures; and
  - (c) What decision-making tools aid with the budgeting and oversight of these programs, such as tools developed during the maintenance accountability program (MAP) conducted by the legislative transportation committee during the 1995-97 biennium.

(2) In consultation with other legislative committees, the legislative transportation committee shall study ways to enhance budget development tools and presentation documents that will better illustrate agencies' full appropriation authority and the intended outcomes of the appropriation.

(3) The legislative transportation committee shall conduct an evaluation of services provided by the county road administration board, the transportation improvement board and the TransAid division within the department of transportation. The evaluation shall assess whether consolidation of any of these activities will result in efficiencies and improved service delivery. The evaluation shall also assess the funding structure of these organizations to determine whether there are any benefits gained from a more simplified structure. The evaluation shall also assess other funding authorities to see if there is potential for further expansion of these revenues. The committee shall report its findings and recommendations to the 1998 legislature and, if needed, prepare legislation to implement those recommendations. \$150,000 of the motor vehicle fund--state appropriation is provided for this evaluation.

(4) The legislative transportation committee, in cooperation with the house appropriations committee, the senate ways and means committee, and the office of financial management, shall study and report to the legislature its findings regarding the process and procedures for calculation, determination, and collection of the amounts of motor vehicle excise tax (MVET) collected on the sale or lease of motor vehicles in this state. The report shall include findings as to the base amount for calculation of MVET, the amortization schedule for calculation of MVET, and adequacy and efficiency of current systems to provide accurate and timely information to those responsible for determining and collecting the MVET due, including recommendations for determining the MVET due for current and future multiple MVET tax structures. The report must also include a status report as to the progress and feasibility of using third party information providers or using private vendors to collect the MVET. \$200,000 of the transportation fund--state appropriation is provided for this evaluation including the use of a consultant. This \$200,000 amount is null and void if an appropriation for this activity is enacted in any other appropriations bill by June 30, 1997.

(5) During the 1998 interim, the legislative transportation committee shall conduct a study relating to interagency reimbursements, cost allocations, debt service authorizations, and other budget accountability issues.

(6) The legislative transportation committee shall study and report to the legislature its findings regarding the design-build method of contracting. The report shall include findings as to opportunities where it might be appropriate to use design-build, the type of process to be used, and the budget savings potential to the state from the design-build method of contracting.

(7) The legislative transportation committee shall study the economic and transportation impact of a draw-down of the Columbia/Snake river. At a minimum, the study should address the following issues: (a) Impacts on alternate transportation modes: State and local road deterioration, congestion, safety, rail, and truck capacity; (b) impacts to producers, growers, and shippers, such as access to markets and transportation costs; (c) impacts to river, such as transportation, jobs, and businesses; and (d) impacts on the state's export sales.

(8) \$1,000,000 of the motor vehicle fund--state appropriation is provided solely for the following purpose: By June 1, 1998, the legislature and the governor shall convene a panel of transportation beneficiaries to conduct a comprehensive analysis of state-wide transportation needs and priorities: existing and potential transportation funding mechanisms, and the policies and practices of governmental entities, private businesses, and labor that affect the delivery of transportation programs and projects. By May 1, 1998, the speaker of the house of representatives and the majority leader of the senate shall appoint two members from each caucus of the house of representatives and senate and the governor shall appoint individuals representing, at a minimum, the following entities: The governor; state agencies whose policies, practices, and procedures have a direct impact on the delivery of transportation programs, projects, and services; cities; counties; regional transportation planning organizations; ports; passenger rail; light density freight rail; transit agencies; the trucking industry; the steamship industry; major employers; the retail industry; agricultural business; labor; contractors; and the general public.

The panel shall evaluate and make recommendations on the following elements:

(a) The critical state and local transportation projects, programs, and services needed to achieve an efficient, effective, state-wide, multimodal transportation system that supports the state's social, economic, and environmental well being;

(b) A realistic, achievable plan for funding transportation programs, projects, and services over the next twenty years;

(c) The relationship between state and local government agencies in delivering transportation programs, projects, and services and changes in the ways such agencies interact that are necessary to achieve a more efficient and effective delivery of transportation programs, projects, and services;

(d) The role of the transportation commission and regional transportation planning organizations in determining state and local transportation needs and priorities;

(e) Federal and state labor laws that impact the cost and efficient delivery of transportation programs, projects, and services;

(f) The process and procedures needed to implement managed competition in contracting out transportation projects and services;

(g) Business operational practices that impact the cost and timely delivery of freight and goods;

(h) A public involvement and outreach process to assess public attitudes about transportation priorities, funding, and project, program, and service delivery; and

(i) Other elements and issues as directed by the panel.

The panel shall provide quarterly progress reports to the governor, the legislative transportation committee, and the house of representatives and senate fiscal committees and shall report its final findings and recommendations by December 1, 2000.

(9) Up to \$100,000 of the central Puget Sound public transportation account--state appropriation and up to \$50,000 of the transportation fund--state appropriation are provided solely for a contracted performance and management audit of selected public transportation systems to ascertain the relative effectiveness and efficiency of those systems and, where appropriate, provide recommendations that would improve efficiency and effectiveness. The audit shall also determine the accuracy of the information contained in the annual public transportation systems report published by the department of transportation.

Sec. 203, 1997 c 457 s 208 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU**

Motor Vehicle Fund--State Patrol Highway Account--State Appropriation \$	((159,108,000))
	<u>163,789,000</u>
Motor Vehicle Fund--State Patrol Highway Account--Federal Appropriation \$	4,374,000
Motor Vehicle Fund--State Patrol Highway Account--Local Appropriation \$	170,000
Transportation Fund--State Appropriation \$	((8,961,000))
	<u>4,522,000</u>
TOTAL APPROPRIATION \$	((172,613,000))
	<u>172,855,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The Washington state patrol is authorized to use the federal community oriented policing program (COPS) for 54 troopers with 18 COPS troopers to begin in July 1998 and 36 COPS troopers to begin in January 1999.

(2) ~~\$(8,200,000))~~ 4,463,000 of the transportation fund--state appropriation ~~((is))~~ and \$3,737,000 of the motor vehicle fund--state patrol highway account--state appropriation are provided for an equalization salary adjustment of three percent on July 1, 1997, and six percent on July 1, 1998, for commissioned officers (entry level trooper through captain), commercial vehicle enforcement officers, and communication officers of the Washington state patrol. The salary adjustments are intended to bring the existing salary levels into the fiftieth percentile of other Washington state law enforcement compensation plans. This is in addition to the salary increase contained in the omnibus appropriation bill or bills. The total of the two increases, in the transportation budget and omnibus appropriation bill or bills, may not exceed twelve percent.

(3) The Washington state patrol will develop a vehicle replacement plan for the next six years. The plan will include an analysis of the current 100,000 miles replacement policy and agency assignment policy. Projected future budget requirements will include forecasts of vehicle replacement costs, vehicle equipment costs, and estimated surplus vehicle values when sold at auction.

(4) The Washington state patrol vessel and terminal security (VATS) program will be funded by the state patrol highway fund beginning July 1, 1997, and into future biennia.

(5) A personnel data base will be maintained of the 801 commissioned traffic law enforcement officers, with a reconciliation at all times to the patrol allocation model and a vehicle assignment and replacement plan.

(6) \$150,000 of the state patrol highway account appropriation is to fund the Washington state patrol's portion of the drug recognition expert training program previously funded by the traffic safety commission.

(7) The Washington state patrol with legislative transportation committee staff will perform an interim study of the Washington state patrol's commercial vehicle enforcement program with a report to be presented to the legislature and office of financial management in January 1998 with a developed business plan and program recommendations which includes, but is not limited to, weigh in motion technologies.

(8)(a) The Washington state patrol, in consultation with the Washington traffic safety commission, shall conduct an analysis of the most effective safety devices for preventing accidents while delivery trucks are operating in reverse gear. The analysis shall focus on trucks equipped with cube-style, walk-in cargo boxes, up to eighteen feet long, that are most commonly used in the commercial delivery of goods and services.

(b) The state patrol shall incorporate research and analysis currently being conducted by the national highway traffic safety administration.

(c) Upon completion of the analysis, the state patrol shall forward its recommendations to the legislative transportation committee and office of financial management.

(9) ~~(\$761,000)~~ \$381,000 of the transportation fund--state appropriation is provided for the following traditional general fund purposes: The governor's air travel, the license fraud program, and the special services unit. This transportation fund--state appropriation is not a permanent funding source for these purposes.

(10) \$461,000 of the state patrol highway account appropriation is provided solely for monitoring and stopping fuel tax evasion. The Washington state patrol will report on December 1, 1998, to the legislative transportation committee on the activities and revenue collected associated with fuel tax evasion.

(11) \$289,000 of the state patrol highway account appropriation is provided solely for vehicle license fraud investigation. A report will be presented each session to the legislature on the activities and revenue collected by the vehicle license fraud unit.

(12) \$268,000 of the motor vehicle fund--state patrol highway account is provided solely to cover the employer's share of medicare premiums for commissioned officers hired prior to 1986. If a referendum of these officers does not receive majority support this appropriation shall not be expended by the state patrol.

(13) The chief of the Washington state patrol is prohibited from using any of the funding provided in chapter 457, Laws of 1997 and this act to increase salaries for positions above the rank of captain.

**Sec. 204.** 1997 c 457 s 209 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU**

Transportation Fund--State Appropriation \$ ((6,317,000))

3,133,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: The appropriation in this section is for the following traditional general fund purposes: Crime laboratories, used primarily for local law enforcement purposes; ACCESS, the computer system linking all law enforcement and criminal justice agencies in the state to one another; and, the identification section, which is responsible for performing criminal background checks. This appropriation is not a permanent funding source for these purposes.

**Sec. 205.** 1997 c 457 s 210 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL--SUPPORT SERVICES BUREAU**

Motor Vehicle Fund--State Patrol Highway  
Account--State Appropriation \$ ((55,961,000))

52,926,000

Motor Vehicle Fund--State Patrol Highway  
Account--Federal Appropriation \$ 104,000

Transportation Fund--State Appropriation \$ ((4,965,000))

2,513,000

TOTAL APPROPRIATION \$ ((61,030,000))

55,543,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) \$1,017,000 for the state patrol highway account--state appropriation is provided solely for year 2000 conversions of transportation automated systems. For purposes of this subsection, transportation automated systems does not include WASIS and WACIS.

(2) \$50,000 of the state patrol highway account--state appropriation is provided solely for a feasibility study to assess the effect of mobile computers on trooper productivity by type of service and measurement of the productivity gains achieved through reduction in administrative time and paperwork processing. The agency shall submit a copy of the proposed study workplan to the office of financial management, the department of information services, and the legislative transportation committee no later than October 1, 1997. A final report shall be submitted to the legislative transportation committee, the office of financial management, and the department of information services no later than January 31, 1998. This project is subject to the provisions of section 502 of this act.

(3) \$50,000 of the state patrol highway account--state appropriation is provided solely for a review of the feasibility of improving the patrol's computer-aided dispatch system to permit tracking of trooper availability and response time to calls for service. The agency shall submit a copy of the proposed study workplan to the office of financial management, the department of information services, and the legislative transportation committee no later than October 1, 1997. A final report shall be submitted to the legislative transportation committee, the office of financial management, and the department of information services no later than January 31, 1998. This project is subject to the provisions of section 502 of this act.

(4) These appropriations maintain current level funding for the Washington state patrol service center and have no budget savings included for a consolidation of service centers based on the study conducted by the technology management group. During the 1997 interim, the costs for current level will be reviewed by the office of financial management and department of information services with a formal data center recommendation, that has been approved by the information services board, to the legislature in January 1998. Current level funding will be split between fiscal year 1998 and fiscal year 1999 with consideration of funding adjustments based on the review and the formal policy and budget recommendations.

(5) ~~(\$4,965,000)~~ \$2,513,000 of the transportation fund--state appropriation is for the following traditional general fund purposes: The executive protection unit, revolving fund charges, budget and fiscal services, computer services, personnel, human resources, administrative services, and property management. This appropriation is not a permanent funding source for these purposes.

(6) \$22,000 of the motor vehicle fund--state patrol highway account appropriation is provided solely to cover the employer's share of medicare premiums for commissioned officers hired prior to 1986. If a referendum of these officers does not receive majority support this appropriation shall not be expended by the state patrol.

(7) The 1998 Washington state patrol interim working group shall review the data center, electronic services division, communications division, and strategic planning and shall provide recommendations on increasing the effectiveness and efficiencies of the programs under review and audit.

(8) \$1,580,000 of the state patrol highway account--state appropriation is provided solely for the transition of the Washington state patrol mainframe data processing functions to the Washington state department of information services data center in Olympia, Washington. The Washington state patrol and the department of information services shall work cooperatively to ensure the transition to the department of information services is completed successfully.

**Sec. 206.** 1997 c 457 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING--MANAGEMENT AND SUPPORT SERVICES**

Highway Safety Fund--Motorcycle Safety Education

Account--State Appropriation \$ ((77,000))

120,000

State Wildlife Account--State Appropriation \$

((57,000))

52,000

Highway Safety Fund--State Appropriation \$

((5,538,000))

6,047,000

Motor Vehicle Fund--State Appropriation \$

((4,501,000))

4,624,000

Transportation Fund--State Appropriation \$

((900,000))

605,000

TOTAL APPROPRIATION \$

((11,073,000))

11,448,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: The agency is directed to develop a proposal for implementing alternative approaches to delivering agency services to the public.

The alternative approaches may include the use of credit card payment for telephone or use of the internet for renewals of vehicle registrations. The proposal shall also include collocated services for greater convenience to the public. The agency shall submit a copy of the proposal to the legislative transportation committee and to the office of financial management no later than December 1, 1997.

**Sec. 207.** 1997 c 457 s 212 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING--INFORMATION SYSTEMS**

Highway Safety Fund--Motorcycle Safety Education

Account--State Appropriation \$ ((2,000))

94,000

General Fund--Wildlife Account--State

Appropriation \$ ((123,000))

42,000

Highway Safety Fund--State Appropriation \$

((4,396,000))

10,732,000

Motor Vehicle Fund--State Appropriation \$

((5,858,000))

5,610,000

Transportation Fund--State Appropriation \$

((1,190,000))

441,000

TOTAL APPROPRIATION \$

((11,569,000))

16,919,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) \$2,498,000 of the highway safety fund--state appropriation and \$793,000 of the motor vehicle fund--state appropriation are provided for the following activities: (1) Identify business objectives and needs relating to technology improvements and integration of the drivers' licensing and vehicle title and registrations systems; (2) converting the drivers' licensing software applications to achieve Year 2000 compliance; (3) convert the drivers' field network from a uniscope to a frame-relay network; (4) develop an interface between the unisys system and the CRASH system; and (5) operate and maintain the highways-licensing building network and the drivers' field network.

(2) \$1,769,000 of the highway safety fund--state appropriation and \$875,000 of the motor vehicle fund--state appropriation are provided to implement the following business and technology assessment project recommendations contained in the feasibility study delivered to the legislature in January 1998: (a) Search and Query, option 2 and; (b) licensing service office improvements, option 2. If the driver's license fee increase contained in sections 6 and 7 of Engrossed Substitute House Bill No. 2730 is not enacted by June 30, 1998, the amounts provided in this subsection shall lapse.

**Sec. 208.** 1997 c 457 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING--VEHICLE SERVICES**

General Fund--Marine Fuel Tax Refund Account--

State Appropriation \$ 26,000

General Fund--Wildlife Account--State

Appropriation \$ 549,000

Motor Vehicle Fund--State Appropriation \$

((50,003,000))

	49,630,000
Department of Licensing Services Account-- State Appropriation \$	2,944,000
TOTAL APPROPRIATION \$	((53,522,000))

53,149,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) \$600,000 of the licensing service account--state appropriation is provided for replacement of printers for county auditors and subagents.

(2) The department of licensing, in cooperation with the fuel tax advisory committee, shall prepare and submit a report to the legislative transportation committee containing recommendations for special fuel and motor vehicle fuel recordkeeping and reporting requirements, including but not limited to recommendations regarding the form and manner in which records and tax reports must be maintained and made available to the department; which persons engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering fuel should be required to submit periodic reports regarding the disposition of such fuel; and the feasibility of implementing an automated fuel tracking system. The report is due no later than October 31, 1997.

(3) The department of licensing, in cooperation with representatives of local governments and the department of revenue shall analyze the collection of the local option fuel tax under RCW 82.80.010. Based on that analysis the department of licensing shall offer recommendations regarding the appropriate government entity to collect the local option fuel tax and the best method to accomplish that collection. The department of licensing shall report its findings and recommendations to the legislative transportation committee and the office of financial management by December 1, 1998.

(4) The department of licensing, in conjunction with the interagency commission on outdoor recreation, the department of transportation, and other affected entities, shall conduct a study and make recommendations regarding:

(a) Whether the study required by RCW 43.99.030 to determine what portion of the motor vehicle fuel tax collected is tax on marine fuel is an effective and efficient mechanism for determining what portion of fuel tax revenues should be refunded to the marine fuel tax refund account;

(b) Other possible methodologies for determining the appropriate amount of tax revenue to refund from the motor vehicle fund to the marine tax refund account; and

(c) Whether the tax on fuel used by illegally nonregistered boats should be refunded to the marine tax refund account.

The department of licensing shall make a report of its findings and recommendations to the legislative transportation committee and the office of financial management by December 1, 1998.

(5) \$382,000 of the motor vehicle fund--state appropriation is provided solely to implement Substitute House Bill No. 2659. If Substitute House Bill No. 2659 is not enacted by June 30, 1998, this amount shall lapse.

**Sec. 209.** 1997 c 457 s 214 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING--DRIVER SERVICES**

Highway Safety Fund--Motorcycle Safety Education

Account--State Appropriation \$

((1,160,000))

1,411,000

Highway Safety Fund--State Appropriation \$

((61,087,000))

57,716,000

Transportation Fund--State Appropriation \$

4,985,000

TOTAL APPROPRIATION \$

((67,232,000))

64,112,000

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

(1) \$225,000 of the highway safety account--state appropriation is provided solely to implement Substitute House Bill No. 2442 or Senate Bill No. 6190. If neither bill is enacted by June 30, 1998, this amount shall lapse.

(2) \$480,000 of the highway safety account--state appropriation is provided solely to implement Senate Bill No. 6165. If Senate Bill No. 6165 is not enacted by June 30, 1998, this amount shall lapse.

(3) \$117,000 of the highway safety account--state appropriation is provided solely to implement House Bill No. 3054. If House Bill No. 3054 is not enacted by June 30, 1998, this amount shall lapse.

(4) \$80,000 of the highway safety account--state appropriation is provided solely to implement House Bill No. 2730. If House Bill No. 2730 is not enacted by June 30, 1998, this amount shall lapse.

(5) \$124,000 of the highway safety account--state appropriation is provided solely to implement Senate Bill No. 6591. If Senate Bill No. 6591 is not enacted by June 30, 1998, this amount shall lapse.

(6) \$1,000,000 of the highway safety account--state appropriation is provided solely to implement 1998 legislation that changes statutes relating to driving under the influence. If legislation changing the DUI statutes is not enacted by June 30, 1998, this amount shall lapse.

**Sec. 210.** 1997 c 457 s 216 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F**

Transportation Fund--Aeronautics Account--State  
Appropriation \$

((3,301,000))

3,801,000

Transportation Fund--Aeronautics Account--Federal  
Appropriation \$

1,000

Aircraft Search and Rescue, Safety, and Education  
Account--State Appropriation \$

((170,000))

190,000

Transportation Account--State Appropriation \$

250,000

TOTAL APPROPRIATION \$

((3,722,000))

4,242,000

**Sec. 211.** 1997 c 457 s 217 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I**

Motor Vehicle Fund--Economic Development Account--  
State Appropriation \$

2,434,000

Motor Vehicle Fund--State Appropriation \$

((113,341,000))

163,275,000

Motor Vehicle Fund--Federal Appropriation \$

((130,485,000))

155,485,000

Motor Vehicle Fund--Private/Local  
Appropriation \$

40,000,000

Special Category C Account--State Appropriation \$

((78,600,000))

73,271,000

Transportation Fund--State Appropriation \$



	((278,546,000))
	<u>230,546,000</u>
Puyallup Tribal Settlement Account--State Appropriation \$	5,000,000
Puyallup Tribal Settlement Account--Private/Local Appropriation \$	200,000
High Capacity Transportation Account--State Appropriation \$	((1,288,000))
	<u>1,401,000</u>
TOTAL APPROPRIATION \$	((649,894,000))
	<u>671,612,000</u>

The appropriations in this section are provided for the location, design, right of way acquisition, ~~((and))~~ or construction of state highway projects designated as improvements under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

~~((b))~~ State funds conditioned in (a) of this subsection may also be used as match for federally funded projects of similar nature.

~~((2))~~ (1) The special category C account--state appropriation of ~~(((\$78,600,000))~~ \$73,271,000 includes \$26,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.812 through 47.10.817 and includes ~~(((\$19,000,000))~~ \$12,000,000 in proceeds from the sale of bonds authorized by House Bill No. 1012. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation. If House Bill No. 1012 is not enacted by June 30, ~~((1997))~~ 1998, ~~(((\$19,000,000))~~ \$7,800,000 of the special category C account--state appropriation shall lapse.

~~((3))~~ (2) The motor vehicle fund--state appropriation includes \$2,685,000 in proceeds from the sale of bonds authorized by RCW 47.10.819(1) for match on federal demonstration projects. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

~~((4))~~ (3) The department shall report annually to the legislative transportation committee on the status of the projects funded by the special category C appropriations contained in this section. The report shall be submitted by January 1 of each year.

~~((5))~~ (4) The motor vehicle fund--state appropriation in this section includes \$600,000 solely for a rest area and information facility in the Nisqually gateway area to Mt. Rainier, provided that at least forty percent of the total project costs are provided from federal, local, or private sources. The contributions from the nonstate sources may be in the form of in-kind contributions including, but not limited to, donations of property and services.

~~((6))~~ (5) The appropriations in this section contain \$118,247,000 reappropriation from the 1995-97 biennium.

~~((8))~~ (6) The motor vehicle fund--state appropriation in this section includes \$250,000 to establish a wetland mitigation pilot project. This appropriation may only be expended if the department of transportation establishes a technical committee to better implement the department's strategic plan. The technical committee shall include, but is not limited to, cities, counties, environmental groups, business groups, tribes, the Puget Sound action team, and the state departments of ecology, fish and wildlife, and community, trade, and economic development, and appropriate federal agencies. The committee shall assist the department in implementing its wetland strategic plan, including working to eliminate barriers to improved wetland and watershed management. To this end, the technical committee shall: (a) Work to facilitate sharing of agency environmental data, including evaluation of off-site and out-of-kind mitigation options; (b) develop agreed-upon guidance that will enable the preservation of wetlands that are under imminent threat from development for use as an acceptable mitigation option; (c) develop strategies that will facilitate the implementation of mitigation banking, including developing mechanisms for valuing and transferring credits; (d) provide input in the development of wetland functions assessment protocols related to transportation projects; (e) develop incentives for interagency participation in joint mitigation projects within watersheds; and (f) explore options for funding environmental mitigation strategies. The department shall prepare an annual report to the legislative transportation committee and legislative natural resources committees on recommendations developed by the technical committee.

(7) The department shall report January 1st and July 1st of each year, to the legislative transportation committee and the office of financial management of the timing and the scope of work being performed for the regional transit authority. This report shall provide a description of all department activities related to the regional transit authority including investments in state-owned infrastructure.

(8) The translake study funded in this section shall include recommendations to address methods for mitigating traffic noise in the study area.

(9) Funding for the SR 509 project extending south and east from south 188th street in King county is contingent on the development of a proposal linking the project to other freight corridors and a funding plan with participation from partners of the state that are agreed to by the legislative transportation committee and the governor.

(10) The motor vehicle account--federal appropriation in this section is transferrable to the transportation account to ensure efficient funds management and program delivery.

(11) \$2,000,000 of the motor vehicle fund--state appropriation is provided solely for transfer to the advanced environmental mitigation revolving account--state.

(12) The legislature finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways in the vicinity of new industries considering locating in this state or existing industries that are considering significant expansion. The department shall develop criteria for programming and prioritization of highway infrastructure projects that will contribute to economic development as required by RCW 47.05.051(2). The department shall report to the legislative transportation committee on the criteria developed by December 1, 1998.

(13) In conducting the preliminary engineering funded by this 1998 act, the department of transportation will use its existing workforce. The department may not contract for any of the preliminary engineering services funded by this 1998 act without prior approval of the legislative transportation committee.

(14) \$13,000,000 of the motor vehicle fund--state appropriation and \$12,000,000 of the transportation fund--state appropriation are provided solely for preliminary engineering and purchase of right of way for highway construction.

(15) \$35,000,000 of the motor vehicle fund--state appropriation is conditioned upon voter approval of a referendum on a state-wide ballot that provides funding for transportation purposes. If the voters approve such a referendum, \$35,000,000 of the motor vehicle fund--state appropriation is put in reserve solely to be used for the purposes of preliminary engineering and purchase of right of way for highway construction. These moneys may only be expended upon approval of both the legislative transportation committee and the office of financial management.

Sec. 212. 1997 c 457 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION ECONOMIC PARTNERSHIPS--PROGRAM K**

Transportation Fund--State Appropriation	\$	1,280,000
Motor Vehicle Fund--State Appropriation	\$	16,235,000
TOTAL APPROPRIATION	\$	17,515,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The motor vehicle fund--state appropriation includes \$16,235,000 in proceeds from the sale of bonds authorized in RCW 47.10.834 for all forms of cash contributions, or the payment of other costs incident to the location, development, design, right of way, and construction of only the SR 16 corridor improvements and park and ride projects selected under the public-private transportation initiative program authorized under chapter 47.46 RCW; and support costs of the public-private transportation initiatives program.

(2) The appropriations in this section contain \$16,235,000 reappropriated from the 1995-97 biennium.

(3) \$100,000 of the motor vehicle fund--state appropriation is provided solely for the purpose of the program evaluation and audit of the public private initiatives in transportation program required under RCW 47.46.030(2). The legislative transportation committee shall act as project manager of the evaluation and audit and shall contract with a consultant or consultants to conduct the evaluation and audit.

Sec. 213. 1997 c 457 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M**

Motor Vehicle Fund--State Appropriation	\$	<del>((238,200,000))</del>
		<u>239,200,000</u>
Motor Vehicle Fund--Federal Appropriation	\$	465,000
Motor Vehicle Fund--Private/Local Appropriation	\$	3,335,000
TOTAL APPROPRIATION	\$	<del>((242,000,000))</del>

243,000,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations will be requested to restore state funding for ongoing maintenance activities.

(2) The department shall deliver the highway maintenance program according to the plans for each major maintenance group to the extent practical. However, snow and ice expenditures are highly variable depending on actual weather conditions encountered. If extraordinary winter needs result in increased winter maintenance expenditures, the department shall, after prior consultation with the transportation commission, the office of financial management, and the legislative transportation committee adopt one or both of the following courses of action: (a) Reduce planned maintenance activities in other groups to offset the necessary increases for snow and ice control; or (b) continue delivery as planned within other major maintenance groups and request a supplemental appropriation in the following legislative session to fund the additional snow and ice control expenditures.

(3) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle fund--state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(4) Funding appropriated for local storm water charges assessed under RCW 90.03.525, which is allocated for, but not paid to, a local storm water utility because the utility did not meet the conditions provided under RCW 90.03.525, may be transferred by the department to program Z of the department to be distributed as grants under the storm water grant program.

Sec. 214. 1997 c 457 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P**

Motor Vehicle Fund--State Appropriation	\$		((289,777,000))
			288,720,000
Motor Vehicle Fund--Federal Appropriation	\$		274,259,000
Motor Vehicle Fund--Private/Local Appropriation	\$		2,400,000
TOTAL APPROPRIATION	\$		((566,436,000))
			568,379,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The motor vehicle fund--state appropriation includes \$6,800,000 in proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes. However, the transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) The appropriations in this section contain \$27,552,000 reappropriated from the 1995-97 biennium.

(3) If the Oregon state legislature enacts a public/private partnership program and the Washington state transportation commission, in consultation with the legislative transportation committee, negotiates and enters into an agreement between Washington and Oregon to place the Lewis and Clark bridge into Oregon's public/private partnership program, up to \$3,000,000 of the motor vehicle fund--state appropriation may be used as Washington's contribution toward the design of the project pursuant to the agreement between Washington and Oregon. Any additional contributions shall be subject to Washington state legislative appropriations and approvals. The department shall provide a status report on this project to the legislative transportation committee by June 30, 1998.

(4) The transportation commission shall develop a comprehensive policy on tolling that shall include, but not be limited to, identification of the criteria for determining which facilities shall be considered for toll financing, a process for determining the amount of tolls to be assessed, and a process for soliciting and incorporating public input. A report on the policy shall be provided to the legislative transportation committee and the office of financial management by March 1, 1999.

(5) The twenty-year bridge system plan is assumed to be fully funded by existing revenues. The current straight-line planning and budgeting methods for bridge preservation projects do not accommodate the cash flow requirements of major bridge preservation projects such as the Hood Canal Bridge. The department shall recommend to the legislative transportation committee, by December 1, 1998, a sequencing plan for the twenty-year bridge system plan that includes the cash flow requirements associated with the major bridge replacement/ rehabilitation projects.

(6) \$630,000 of the motor vehicle fund--state appropriation is provided for slope stabilization along state route 166 in the Ross Point vicinity. This amount is intended to fund preliminary engineering, right of way acquisition, and to begin construction.

Sec. 215. 1997 c 457 s 221 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q**

State Patrol Highway Account--State

Appropriation \$

153,000

Motor Vehicle Fund--State Appropriation \$

((29,140,000))

30,412,000

Motor Vehicle Fund--Federal Appropriation \$

1,000,000

Motor Vehicle Fund--Private/Local

Appropriation \$

275,000

TOTAL APPROPRIATION \$

31,840,000

The appropriation in this section is subject to the following conditions and limitations and specified amount is provided solely for that activity:

(1) The department, in cooperation with the Washington state patrol and the tow truck industry, shall develop and submit to the legislative transportation committee by October 31, 1997, a recommendation for implementing new tow truck services during peak hours on the Puget Sound freeway system.

(2) The department, in cooperation with the Washington state patrol, the department of licensing, the state of Oregon, and the United States department of transportation, shall install and operate the commercial vehicle information systems and network (CVISN) at a selected pilot site. If the state department of transportation receives additional federal funding for this project that is eligible to supplant state funding, the appropriation in this section shall be reduced by the amount of the state funds supplanted.

Sec. 216. 1997 c 457 s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S**

Motor Vehicle Fund--Puget Sound Capital

Construction Account--State Appropriation \$

777,000

Motor Vehicle Fund--State Appropriation \$

((57,462,000))

70,032,000

Motor Vehicle Fund--Puget Sound Ferry Operations

Account--State Appropriation \$

1,093,000

Transportation Fund--State Appropriation \$

1,158,000

TOTAL APPROPRIATION \$

((60,490,000))

73,060,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1)(a) The motor vehicle fund--state appropriation includes \$((2,650,000)) 14,300,000 provided solely for programming activities and other efforts needed to bring the department's information systems, and devices with computers built into them, into compliance with the year 2000 requirements of the department of information services. The department is directed to expend the moneys internally reallocated for this purpose before spending from this appropriation. The department is directed to provide quarterly reports on this effort to the legislative transportation committee and the office of financial management beginning October 1, 1997.

(b) Up to \$2,900,000 of the amount provided in (a) of this subsection may be expended for testing and required modifications to electronic devices and other equipment and specialized software that are essential for department operations to ensure they are year 2000

compliant. Before expending any of this amount for these purposes, the department shall consult with the legislative transportation committee and the office of financial management.

(2) The legislative transportation committee shall review and analyze freight mobility issues affecting eastern and southeastern Washington as recommended by the freight mobility advisory committee and report back to the legislature by November 1, 1997. \$500,000 of the motor vehicle fund--state appropriation is provided for this review and analysis. The funding conditioned in this subsection shall be from revenues provided for interjurisdictional studies.

(3) In order to increase visibility for decision making, the department shall review its budgeting and accounting methods for management information systems. The review shall include, but not be limited to, the cost-benefit analysis of existing processes and evaluation of less complex alternatives such as direct appropriations. The results of the review shall be reported to the legislative transportation committee and the office of financial management by July 1, 1998.

Sec. 217. 1997 c 457 s 224 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--CHARGES FROM OTHER AGENCIES--PROGRAM U**

(1) FOR PAYMENT OF COSTS OF ATTORNEY GENERAL TORT CLAIMS SUPPORT	
Motor Vehicle Fund--State Appropriation \$	2,515,000
(2) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR	
Motor Vehicle Fund--State Appropriation \$	840,000
(3) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES	
Motor Vehicle Fund--State Appropriation \$	3,391,000
(4) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL	
Motor Vehicle Fund--State Appropriation \$	2,240,000
(5) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION	
Motor Vehicle Fund--State Appropriation \$	((12,120,000))
	<u>12,535,000</u>
(6) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION	
Motor Vehicle Fund--Puget Sound Ferry Operations	
Account--State Appropriation \$	2,928,000
(7) FOR PAYMENT OF COSTS OF THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES	
Motor Vehicle Fund--State Appropriation \$	536,000
(8) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF GENERAL ADMINISTRATION STATE PARKING SERVICES	
Motor Vehicle Fund--State Appropriation \$	90,000
(9) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE	
Motor Vehicle Fund--State Appropriation \$	735,000
(10) FOR ARCHIVES AND RECORDS MANAGEMENT	
Motor Vehicle Fund--State Appropriation \$	((295,000))
	<u>355,000</u>

Sec. 218. 1997 c 457 s 225 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W**

Motor Vehicle Fund--Puget Sound Capital	
Construction Account--State Appropriation \$	((243,229,000))

	<u>209,886,000</u>
Motor Vehicle Fund--Puget Sound Capital Construction Account--Federal Appropriation \$	30,165,000
Motor Vehicle Fund--Puget Sound Capital Construction Account--Private/Local Appropriation \$	765,000
Transportation Fund--Passenger Ferry Account-- State Appropriation \$	((579,000))
	<u>640,000</u>
TOTAL APPROPRIATION \$	((274,738,000))
	<u>241,456,000</u>

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements. The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The appropriations in this section are provided to carry out only the projects (version 3) adjusted by the legislature for the 1997-99 budget. The department shall reconcile the 1995-97 capital expenditures within ninety days of the end of the biennium and submit a final report to the legislative transportation committee and office of financial management.

(2) The Puget Sound capital construction account--state appropriation includes \$100,000,000 in proceeds from the sale of bonds authorized by RCW 47.60.800 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries, including construction of new jumbo ferry vessels in accordance with the requirements of RCW 47.60.770 through 47.60.778. However, the department of transportation may use current revenues available to the Puget Sound capital construction account in lieu of bond proceeds for any part of the state appropriation.

(3) The department of transportation shall provide to the legislative transportation committee and office of financial management a quarterly financial report concerning the status of the capital program authorized in this section.

(4) Washington state ferries is authorized to reimburse up to \$3,000,000 from the Puget Sound capital construction account--state appropriation or Puget Sound capital construction account--federal appropriation to the city of Bremerton and the port of Bremerton for Washington state ferries' financial participation in the development of a Bremerton multimodal transportation terminal, port of Bremerton passenger-only terminal expansion, and ferry vehicular connections to downtown traffic circulation improvements. The reimbursement shall specifically support the construction of the following components: Appropriate passenger-only ferry terminal linkages to accommodate bow-loading catamaran type vessels and the needed transit connections; and the Washington state ferries' component of the Bremerton multimodal transportation terminal as part of the downtown Bremerton redevelopment project, including appropriate access to the new downtown traffic circulation road network.

(5) The Puget Sound capital construction account--state appropriation includes funding for capital improvements on vessels to meet United States Coast Guard Subchapter W regulation revisions impacting SOLAS (safety of life at sea) requirements for ferry operations on the Anacortes to Sidney, B.C. ferry route.

(6) The Puget Sound capital construction account--state appropriation, the Puget Sound capital construction account--federal appropriation, and the passenger ferry account--state appropriation include funding for the construction of one new passenger-only vessel and the department's exercise of the option to build a second passenger-only vessel.

(7) The Puget Sound capital construction account--state appropriation includes funding for the exploration and acquisition of a design for constructing a millennium class ferry vessel.

(8) The Puget Sound capital construction account--state appropriation includes \$90,000 for the purchase of defibrillators. At least one defibrillator shall be placed on each vessel in the ferry fleet.

(9) The appropriations in this section contain \$46,962,000 reappropriated from the 1995-97 biennium.

~~((10)(a) The Puget Sound capital construction account--state appropriation includes \$57,461,000 for the 1997-99 biennium portion of the design and construction of a fourth Jumbo Mark II ferry and for payments related to the lease-purchase of the vessel's engines and propulsion system.~~

~~(b) If House Bill No. 2108 authorizing the department to procure the vessel utilizing existing construction and equipment acquisition contracts is not enacted during the 1997 legislative session, (a) of this subsection is null and void; \$50,000,000 of the motor vehicle fund--Puget Sound capital construction account--state appropriation shall not be allotted; and \$7,461,000 may be allotted for preservation or renovation of Super-class ferries.))~~

Sec. 219. 1997 c 457 s 226 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X**

Marine Operating Fund--State Appropriation \$

((267,358,000))

270,522,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The appropriation is based on the budgeted expenditure of ~~(((\$29,151,000))~~ \$28,696,000 for vessel operating fuel in the 1997-99 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount may not be expended. If the actual cost exceeds this amount, the department shall request a supplemental appropriation.

(2) The appropriation provides for the compensation of ferry employees. The expenditures for compensation paid to ferry employees during the 1997-99 biennium may not exceed ~~(((\$177,347,000))~~ \$179,095,000 plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$313.95 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for the respective fiscal year, a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges, and a dollar amount prescribed by the office of financial management for salary increases during the 1997-99 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2).

The prescribed salary and insurance benefit increase or decrease dollar amount that shall be allocated from the governor's compensation appropriations is in addition to the appropriation contained in this section and may be used to increase or decrease compensation costs, effective July 1, 1997, and thereafter, as established in the 1997-99 general fund operating budget.

(3) The department of transportation shall provide to the legislative transportation committee and office of financial management a quarterly financial report concerning the status of the operating program authorized in this section.

(4) The appropriation in this section includes up to \$1,566,000 for additional operating expenses required to comply with United States Coast Guard Subchapter W regulation revisions for vessels operating on the Anacortes to Sidney, B.C. ferry route. The department shall explore methods to minimize the cost of meeting United States Coast Guard requirements and shall report the results to the legislative transportation committee and office of financial management by September 1, 1997.

(5) The department shall request a reduction of the costs associated with the use of the terminal leased from the Port of Anacortes and costs associated with use of the Sidney, British Columbia terminal.

(6) Agreements between Washington state ferries and concessionaires for automatic teller machines on ferry terminals or vessels shall provide for and include banks and credit unions that primarily serve the west side of Puget Sound.

(7) In the event federal funding is provided for one or more passenger-only ferry vessels for the purpose of transporting United States naval personnel, the department of transportation is authorized to acquire and construct such vessels in accordance with the authority provided in RCW 47.56.030, and the department shall establish a temporary advisory committee comprised of representatives of the Washington state ferries, transportation commission, legislative transportation committee, office of financial management, and the United States Navy to analyze and make recommendations on, at a minimum, vessel performance criteria, docking, vessel deployment, and operating issues.

~~((9))~~ (8) The appropriation provides funding for House Bill No. 2165 (paying interest on retroactive raises for ferry workers).

~~(9) The commission is authorized to increase Washington state ferry tariffs in excess of the fiscal growth factor, established under chapter 43.135 RCW, in fiscal year 1998 and fiscal year 1999.~~

~~(10) Funding for Anacortes to Sidney advertising is contingent upon partners meeting their commitment. In no event may the state share exceed fifty percent of the cash contribution toward the project.~~

~~(11) \$1,370,000 of this appropriation is provided solely for the Hiyu operation for Southworth/Vashon 5 days per week for 16 hours per day. Prior to placing the Hiyu in permanent service on a route between Vashon and Southworth, the Washington state ferries shall conduct a study of the impact of additional service on Vashon and Southworth and report back to the legislative transportation committee by May 15, 1998.~~

~~(12) \$446,000 of this appropriation is provided solely to provide an additional crew member on Jumbo Mark 2 ferries as required by emergency evacuation regulations adopted by the United States Coast Guard. If the Coast Guard requirement can be met without the hiring of additional staff, the portion of this appropriation provided to meet that requirement shall not be expended.~~

Sec. 220. 1997 c 457 s 227 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION AND RAIL--PROGRAM Y**

Essential Rail Assistance Account--State Appropriation \$	256,000
High Capacity Transportation Account--State Appropriation \$	<del>((6,225,000))</del>
	<u>13,225,000</u>
Air Pollution Control Account--State Appropriation \$	6,290,000
Transportation Fund--State Appropriation \$	<del>((48,529,000))</del>
	<u>55,029,000</u>
Transportation Fund--Federal Appropriation \$	3,947,000
Transportation Fund--Private/Local Appropriation \$	105,000
Central Puget Sound Public Transportation Account--State Appropriation \$	<del>((250,000))</del>
	<u>4,250,000</u>
TOTAL APPROPRIATION \$	<del>((65,602,000))</del>
	<u>83,102,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) Up to ~~((40,180,000))~~ \$46,180,000 of the transportation fund--state appropriation is provided for intercity rail passenger service including up to \$8,000,000 for lease purchase of two advanced technology train sets with total purchase costs not to exceed \$20,000,000; up to \$1,000,000 for one spare advanced technology train power-car and other spare parts, subsidies for operating costs not to exceed \$12,000,000, to maintain service of two state contracted round trips between Seattle and Portland and one state contracted round trip between Seattle and Vancouver, British Columbia, and capital projects necessary to provide Seattle-Vancouver, British Columbia, train operating times of under 4 hours.

(2) Up to ~~((2,500,000))~~ \$3,000,000 of the transportation fund--state appropriation is provided for the rural mobility program administered by the department of transportation. Priority for grants provided from this account shall be given to projects and programs that can be accomplished in the 1997-99 biennium.

(3) Up to \$600,000 of the high capacity transportation account--state appropriation is provided for rail freight coordination, technical assistance, and planning.

(4) The department shall provide biannual reports to the legislative transportation committee and office of financial management regarding the department's rail freight program. The department shall also notify the committee for project expenditures from all fund sources prior to making those expenditures. The department shall examine the ownership of grain cars and the potential for divestiture of those cars and other similar assets and report those findings to the committee prior to the 1998 legislative session.

(5) Up to \$750,000 of the transportation fund--state appropriation and up to \$250,000 of the central Puget Sound public transportation account--state appropriation are provided to fund activities relating to coordinating special needs transportation among state and local providers. These activities may include demonstration projects, assessments of resources available versus needs, and identification of barriers to coordinating special needs transportation. The department will consult with the superintendent of public instruction, the secretary of the department of social and health services, the office of financial management, the fiscal committees of the house of representatives and senate, special needs consumers, and specialized transportation providers in meeting the goals of this subsection.

(6) The appropriations in this section contain \$4,599,000 reappropriated from the 1995-97 biennium.



(7) The high capacity transportation account--state appropriation includes \$75,000 for the department to develop a strategy and to identify how the agency would expend additional moneys to enhance the commute trip reduction program. The report would include recommendations for grant programs for employers and jurisdictions to reduce SOV usage and to provide transit incentives to meet future commute trip reduction requirements. The report is due to the legislative transportation committee by January 1, 1998.

(8) In addition to the appropriations contained in this section, the office of financial management shall release the \$2,000,000 transportation fund--state funds appropriated for the intercity rail passenger program in the 1995-97 biennium but held in reserve pursuant to section 502, chapter 165, Laws of 1996.

(9) Up to \$150,000 of the transportation fund--state appropriation is provided for the management and control of the transportation corridor known as the Milwaukee Road corridor owned by the state between Ellensburg and Lind, and to take actions necessary to allow the department to be in a position, with further legislative authorization, to begin to negotiate a franchise with a rail carrier to establish and maintain a rail line over portions of the corridor by July 1, 1999.

(10) Up to \$2,500,000 of the high capacity transportation account--state appropriation and \$4,000,000 of the central Puget Sound public transportation account--state appropriation may be used by the department for activities related to improvement of the King Street station. The department shall provide monthly reports to the legislative transportation committee on activities related to the station, including discussions of funding commitments from others for future improvements to the station.

(11) \$4,000,000 of the high capacity transportation account--state appropriation for passenger rail infrastructure improvement is provided solely for rail improvements to add rail passenger service north of Seattle. These funds are conditioned on match of at least equal amounts from both Burlington Northern Sante Fe and Amtrak for rail line improvements and upon Amtrak purchasing an additional train set for operation in the corridor. These funds shall not be expended until authorized by the legislative transportation committee and the office of financial management; and the participation of international partners in service provided in the corridor shall be considered in such a decision.

Sec. 221. 1997 c 457 s 228 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z**

Motor Vehicle Fund--State Appropriation	\$	((8,452,000))
		<u>9,802,000</u>
Motor Vehicle Fund--Federal Appropriation	\$	33,726,000
High Capacity Transportation Account-- State Appropriation	\$	((500,000))
		<u>650,000</u>
<u>Transportation Account--State Appropriation</u>	\$	<u>1,175,000</u>
TOTAL APPROPRIATION	\$	((42,678,000))
		<u>45,353,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The motor vehicle fund--state appropriation includes \$1,785,000 in proceeds from the sale of bonds authorized by RCW 47.10.819(1). The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) As a condition of receiving the full state subsidy in support of the Puget Island ferry, Wahkiakum county must, by December 31, 1997, increase ferry fares for passengers and vehicles by at least ten percent. If the fares are not increased to meet this requirement, the department, in determining the state subsidy after December 31, 1997, shall reduce the operating deficit by the amount that would have been generated if the ten percent fare increase had been implemented.

(3) The appropriations in this section contain \$1,750,000 reappropriated from the 1995-97 biennium.

(4) Up to \$500,000 of the high capacity transportation account--state appropriation is provided for implementation of the recommendations of the freight mobility advisory committee, and any legislation enacted resulting from those recommendations.

(5) \$175,000 of the transportation fund--state appropriation is provided solely to fund the freight mobility strategic investment board. If Second Substitute House Bill No. 2180 is not enacted by June 30, 1998, this amount shall lapse.

(6) The transportation account--state appropriation includes \$600,000 to establish alternatives for flood management and flood hazard reduction projects in the Chehalis Basin. A technical committee comprised of the department of transportation, department of ecology, the United States army corps of engineers, federal emergency management administration, United States geological survey, affected counties and tribes, and other entities with critical knowledge related to flood hazard reduction projects in the Chehalis Basin shall be formed. Funds shall be distributed to counties within the Chehalis Basin by the department of transportation for projects that further understanding of the causes of flooding and options for flood hazard reduction. Alternatives shall be consistent with fish and habitat recovery efforts. Projects funded shall be coordinated with the technical committee. The department of transportation shall present a report to the legislative transportation committee and other appropriate legislative committees regarding findings and/or progress made by funded projects by December 1, 1998.

(7) The executive director of the transportation improvement board, the director of the county road administration board, and the assistant secretary of the Transaid service center within the department of transportation shall submit to the legislative transportation committee and the office of financial management, by December 1, 1998, a plan and time schedule to consolidate the county road administration board, the transportation improvement board, and the transaid division. Progress reports are required in June 1998 and September 1998.

The plan must attempt to achieve the savings identified in the local government assistance study delivered to the budget development working group of the legislative transportation committee in January 1998, except the plan may use up to thirty percent of the savings to increase technical assistance above current levels. Elements of the plan must include but not be limited to:

- (a) Whether the consolidation will occur within an existing agency or as a separate agency;
- (b) Whether the consolidated organization will be governed by a new or existing board or commission or another option;
- (c) An organization chart;
- (d) Identification of new activities, ongoing activities, and activities that no longer need to continue;
- (e) Space requirements;
- (f) An accounts and program structure; and
- (g) A transition process and costs associated with the transition.

\$50,000 of the motor vehicle fund--state appropriation from the inter-jurisdictional set-aside is provided solely for a facilitator and other costs associated with development of the plan. The assistant secretary for the transaid division will coordinate these activities.

(8) \$750,000 of the motor vehicle fund--state appropriation is provided solely for a median barrier upon the Spokane street viaduct. Use of this funding is contingent upon a commitment of funding from other partners for the remainder of the project cost.

(9) Up to \$150,000 of the high capacity transportation account--state appropriation is provided for the installation of active railroad crossing warning devices at the sunnyside beach park entrance in Steilacoom.

(10) \$400,000 of the transportation fund--state appropriation is provided solely for a study by the legislative transportation committee, in cooperation with the port of Benton, developing a strategic corridor feasibility and master site plan for the port of Benton. If the port of Benton does not provide at least \$200,000 to fund the plan development, the transportation fund--state appropriation referenced in this subsection shall lapse and this subsection shall be null and void.

### **PART III TRANSPORTATION AGENCIES CAPITAL FACILITIES**

**Sec. 301.** 1997 c 457 s 301 (uncodified) is amended to read as follows:

(1) The state patrol, the department of licensing, and the department of transportation shall coordinate their activities when siting facilities. This coordination shall result in the collocation of driver and vehicle licensing, vehicle inspection service facilities, and other transportation services whenever possible.

The department of licensing, the department of transportation, and the state patrol shall explore alternative state services, such as vehicle emission testing, that would be feasible to collocate in these joint facilities. All services provided at these transportation service facilities shall be provided at cost to the participating agencies.

(2) The department of licensing may lease develop with option to purchase or lease purchase new customer service centers to be paid for from operating revenues. The Washington state patrol shall provide project management for the department of licensing. Alternatively, a financing contract may be entered into on behalf of the department of licensing in the amounts indicated plus financing expenses and reserves pursuant to chapter 39.94 RCW. The locations and amounts for projects covered under this section are as follows:

- (a) A new customer service center in Vancouver for \$3,709,900;
- (b) A new customer service center in Thurston county for \$4,641,200; and
- (c) A new customer service center in Union Gap for \$3,642,000.

(3) The Washington state patrol, department of licensing, and department of transportation shall provide monthly progress reports to the legislative transportation committee within the transportation executive information system on the capital facilities receiving an appropriation in this act.

(4) The transportation agencies shall perform a review and analysis of current office facilities housing the work force within Thurston county for the department of transportation, Washington state patrol, department of licensing, and traffic safety commission. This review and analysis shall address, as a minimum, the historical growth of the agencies facilities requirements; a comprehensive cost/benefit analysis of current leased vs. owned facilities using the office of financial management lease/purchase decision model; and short-term, mid-term, and long-term facilities proposals, including a comprehensive life-cycle analysis of the proposals. The review and analysis is to be performed jointly by the department of transportation, Washington state patrol, department of licensing, traffic safety commission, department of general administration, and office of financial management. Monthly progress reports shall be provided to the legislative transportation committee. Agencies will make a recommendation on a transportation center to reduce the number of leased facilities and move toward a state-owned facility. A report is to be presented to the legislative transportation committee and the office of financial management no later than September 30, 1998.

**Sec. 302.** 1997 c 457 s 302 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL--CAPITAL PROJECTS**

Motor Vehicle Fund--State Patrol Highway

Account--State Appropriation \$

((7,075,000))

10,425,000

Transportation Fund--State Appropriation \$

((4,000,000))

1,000,000

TOTAL APPROPRIATION \$

((11,075,000))

11,425,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The appropriations in the transportation fund and the motor vehicle fund--state patrol highway account are provided for the microwave migration, Yakima district 3 headquarters office, weigh station facilities identified in the budget notes, training academy HVAC system, Vancouver Ridgefield commercial vehicle inspection building, and regular facilities maintenance.

(2) The Washington state patrol, based on an independent real estate appraisal, is authorized to purchase the Port Angeles detachment office for a maximum of \$600,000 provided the appraisal is \$600,000 or above in value. If the appraisal is less than \$600,000, the Washington state patrol is authorized to purchase the building for the appraised value. Certificates of participation will be used for financing the cost of the building and related financing fees.

(3) A report will be prepared and presented to the legislature and office of financial management in January 1998 on the microwave migration project.

(4) The funding for the microwave migration project is limited to \$4,400,000, the amount of revenue from frequency sales.

(5) The intent of the legislature is to have vehicle identification number (VIN) lanes and encourage colocation of other transportation and state services wherever feasible in transportation facilities.

(6) The Washington state patrol is authorized to proceed with the exchange of the Olympia, Washington Martin Way property for a light industrial land complex to be used to consolidate existing separately located state activities and functions. The agency will work with the office of financial management, department of general administration, and the legislative transportation committee in the exchange and approval processes.

**PART IV  
TRANSFERS AND DISTRIBUTIONS**

**Sec. 401.** 1997 c 457 s 401 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE FUND AND TRANSPORTATION FUND REVENUE**

Highway Bond Retirement Account Appropriation \$

195,062,000

Ferry Bond Retirement Account Appropriation \$

	49,606,000
<u>Transportation Improvement Board Bond Retirement</u>	
<u>Account Appropriation</u> \$	<u>40,000,000</u>
TOTAL APPROPRIATION \$	((244,668,000))
	<u>284,668,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity. If either House Bill No. 2582 or Senate Bill No. 6315 is enacted by June 30, 1998, then \$40,000,000 of the highway bond retirement account appropriation shall lapse. If neither House Bill No. 2582 nor Senate Bill No. 6315 is enacted by June 30, 1998, then the appropriation for the transportation improvement board bond retirement account shall lapse.

**Sec. 402.** 1997 c 457 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES**

Motor Vehicle Fund--Puget Sound Capital	
Construction Account Appropriation \$	500,000
Motor Vehicle Fund Appropriation \$	((130,000))
	<u>1,099,000</u>
Transportation Improvement Account	
Appropriation \$	200,000
Special Category C Account Appropriation \$	((350,000))
	<u>190,000</u>
Transportation Capital Facilities Account	
Appropriation \$	1,000
Urban Arterial Account Appropriation \$	5,000
TOTAL APPROPRIATION \$	((1,186,000))
	<u>1,995,000</u>

NEW SECTION. Sec. 403. A new section is added to 1997 c 457 (uncodified) to read as follows:

The office of the state treasurer is authorized to transfer any transportation improvement account and urban arterial trust account balances available in the highway bond retirement account into the transportation improvement board bond retirement account following a cooperative agreement by the department of transportation and the transportation improvement board on the exact amount of the transfer.

**Sec. 404.** 1997 c 457 s 407 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--TRANSFERS**

(1) R V Account--State Appropriation:	
For transfer to the Motor Vehicle Fund--	
State \$	1,176,000
(2) Motor Vehicle Fund--State Appropriation:	
For transfer to the Transportation Capital	
Facilities Account--State \$	((47,569,000))

	<u>42,569,000</u>
(3) <del>(Small City Account--State Appropriation: For transfer to the Urban Arterial Trust Account--State \$</del>	
(4) Small City Account--State Appropriation: For transfer to the Transportation Improvement Account--State \$	3,359,000
	7,500,000
<b>Sec. 405.</b> 1997 c 457 s 408 (uncodified) is amended to read as follows: <b>FOR THE DEPARTMENT OF TRANSPORTATION--TRANSFERS</b> Motor Vehicle Fund--State Appropriation For transfer to the Transportation Equipment Fund-- State Appropriation \$	
	500,000
<u>Transportation Equipment Fund--State Appropriation</u> <u>For transfer to the Motor Vehicle</u> <u>Fund--State \$</u>	
	<u>3,500,000</u>

The appropriations transfers in this section ((is)) are provided for the purchase of equipment for the highway maintenance program from the transportation equipment fund - operations.

**NEW SECTION. Sec. 406.** A new section is added to 1997 c 457 (uncodified) to read as follows:

The department of transportation is authorized to transfer any balances available in the highway construction stabilization account to the motor vehicle account to fund the appropriations contained in this act.

## PART V MISCELLANEOUS

### C. BUDGET SUBMITTAL AND OVERSIGHT PROVISIONS

**NEW SECTION. Sec. 501.** Any agency requesting transportation funding must submit to the legislative transportation committees the same request and supporting documents presented to the office of financial management at agency budget submittal time.

**NEW SECTION. Sec. 502.** The public transportation and rail program shall be divided into three separate programs in the 1999-01 biennium. They shall be public transportation, rail-operating, and rail-capital.

**NEW SECTION. Sec. 503.** A new section is added to 1997 c 457 (uncodified) to read as follows:

Transportation agencies shall undertake the following activities in order to establish a performance-based budgeting process for the 1999-2001 biennial budget:

(1) The department of licensing, the department of transportation, and the Washington state patrol, in cooperation with the office of financial management and the legislative transportation committee, shall implement a performance budgeting process that provides a measurable link between agency objectives, service levels, and budget. The agencies shall also develop indicators of performance, stated in terms of expected results, to measure the agencies' progress in achieving the agencies' goals.

(2) The transportation agencies shall submit a strategic plan with their agency request budgets. The strategic plan must include a six-year outlook and define and clarify the agency mission and vision, provide the basis for budget development, and outline the agency's goals and strategies.

(3) The transportation agencies shall establish performance indicators that measure activities and associated goals and strategies in the strategic plan. The agencies shall also provide a preferred level of performance over the next six years.

(4) The legislative transportation committee, the office of financial management, and the transportation agencies shall establish the means of conducting program authorization reviews of all transportation programs. The reviews shall include:

(a) An agency self-assessment to judge the quality and usefulness of: (i) The agency's long-term strategic program goals; (ii) program priorities and objectives; (iii) activities necessary to achieve program priorities and objectives; (iv) service level criteria for the necessary activities; (v) best practices by other states as a possible benchmark of the performance of their programs; and (vi) service level criteria, as measured against different funding levels;

(b) A review of the agency self-assessment and a report to the legislature; and

(c) A report which recommends whether to retain, eliminate, or modify funding and related statutory references for the agency. The parties conducting the review shall consider: (i) Whether the agency performance measures adequately measure the agency goals; (ii) whether the program performs efficiently and effectively, including comparisons with other jurisdictions, if applicable; (iii) whether there are other cost-effective alternative methods of accomplishing the program's mission; and (iv) whether there are any funds saved by the agency's performance.

(5) The transportation agencies shall each designate a program to test the effectiveness of performance-based budgeting for the 1999-2001 budget submittal period.

(6) Each agency shall submit a program list to the legislative transportation committee and the office of financial management at the end of each fiscal year, which describes the functions of the program, the fund sources for the program, and the number of full-time equivalents.

(7) The transportation agencies shall develop agency biennial budget requests at the agency budget program level, rather than the object level, and submit their biennial and supplemental budget requests to the office of financial management via a common budget system beginning July 1, 1998.

(8) The agencies shall input monthly their financial information and quarterly program performance measurements into the transportation executive information system and other systems as required by the office of financial management. There is no requirement to submit a monthly hard copy report to the legislature.

(9) Agencies are not required to develop a new strategic plan, performance measures, or management quality initiatives in place of current performance-based budgeting activities.

(10) If Substitute Senate Bill No. 2890 is enacted by June 30, 1998, this section is null and void.

#### **D. BILLS NECESSARY TO IMPLEMENT THIS ACT**

**Sec. 504.** 1997 c 457 s 511 (uncodified) is amended to read as follows:

The following bills, as identified by bill number in the form as passed by the legislature, are necessary to implement portions of this act: (~~Engrossed Substitute House Bill No. 1011, Substitute House Bill No. 2108, or Substitute Senate Bill No. 5718~~) (1) House Bill Nos. 2659, 2615, 1553, 3110, 2892, 1012, 1487, 1009, 1014, 2417, 2180, 2526, 2839, 3015, 3098, 3117, and 2734.

(2) Senate Bill Nos. 6439 and 6050.

#### **E. EFFICIENCIES AND NEW POLICIES**

**NEW SECTION. Sec. 505.** (1) The secretary of transportation shall implement efficiency measures:

(a) Identified by the department, with particular focus on improved efficiency in the department's administrative services and programs; and

(b) Recommended by the joint legislative audit and review committee performance audit.

(2) The secretary shall report on the results and progress of the efficiency measures implementation. The secretary shall deliver the report to the legislative transportation committee by December 1, 1998.

**NEW SECTION. Sec. 506.** The department shall develop a process for expediting the acquisition of state highway rights-of-way through cooperative agreements with private entities that address the purchase of rights-of-way by the private sector and reimbursement by the department of the private entities' costs of acquisition.

#### **F. HIGHWAY CONSTRUCTION PROJECTS**

**NEW SECTION. Sec. 507.** A new section is added to 1997 c 457 (uncodified) to read as follows:

The department of transportation shall use appropriations for programs I and P in this act to fund projects identified in the transportation executive management system and legislative budget notes.

**NEW SECTION. Sec. 508.** 1997 c 457 s 515 is repealed.

**NEW SECTION. Sec. 509.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 510.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title., and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MOTION

Senator Prince moved that the Senate concur in the House amendment to Engrossed Substitute Senate Bill No. 6456.

Debate ensued.

#### POINT OF INQUIRY

Senator Snyder: "Senator McDonald, the measure establishes a blue ribbon committee and it is a little unusual. It has four people appointed by the Speaker of the House and four people appointed by the majority leader in the Senate. Usually, it is the President of the Senate with the input from the two parties here in the Senate. It says now that four people are appointed by the majority leader. Do you intend on appointing two members from our caucus to this blue ribbon committee?"

Senator McDonald: "Senator Snyder, I guess I am not one hundred percent familiar with it, but I think, you know--I will be talking with you, I will be talking with the Speaker and I will be talking with Representative Appelwick, the minority leader over there--as we consider these things."

Senator Snyder: "Well, it says that the majority leader from the Senate shall appoint two members from each of the caucuses--and you are going to do the appointing for our caucus, too, then?"

Senator McDonald: "No, Senator Snyder."

Senator Snyder: "Thank you."

#### POINT OF INQUIRY

Senator Heavey: "Senator Prince, in the previous bill, the amendment by Senator Sellar, were there Senate safety projects in the amendment that was scoped by the minority party?"

Senator Prince: "Yes, there was. I think you are well aware of one of them."

#### POINT OF INQUIRY

Senator Bauer: "Senator Prince, any 'aye' vote on this does not endorse, in any way, the proposal that is on the ballot in November?"

Senator Prince: "I am not aware that this is an endorsement of that proposal, personally. I know my vote won't be an endorsement."

Senator Bauer: "Well, I want to support the current level budget for the remainder of this biennium, but I don't want to do anything here that, in any way, endorses the ballot issue in November. I want to be careful how I vote here, but I also want to vote to make sure the projects that were in the Senate current level budget, that we passed out of here, are going to be funded in the remainder of this biennium."

Senator Prince: "Well, we lost that with the scope--part of them. There are some that were in both of our versions and the ones that weren't we lost tonight. Basically, you still need a bill and you still need--"

Senator Bauer: "We do need this bill to fund those projects--some of those that were in the Senate--some were and some aren't, but we do need this bill to fund those that were and are still in there, plus a few more, but this does not, in any way, contingent upon or anyway endorse the proposition that is on the ballot in November?"

Senator Prince: "I don't read it that way. Now, I showed you this as intent. The House had a similar type of thing where they showed their intent, but this isn't fact of law, so I don't view it as being an endorsement to support this--"

Senator Bauer: "Thank you, Senator Prince, and if I may indicate that I do want to support the projects that, at least, the ones that were in here and that were in the Senate budget and are in my district. In no way, is that an interpretation on my part that I am supporting the November ballot issue."

#### POINT OF INQUIRY

Senator Goings: "Senator Haugen, there seems to be some confusion. From what I am reading here from the bill report, it seems to state that there is included in the total request of one hundred ninety-seven million dollars in transportation funds, that there is an additional forty-seven point nine million dollars contingent on the passage of the referendum. Doesn't this supplemental--as it is called--bill that is before us, assume that there is going to be some additional revenue from the ballot initiation that is going to be on the ballot this fall?"

Senator Haugen: "Thank you very much, Senator. You are absolutely correct. It does assume that there will be that money and that is when some of these projects will come on line, after that fact. If you read through the text, and I am not sure anyone has taken the time, but I could reference you some pages--page eight talks about planning for twenty years. You can go back through several different portions of it and it talks about how all this is just planning for the future. It is just putting down some planning money so that it can--as soon as the referendum passes--the projects will be funded and they will be funded before actually we get here in the fall. I mean in the next year."

Further debate ensued.

#### POINT OF INQUIRY

Senator Franklin: "Senator Prince, is this a bill of smoke and mirrors--now you see it, now you don't?"

Senator Prince: "Well, I think it depends entirely on what you are looking at."

Senator Franklin: "So, I am looking at a long time out where the money--the bill we passed from the Senate--had the funds. It was a budget that would do what needs to be done. Now, what comes back is different, so what I am asking, is it smoke and mirrors, because I am losing confidence. I had confidence in the bill that left from here, but my confidence in what we are working on is not there."

Senator Prince: "Well, this is something you have to decide for yourself. There are projects that are current law that I think are important and are necessary. If the bill doesn't pass, it may be that that same money can be done by the commission, but that is something that you are going to have to decide yourself."

Senator Franklin: "So essentially, good Senator, you are saying that the bill that we passed from the Senate would be able to fund projects without having the other smoke that is being puffed?"

Senator Prince: "Well, I liked the bill we passed, yes."

Senator Franklin: "Thank you."

Further debate ensued.

#### POINT OF ORDER

Senator Goings: "A point of order. Mr. President, this bill left the Senate with a series of projects unanimously. If the Senate fails to concur, meaning we vote 'no' on the motion to do concur, is it true then we would be in the place to revisit that earlier bill, because we would not have concurred with the House changes? Would we have automatically receded and be back at our original bill that came out unanimously?"

#### POINT OF ORDER

Senator Deccio: "I believe Senator Goings has already spoken once."

:

#### REPLY BY THE PRESIDENT

President Owen: "Senator Goings is on a point of order."

Senator Deccio: "He can speak twice, then?"

President Owen: "No, he is on a point of order and the answer to the inquiry, the President believes that if, in fact, the Senate votes on the motion to concur, but votes 'no,' you in effect have voted to not concur."

Senator Goings: "So, Mr. President, we would in essence, be back at the bill that passed unanimously, then?"

President Owen: "The bill would go back to the House with a message that we did not concur."

Senator Goings: "Thank you, Mr. President."

President Owen: "Just one second, Senator Goings. The President believes that the bill would go back to the House with a 'do not concur.'----that the Senate did not concur, but it would be the expectation that you would send it back with a message which would take another motion."

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

The President declared the question before the Senate to be the roll call on the motion by Senator Prince to concur in the House amendment to Engrossed Substitute Senate Bill No. 6456.

#### ROLL CALL

The Secretary called the roll and the Senate concurred in the House amendment by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kol, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 6456, as amended by the House.



Debate ensued.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6456, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 26.

Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kol, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 23. ENGROSSED SUBSTITUTE SENATE BILL NO. 6456, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION FOR IMMEDIATE RECONSIDERATION

Prior notice for reconsideration having been given by Senator Strannigan, Senator Deccio moved to immediately reconsider the vote by which Second Substitute Senate Bill No. 6544, as recommended by the Conference Committee, passed the Senate earlier today.

Debate ensued.

#### PARLIAMENTARY INQUIRY

Senator Snyder: "A parliamentary inquiry, Mr. President. I need a point of clarification. Are we voting on immediate reconsideration or are we voting on reconsideration and if we vote 'no' and the 'no' vote carries, that means that the vote that we took before in a favorable way, the bill will stand as passed?"

#### REPLY BY THE PRESIDENT

President Owen: "Because, Senator Deccio made the motion to immediately reconsider, if in fact, that motion failed, it still is eligible for reconsideration as we stated previously--in previous rulings."

Senator Snyder: "Then, in reality, we have a two vote process--one to immediately reconsider--if that carries, then we will vote on whether to vote 'no' or 'yes' on reconsideration?"

#### REPLY BY THE PRESIDENT

President Owen: "Senator Snyder, because Senator Deccio said, 'immediate reconsideration' the vote, if it carries, you would have a vote on the bill right now. If it fails, the bill is where it was and still you have the opportunity to reconsider."

Further debate ensued.

#### MOTION

On motion of Senator Deccio, and there being no objection, the motion to immediately reconsider the vote by which Second Substitute Senate Bill No. 6544, as recommended by the Conference Committee, passed the Senate was withdrawn.

#### MOTION FOR RECONSIDERATION

Having voted on the prevailing side, Senator Deccio moved to reconsider the vote by which Second Substitute Senate Bill No. 6544, as recommended by the Conference Committee, passed the Senate.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Deccio to reconsider the vote by which Second Substitute Senate Bill No. 6544, as recommended by the Conference Committee, passed the Senate.

The motion for reconsideration failed.

#### MESSAGES FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

The House has passed the following bills:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2108,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2615, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following HOUSE BILLS and passed the bills as amended by the Senate:

HOUSE BILL NO. 2335,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2342.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6470, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 6470.

SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL NO. 6541,

ENGROSSED SENATE BILL NO. 6628,

SUBSTITUTE SENATE BILL NO. 6751.

There being no objection, the President advanced the Senate to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILL

ESHB 2615 by House Committee on Transportation Policy and Budget (originally sponsored by Representatives K. Schmidt, Fisher, Robertson, Mitchell, Wensman, O'Brien, Wood, Ogden, Gardner, Thompson and Conway) (by request of Governor Locke)

Creating partnerships for strategic freight investments.

MOTION

On motion of Senator Johnson, the rules were suspended, Engrossed Substitute House Bill No. 2615 was advanced to second reading and read the second time.

MOTION

On motion of Senator Prince, the rules were suspended, Engrossed Substitute House Bill No. 2615, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

#### POINT OF INQUIRY

Senator Horn: "Senator Sellar, this bill carries with it an appropriation of twenty-five million dollars from the motor vehicle fund from the Department of Transportation. I know that you have been in conference negotiations all day. Would it be the intent that this twenty-five million dollars be used for the eleven projects that were on the amendment on page 6, after line 3, that was scoped off House Bill No. 2945?"

Senator Sellar: "Thanks, Senator Horn. Yes, that is exactly our intent. We have been prevented from sending that to them, but we will indicate to the Transportation Commission and to the director that we want the Senate add-ons with this money. Obviously, the decision is theirs, but we will encourage them to do so."

. The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute House Bill No. 2615.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2615 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 14; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Finkbeiner, Fraser, Hale, Heavey, Hochstatter, Horn, Johnson, Kline, Kohl, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley and Wood - 35. Voting nay: Senators Fairley, Franklin, Goings, Hargrove, Haugen, Jacobsen, Loveland, McAuliffe, Rasmussen, Sheldon, B., Snyder, Spanel, Wojahn and Zarelli - 14. ENGROSSED SUBSTITUTE HOUSE BILL NO. 2615, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

There being no objection, the President advanced the Senate to the sixth order of business.

#### SECOND READING

HOUSE BILL NO. 1012, by Representatives Cairnes, Skinner, Hankins, Robertson, Chandler, Mitchell, B. Thomas, L. Thomas, Cooke and Mielke

Authorizing highway bonds.

The bill was read the second time.

#### MOTION

On motion of Senator Prince, the rules were suspended, House Bill No. 1012 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Debate ensued.

The President declared the question before the Senate to be the roll call on the final passage of House Bill No. 1012.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1012 and the bill failed to receive the necessary two-thirds majority by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Heavey, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 29. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings,

Hargrove, Haugen, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Prentice, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 20. HOUSE BILL NO. 1012, having failed to receive the constitutional two-thirds majority, was declared lost.

There being no objection, the President returned the Senate to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SUBSTITUTE SENATE BILL NO. 6518 and again asks the Senate to concur therein, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

#### MOTION

Senator Roach moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6518.

Debate ensued.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6518.

The motion by Senator Roach carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6518.

The President declared the question before the Senate to be the roll on the final passage of Substitute Senate Bill No. 6518, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6518, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, Loveland, McAuliffe, McCaslin, McDonald, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, B., Sheldon, T., Snyder, Spanel, Stevens, Strannigan, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli - 49. SUBSTITUTE SENATE BILL NO. 6518, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill will stand as the title of the act.

#### MOTION

On motion of Senator Johnson, the Senate advanced to the eight order of business.

There being no objection, the Senate resumed consideration of Senate Resolution 1998-8733, deferred earlier today.

#### MOTION

Senator Snyder moved that the following amendment be adopted:

"Strike the ninth paragraph and insert the following:

BE IT FURTHER RESOLVED, That the Senate Select Committee on Family Services Oversight shall be made up of six members of the Senate, three from the majority caucus and three from the minority caucus and appointed by the President of the Senate and shall use existing Senate staff; and"

Debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

Further debate ensued.

#### POINT OF INQUIRY

Senator Schow: "Senator Kohl, could I see your crystal ball? I would like to check it out."

Senator Kohl: "Thank you, Senator Schow. Let's talk about it next November 4."

The President declared the question before the Senate to be the roll call on the adoption of the amendment striking the ninth paragraph and inserting new language by Senator Snyder to Senate Resolution 1998-8733.

#### ROLL CALL

The Secretary called the roll and the amendment was not adopted by the following vote: Yeas, 24; Nays, 25; Absent, 0; Excused, 0.

Voting yea: Senators Bauer, Brown, Deccio, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Sheldon, T., Snyder, Spanel, Thibaudeau and Wojahn - 24. Voting nay: Senators Anderson, Benton, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 25.

The President declared the question before the Senate to be the adoption of Senate Resolution 1998-8733.

Debate ensued.

#### POINT OF INQUIRY

Senator Thibaudeau: "Senator Loveland, could you tell me what JLARC is about, please?"

Senator Loveland: "The Joint Legislative Audit Review Committee is a committee made up of legislators from the House and the Senate with equal numbers from both parties. The studies are directed to the JLARC. On that committee, we undertake studies that the Legislature, in legislation, asks us to gather information and come back to the Legislature in a bipartisan way and present the information that we received, so that we can develop good legislative policy."

Senator Thibaudeau: "Do individual citizens have the right to raise questions and bring matters to your attention?"

Senator Loveland: "Absolutely, we have hearings. In fact, we will have a hearing tomorrow, here. The public and interested parties come to those hearings and can ask questions."

Senator Thibaudeau: "Just one more quick question. How would this committee relate to that?"

#### POINT OF ORDER

Senator Johnson: "A point of order, Mr. President. Nice instruction on what JLARC is, but that is not the issue before us."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Thibaudeau, it would be helpful if you would, somehow, relate your question to the resolution."

Further debate ensued.

Senator Betti Sheldon demanded a roll call and the demand was sustained.

The President declared the question before the Senate to be the roll call on the adoption of Senate Resolution 1998-8733.

#### ROLL CALL

The Secretary called the roll on the adoption of Senate Resolution 1998-8733 and the resolution was adopted by the following vote:

Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Senators Anderson, Benton, Deccio, Finkbeiner, Hale, Hochstatter, Horn, Johnson, Long, McCaslin, McDonald, Morton, Newhouse, Oke, Prince, Roach, Rossi, Schow, Sellar, Sheldon, T., Stevens, Strannigan, Swecker, West, Winsley, Wood and Zarelli - 27. Voting nay: Senators Bauer, Brown, Fairley, Franklin, Fraser, Goings, Hargrove, Haugen, Heavey, Jacobsen, Kline, Kohl, Loveland, McAuliffe, Patterson, Prentice, Rasmussen, Sheldon, B., Snyder, Spanel, Thibaudeau and Wojahn - 22.

MOTION

Senator McDonald: "Mr. President, twenty-four hours have now passed since Senator Hargrove gave notice of his motion to amend Rule 43. I would now call on a vote on Senator Hargrove's motion. I would like to speak in opposition of the good Senator's motion. This would grant subpoena power to all committees. That is something that has been very guarded. It is something that requires a vote of both Rules Committees from the House and the Senate. I think that is how it ought to remain and I would ask for your 'no' vote on this motion."

WITHDRAWAL OF MOTION TO AMEND RULE 43

Senator Hargrove: "Thank you, Mr. President. I appreciate Senator McDonald being so attentive to the clock and bringing this up for me. I almost forgot. I wanted to point out one thing. It requires the action of the Rules Committee in one house--not in both houses--to do a subpoena, so you were in error there. You are rarely in error, I know, but you were in error. Nonetheless, I don't think we need it either. It is obvious that the people that were interested in doing this, no longer share any interest in doing that, so I guess we can reject this by a voice vote."

The President declared the question before the Senate to be the vote on the proposed rule change by Senator Hargrove. The motion failed and the rule change was not adopted.

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6456,  
SUBSTITUTE SENATE BILL NO. 6518,  
SECOND SUBSTITUTE SENATE BILL NO. 6544.

There being no objection, the President returned the Senate to the third order of business.

MESSAGE FROM THE GOVERNOR  
REPRIEVE, COMMUTATION OR PARDON

March 10, 1998

TO THE HONORABLE, THE SENATE AND  
THE HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

In compliance with the provision of Section 11 of Article III of the Constitution of the state of Washington, the Governor hereby submits his report of each case of reprieve, commutation or pardon that he has granted since the adjournment of the First Special Session of the Fifty-fifth Legislature, copy of which is attached.

Respectfully submitted,

EVERETT H. BILLINGSLEA, General Counsel

CONDITIONAL PARDON OF  
MICHAEL WALTER WERNOFSKY

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, on May 31, 1989, Michael Walter Wernofsky was at a convenience store near Tacoma when he noticed a man whom he recognized as owing money to an acquaintance. Mr. Wernofsky decided to help his acquaintance collect the money. He displayed a concealed gun, forcefully took the man into custody, drove him to the acquaintance's apartment and left him there. When the victim called his grandmother to borrow the money, she in turn called the police and Mr. Wernofsky was arrested. He pled guilty to second degree extortion, and was sentenced to 30 days in jail and 12 months in community supervision. At the time of Mr. Wernofsky's arrest, he had a serious chemical dependency, he and his wife had lost custody of their children, and his life was a shambles.

WHEREAS, Mr. Wernofsky has faced and conquered his chemical dependency, has accepted full responsibility for his actions, and has, with the support of his wife and extended family, regained custody of his children and created a healthy home environment in which to raise them. He has paid all restitution and has been a law-abiding citizen for several years. Convincing testimony was presented to the Clemency and Pardons Board that Mr. Wernofsky has indeed reformed and is a productive and worthy member of society. Mr. Wernofsky has dedicated himself to obtaining an education. He has become a Certified Nursing Assistance (CNA) and has entered the registered nursing program at Tacoma Community College with the goal of becoming a registered nurse. While attending school, Mr. Wernofsky supported his family working as a CNA at a nursing home, and excelled in that occupation. However, upon learning of Mr. Wernofsky's conviction, the nursing home terminated his employment, as required by statute.

WHEREAS, RCW 43.43.842 requires that a facility that provides care and treatment to vulnerable adults shall ensure that any person having direct contact with vulnerable adults shall not have been convicted of a crime against persons or a crime relating to financial exploitation. Second degree extortion falls into both of those categories, effectively preventing Mr. Wernofsky from being employed as a CNA or registered nurse. However, pursuant to RCW 43.43.830, a conviction record does not include a conviction for an offense that has been the subject of a pardon. Accordingly, Mr. Wernofsky has sought this pardon, and it has been granted solely to allow Mr. Wernofsky to pursue employment as a registered nurse, and as a CNA while completing the requirements to become a registered nurse.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the favorable recommendation of the Washington State Clemency and Pardons Board, and the purpose for Mr. Wernofsky's request, and in light of the circumstances of the crime I have determined that the best interests of justice will be served by this action;

NOW, THEREFORE, I Gary Locke, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Michael Walter Wernofsky this Conditional Pardon, SUBJECT TO THE CONDITIONS that:

1. He shall not receive, possess, own ship or transport firearms. This Conditional Pardon does not restore, and shall not under any circumstances be construed to restore, any civil rights related to firearms, and shall not remove any disability related to firearms under any state or federal law.

2. He shall become a registered nurse, fully licensed to practice nursing in the state of Washington or any other state, by December 31, 2003, and maintain such license in good standing.

3. He shall not commit any crimes.

The conditions of this Conditional Pardon shall remain in force indefinitely. Upon breach of any of the foregoing conditions, this Conditional Pardon shall automatically and immediately expire, and shall be null and void as if it had never been granted.

IN WITNESS WHEREOF, I have hereunto set my

SEAL hand and caused the seal of the state of Washington

to be affixed at Olympia on this twenty-ninth day of September, A.D., nineteen hundred ninety seven.

BY THE GOVERNOR GARY F. LOCKE, Governor of Washington

Ralph Munro  
Secretary of State

CONDITIONAL PARDON OF  
JOHN THOMAS FULLERTON

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, late on the night of August 5, 1984, John Thomas Fullerton, a Newport High School math teacher and coach, returned home with his children from a camping trip earlier than expected. His then-wife was not home, but her car was in the driveway. Mr. Fullerton noticed that the gate between his house and the neighbor's house was open, as was the neighbor's sliding door. He went into the neighbor's house and found his wife of 19 years in bed with the neighbor. In the heat of passion, a fight ensued, and the neighbor sustained minor injuries. Mr. and Mrs. Fullerton eventually divorced. Mr. Fullerton pled guilty to second degree assault in King County Superior Court, and was sentenced to 240 hours of community service, one year of community supervision, restitution and mental health counseling. Mr. Fullerton completed all of the conditions of his sentence many years ago and has no other criminal history. Thirteen years have elapsed since he committed the crime; and

WHEREAS, Mr. Fullerton is now a retired high school math teacher and coach. He continues to coach football and boys and girls track, is actively involved in boy Scouts, and is also very involved in other community activities. Mr. Fullerton has a strong

social and humanitarian conscience and, in November 1994, rescued a man and his dog who were trapped inside a burning vehicle beside the highway. Mr. Fullerton's petition for clemency was supported by his local Chief of Police, fellow coaches and teachers, his children, a scout leader, his former wife, and others. The local prosecutor did not oppose his petition. The full Clemency and Pardons Board voted unanimously to recommend a pardon; and

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and the unanimous favorable recommendation of the Washington State Clemency and Pardons Board, and in light of the foregoing I have determined that the best interest of justice will be served by this action:

NOW, THEREFORE, I, Gary Locke, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to John Thomas Fullerton this Conditional Pardon, SUBJECT TO THE CONDITION that Mr. Fullerton shall not receive, possess, own, ship or transport firearms. This Conditional Pardon does not restore, and shall not under any circumstances be construed to restore, any civil rights related to firearms, and shall not remove any disability related to firearms under any state or federal law.

The foregoing condition shall remain in force indefinitely. Upon breach of the foregoing condition, this Conditional Pardon shall automatically and immediately expire, and shall be null and void as if it had never been granted.

IN WITNESS WHEREOF, I have hereunto set my

SEAL hand and caused the seal of the state of Washington

to be affixed at Olympia on this third day of  
February, A.D., nineteen hundred ninety eight.

BY THE GOVERNOR GARY LOCKE, Governor of Washington

Ralph Munro  
Secretary of State

CONDITIONAL PARDON OF  
ALLEN DWAYNE ATKINSON

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, on his 32<sup>nd</sup> birthday in 1986, Allen Dwayne Atkinson was celebrating and drinking with his then-girlfriend, roommate and several other friends in a bar in Kelso, Washington. During the evening, Mr. Atkinson and his girlfriend had an argument. When they left the bar, Mr. Atkinson and his girlfriend left in separate groups. Later that night, Mr. Atkinson went to his girlfriend's apartment and noticed his roommate's truck parked outside. He rang the doorbell and after getting no answer, being intoxicated and angry, kicked in the door. A fight between Mr. Atkinson and his roommate ensued. The police were called and Mr. Atkinson was arrested and charged with second degree burglary. No one was seriously injured. Mr. Atkinson plead guilty in the burglary in Cowlitz County Superior Court, and served 10 days in jail. He completed all conditions of the judgment and sentence entered against him many years ago, and his civil rights were restored by the sentencing court; and

WHEREAS, Mr. Atkinson has become a respected and productive member of society, active in his community during the many years since termination of the court's jurisdiction over him, owns and operates his own construction company, and has shown a sincere desire to obtain education and improve himself by working his way though college attending night classes; and

WHEREAS, Mr. Atkinson has sincere aspirations to continue his education by attending law school and to undertake the practice of law in the state of Georgia; and.

WHEREAS, Mr. Atkinson cannot be considered for admission to the State Bar of Georgia without a pardon of his felony conviction; and

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the favorable recommendation of the Washington State Clemency and Pardons Board, and the purpose for Mr. Atkinson's request, and in light of the circumstance of the crime I have determined that the best interests of justice will be served by this action;

NOW, THEREFORE, I, Gary Locke, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Allen Dwayne Atkinson this Conditional Pardon, SUBJECT TO THE FOLLOWING CONDITIONS:

1. Mr. Atkinson shall become a lawyer, fully licensed to practice law in the state of Georgia or any other state, by December 31, 2004, and maintain such license in good standing.
2. Mr. Atkinson shall not receive, possess, own ship or transport firearms. This Conditional Pardon does not restore, and shall not under any circumstances be construed to restore, any civil rights related to firearms, and shall not remove any disability related to firearms under any state or federal law.
3. Mr. Atkinson shall not commit any crimes.



The conditions of this Conditional Pardon shall remain in force indefinitely. Upon breach of any of the foregoing conditions, this Conditional Pardon shall automatically and immediately expire, and shall be null and void as if it had never been granted.

SEAL     hand and caused the seal of the state of Washington

IN WITNESS WHEREOF, I have hereunto set my  
to be affixed at Olympia on this third of  
February, A.D., nineteen hundred ninety eight.

BY THE GOVERNOR   GARY LOCKE, Governor of Washington

Ralph Munro  
Secretary of State

There being no objection, the President advanced the Senate to the fourth order of business.

MESSAGES FROM HOUSE

March 12, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439 and passed the bill as amended by the Senate.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The House concurred in the Senate amendment(s) to the following HOUSE BILLS and passed the bills as amended by the Senate:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2339,  
HOUSE BILL NO. 3060.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The House has adopted SENATE CONCURRENT RESOLUTION NO. 8430, and the same is herewith transmitted

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE SENATE BILL NO. 5582,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6165,  
SECOND SUBSTITUTE SENATE BILL NO. 6168,  
SUBSTITUTE SENATE BILL NO. 6181,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6187,  
SECOND SUBSTITUTE SENATE BILL NO. 6190,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6204,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6238,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6408,

SUBSTITUTE SENATE BILL NO. 6455,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6470,  
SENATE BILL NO. 6541,  
ENGROSSED SENATE BILL NO. 6628,  
SUBSTITUTE SENATE BILL NO. 6751, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6456,  
SUBSTITUTE SENATE BILL NO. 6518,  
SECOND SUBSTITUTE SENATE BILL NO. 6544, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE HOUSE BILL NO. 1939,  
SUBSTITUTE HOUSE BILL NO. 2051,  
SUBSTITUTE HOUSE BILL NO. 2312,  
HOUSE BILL NO. 2335,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2342,  
HOUSE BILL NO. 2371,  
SUBSTITUTE HOUSE BILL NO. 2556,  
SECOND SUBSTITUTE HOUSE BILL NO. 2849,  
SECOND SUBSTITUTE HOUSE BILL NO. 2879,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2947,  
ENGROSSED HOUSE BILL NO. 3041,  
SUBSTITUTE HOUSE BILL NO. 3076,  
SUBSTITUTE HOUSE BILL NO. 3110, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed:  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2339,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2615,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2871,  
HOUSE BILL NO. 2945,  
HOUSE BILL NO. 3060, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE HOUSE BILL NO. 1939,  
SUBSTITUTE HOUSE BILL NO. 2051,  
SUBSTITUTE HOUSE BILL NO. 2312,  
HOUSE BILL NO. 2335,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2342,  
HOUSE BILL NO. 2371,  
SUBSTITUTE HOUSE BILL NO. 2556,  
SECOND SUBSTITUTE HOUSE BILL NO. 2849,  
SECOND SUBSTITUTE HOUSE BILL NO. 2879,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2947,  
ENGROSSED HOUSE BILL NO. 3041,  
SUBSTITUTE HOUSE BILL NO. 3076,  
SUBSTITUTE HOUSE BILL NO. 3110.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2339,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2439,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2615,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2871,  
HOUSE BILL NO. 2945,  
HOUSE BILL NO. 3060.

MOTION

On motion of Senator Johnson, the Senate advanced to the eighth order of business.

MOTION

On motion of Senator Johnson, the following resolution was adopted:

SENATE RESOLUTION 1998-8735

By Senators McDonald and Snyder

WHEREAS, The 1998 Regular Session of the Fifty-fifth Legislature is drawing to a close; and

WHEREAS, It is necessary to provide for the completion of the work of the Senate after its adjournment and during the interim period between the close of the 1998 Regular Session of the Fifty-fifth Legislature and the convening of the next regular session;

NOW, THEREFORE, BE IT RESOLVED, That the Senate Facilities and Operations Committee shall have full authority and direction over the authorization and execution of any personal services contracts or subcontracts that necessitate the expenditure of Senate appropriations; and

BE IT FURTHER RESOLVED, That the Senate Facilities and Operations Committee may, as they deem appropriate, authorize out-of-state travel for which members and staff may receive therefor their actual necessary expenses to be paid upon receipt of their vouchers out of funds appropriated for legislative expenses; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Senate Facilities and Operations Committee be, and they hereby are, authorized to retain such employees as they may deem necessary and that said employees be allowed such rate of pay therefor as the Secretary of the Senate and the Senate Facilities and Operations Committee shall deem proper; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and he hereby is, authorized and directed to make out and execute the necessary vouchers upon which warrants for legislative expenses and expenditures shall be drawn from funds provided therefor; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Facilities and Operations Committee be, and they hereby are, authorized to approve written requests by standing committees to meet during the interim period; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and hereby is, authorized and directed to have printed a copy of the Senate Journals of the 1998 Regular Session of the Fifty-fifth Legislature; and

BE IT FURTHER RESOLVED, That the President Pro Tempore of the Senate, the Vice-President Pro Tempore of the Senate, the Senate Majority and Minority Leadership, are each authorized to attend the annual meetings of the National Conference of State Legislatures, and to receive therefor their actual necessary expenses to be paid upon receipt of their vouchers out of funds appropriated for legislative expenses; and

BE IT FURTHER RESOLVED, That the Rules Committee is authorized to assign subject matters to standing committees for study during the interims, and the Majority Leader is authorized to create special committees as may be necessary to carry out the functions of the Senate in an orderly manner and appoint members thereto with the approval of the Facilities and Operations Committee; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate is authorized to express the sympathy of the Senate by sending flowers or memorials in the event of a bereavement in a legislator's family; and

BE IT FURTHER RESOLVED, That such use of the Senate facilities is permitted upon such terms as the Secretary of the Senate shall deem proper.

#### SIGNED BY THE PRESIDENT

The President signed:

SENATE CONCURRENT RESOLUTION NO. 8430.

There being no objection, the President advanced the Senate to the fourth order of business.

#### MESSAGE FROM HOUSE

March 12, 1998

MR. PRESIDENT:

The House has adopted HOUSE CONCURRENT RESOLUTION NO. 4440, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

There being no objection, the President advanced the Senate to the fifth order of business.

#### INTRODUCTION AND FIRST READING OF HOUSE BILL

HCR 4440 by Representatives Lisk and Chopp

Regarding notification to governor of Sine Die.

#### MOTIONS

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4440 was advanced to second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4440 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage and adopted.

HOUSE CONCURRENT RESOLUTION NO. 4440 was adopted by voice vote.

#### APPOINTMENT OF SPECIAL COMMITTEE TO NOTIFY THE GOVERNOR OF ADJOURNMENT SINE DIE

Under the provisions of House Concurrent Resolution No. 4440, the President appointed Senators Wood, Rossi, Spanel and Fraser to join a like committee from the House to notify the Governor that the Legislature is about to adjourn SINE DIE.

#### MOTION

On motion of Senator Johnson, the committee assignments were confirmed.

There being no objection, the President returned the Senate to the fourth order of business.

MESSAGE FROM HOUSE

March 12, 1998

MR. PRESIDENT:

The House has adopted HOUSE CONCURRENT RESOLUTION NO. 4439, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

There being no objection, the President advanced the Senate to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILL

HCR 4439 by Representatives Lisk and Chopp

Returning bills to their house of origin.

MOTIONS

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4439 was advanced to second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4439 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage and adopted.

HOUSE CONCURRENT RESOLUTION NO. 4439 was adopted by voice vote.

MOTION

On motion of Senator Johnson, the Senate advanced to the eighth order of business.

MOTION

On motion of Senator Morton, the following resolution was adopted:

SENATE RESOLUTION 1998-8736

By Senators McDonald and Snyder

BE IT RESOLVED, By the Senate, That a committee consisting of four members of the Senate be appointed to notify the House that the Legislature is about to adjourn SINE DIE.

APPOINTMENT OF SPECIAL COMMITTEE TO NOTIFY  
THE HOUSE OF ADJOURNMENT SINE DIE

Under the provisions of Senate Resolution 1998-8736, the President appointed Senators Winsley, Long, Rasmussen and Tim Sheldon to notify the House that the Senate is ready to adjourn SINE DIE.

MOTION

On motion of Senator Johnson, the committee assignments were confirmed.

REPORT OF SPECIAL COMMITTEE APPOINTED TO NOTIFY  
THE GOVERNOR OF ADJOURNMENT SINE DIE

The Sergeant at Arms announced the return of the special committee composed of Senators Wood, Rossi, Spanel and Fraser who were appointed under the provisions of House Concurrent Resolution No. 4440. The committee reported they joined with a like committee from the House and notified the Governor that the Legislature is about to adjourn SINE DIE.

The report was received and the committee was discharged.

There being no objection, the President returned the Senate to the fourth order of business.

MESSAGE FROM HOUSE

March 12, 1998

MR. PRESIDENT:

The House has adopted HOUSE CONCURRENT RESOLUTION NO. 4438, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

There being no objection, the President advanced the Senate to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILL

HCR 4438 by Representatives Lisk and Chopp

Adjourning the Legislature Sine Die.

MOTIONS

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4438 was advanced to second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, House Concurrent Resolution No. 4438 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage and adopted.

HOUSE CONCURRENT RESOLUTION NO. 4438 was adopted by voice vote.

COMMITTEE FROM THE HOUSE NOTIFYING  
THE SENATE OF ADJOURNMENT SINE DIE

The Sergeant at Arms announced the arrival of the committee from the House, consisting of Representatives Cole, Gardner, Cooke and Dyer. The committee appeared before the bar of the Senate to notify the Senate that the House is about to adjourn SINE DIE.

The report was received and the committee returned to the House of Representatives.

MOTION

Under the provisions of House Concurrent Resolution No. 4439, on motion of Senator Johnson, the following House Bills were returned to the House of Representatives:

SECOND ENGROSSED HOUSE BILL NO. 1027,  
HOUSE BILL NO. 1038,  
HOUSE BILL NO. 1040,  
HOUSE BILL NO. 1046,  
ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1055,  
HOUSE BILL NO. 1075,  
HOUSE BILL NO. 1087,

SUBSTITUTE HOUSE BILL NO. 1093,  
HOUSE BILL NO. 1097,  
SUBSTITUTE HOUSE BILL NO. 1112,  
SECOND SUBSTITUTE HOUSE BILL NO. 1113,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1115,  
HOUSE BILL NO. 1129,  
SUBSTITUTE HOUSE BILL NO. 1141,  
SUBSTITUTE HOUSE BILL NO. 1150,  
SUBSTITUTE HOUSE BILL NO. 1174,  
ENGROSSED HOUSE BILL NO. 1186,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1194,  
SUBSTITUTE HOUSE BILL NO. 1195,  
HOUSE BILL NO. 1197,  
ENGROSSED HOUSE BILL NO. 1205,  
HOUSE BILL NO. 1207,

SUBSTITUTE HOUSE BILL NO. 1212,  
SUBSTITUTE HOUSE BILL NO. 1245,  
SUBSTITUTE HOUSE BILL NO. 1260,  
SECOND SUBSTITUTE HOUSE BILL NO. 1275,  
HOUSE BILL NO. 1332,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1344,  
SUBSTITUTE HOUSE BILL NO. 1352,  
HOUSE BILL NO. 1368,  
SUBSTITUTE HOUSE BILL NO. 1380,  
SUBSTITUTE HOUSE BILL NO. 1385,  
SUBSTITUTE HOUSE BILL NO. 1390,  
ENGROSSED HOUSE BILL NO. 1391,  
HOUSE BILL NO. 1405,  
SUBSTITUTE HOUSE BILL NO. 1416,  
HOUSE BILL NO. 1421,  
SUBSTITUTE HOUSE BILL NO. 1479,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1490,  
SUBSTITUTE HOUSE BILL NO. 1505,  
ENGROSSED HOUSE BILL NO. 1508,  
SUBSTITUTE HOUSE BILL NO. 1509,  
SUBSTITUTE HOUSE BILL NO. 1510,  
HOUSE BILL NO. 1521,  
SECOND SUBSTITUTE HOUSE BILL NO. 1522,  
SECOND ENGROSSED HOUSE BILL NO. 1584,  
SUBSTITUTE HOUSE BILL NO. 1587,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1619,  
ENGROSSED HOUSE BILL NO. 1637,  
HOUSE BILL NO. 1638,  
HOUSE BILL NO. 1648,  
SUBSTITUTE HOUSE BILL NO. 1655,  
SUBSTITUTE HOUSE BILL NO. 1672,  
HOUSE BILL NO. 1673,  
SECOND SUBSTITUTE HOUSE BILL NO. 1709,  
HOUSE BILL NO. 1716,  
ENGROSSED HOUSE BILL NO. 1740,  
HOUSE BILL NO. 1751,  
SUBSTITUTE HOUSE BILL NO. 1784,

HOUSE BILL NO. 1785,  
SUBSTITUTE HOUSE BILL NO. 1800,  
SUBSTITUTE HOUSE BILL NO. 1805,  
SUBSTITUTE HOUSE BILL NO. 1833,  
SUBSTITUTE HOUSE BILL NO. 1846,  
SUBSTITUTE HOUSE BILL NO. 1858,  
ENGROSSED HOUSE BILL NO. 1891,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1898,  
SUBSTITUTE HOUSE BILL NO. 1943,  
SUBSTITUTE HOUSE BILL NO. 1973,  
SUBSTITUTE HOUSE BILL NO. 1978,  
SUBSTITUTE HOUSE BILL NO. 2008,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2019,  
SUBSTITUTE HOUSE BILL NO. 2028,  
SUBSTITUTE HOUSE BILL NO. 2039,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2108,  
HOUSE BILL NO. 2127,  
SECOND SUBSTITUTE HOUSE BILL NO. 2180,  
HOUSE BILL NO. 2261,  
HOUSE BILL NO. 2277,  
HOUSE BILL NO. 2292,  
SUBSTITUTE HOUSE BILL NO. 2299,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2303,  
SUBSTITUTE HOUSE BILL NO. 2306,  
SUBSTITUTE HOUSE BILL NO. 2308,  
SUBSTITUTE HOUSE BILL NO. 2311,  
HOUSE BILL NO. 2314,  
SUBSTITUTE HOUSE BILL NO. 2316,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2317,

SUBSTITUTE HOUSE BILL NO. 2324,  
SUBSTITUTE HOUSE BILL NO. 2326,  
HOUSE BILL NO. 2328,  
HOUSE BILL NO. 2331,  
SUBSTITUTE HOUSE BILL NO. 2333,  
SECOND SUBSTITUTE HOUSE BILL NO. 2340,  
HOUSE BILL NO. 2343,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2344,  
HOUSE BILL NO. 2347,  
HOUSE BILL NO. 2349,  
HOUSE BILL NO. 2356,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2360,  
HOUSE BILL NO. 2361,  
HOUSE BILL NO. 2362,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2363,  
SUBSTITUTE HOUSE BILL NO. 2366,  
SUBSTITUTE HOUSE BILL NO. 2369,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2373,  
SUBSTITUTE HOUSE BILL NO. 2374,  
HOUSE BILL NO. 2376,  
HOUSE BILL NO. 2383,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2385,  
SUBSTITUTE HOUSE BILL NO. 2389,  
SUBSTITUTE HOUSE BILL NO. 2399,



SUBSTITUTE HOUSE BILL NO. 2401,  
ENGROSSED HOUSE BILL NO. 2410,  
SUBSTITUTE HOUSE BILL NO. 2413,  
SUBSTITUTE HOUSE BILL NO. 2418,  
SUBSTITUTE HOUSE BILL NO. 2422,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2424,  
HOUSE BILL NO. 2428,  
ENGROSSED HOUSE BILL NO. 2432,  
HOUSE BILL NO. 2434,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2435,  
HOUSE BILL NO. 2441,  
SUBSTITUTE HOUSE BILL NO. 2442,  
HOUSE BILL NO. 2444,  
SUBSTITUTE HOUSE BILL NO. 2445,  
SUBSTITUTE HOUSE BILL NO. 2446,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2462,  
SUBSTITUTE HOUSE BILL NO. 2469,  
HOUSE BILL NO. 2472,  
HOUSE BILL NO. 2474,  
SUBSTITUTE HOUSE BILL NO. 2481,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2483,  
HOUSE BILL NO. 2486,  
SUBSTITUTE HOUSE BILL NO. 2490,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2508,  
SUBSTITUTE HOUSE BILL NO. 2511,  
HOUSE BILL NO. 2515,  
HOUSE BILL NO. 2516,  
SUBSTITUTE HOUSE BILL NO. 2521,  
SUBSTITUTE HOUSE BILL NO. 2525,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2527,  
SUBSTITUTE HOUSE BILL NO. 2532,  
SUBSTITUTE HOUSE BILL NO. 2538,  
SUBSTITUTE HOUSE BILL NO. 2545,  
HOUSE BILL NO. 2548,  
ENGROSSED HOUSE BILL NO. 2549,  
HOUSE BILL NO. 2554,  
SUBSTITUTE HOUSE BILL NO. 2555,  
SUBSTITUTE HOUSE BILL NO. 2562,  
ENGROSSED HOUSE BILL NO. 2570,  
SUBSTITUTE HOUSE BILL NO. 2573,  
HOUSE BILL NO. 2574,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2578,  
HOUSE BILL NO. 2582,  
SUBSTITUTE HOUSE BILL NO. 2588,  
SUBSTITUTE HOUSE BILL NO. 2589,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2591,  
SECOND SUBSTITUTE HOUSE BILL NO. 2604,  
SUBSTITUTE HOUSE BILL NO. 2613,  
SECOND SUBSTITUTE HOUSE BILL NO. 2618,  
HOUSE BILL NO. 2622,  
SUBSTITUTE HOUSE BILL NO. 2656,  
HOUSE BILL NO. 2657,  
HOUSE BILL NO. 2665,  
SUBSTITUTE HOUSE BILL NO. 2671,

SUBSTITUTE HOUSE BILL NO. 2672,  
HOUSE BILL NO. 2682,  
SUBSTITUTE HOUSE BILL NO. 2685,  
SUBSTITUTE HOUSE BILL NO. 2702,  
SUBSTITUTE HOUSE BILL NO. 2705,  
ENGROSSED HOUSE BILL NO. 2709,  
SUBSTITUTE HOUSE BILL NO. 2712,  
HOUSE BILL NO. 2723,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2730,  
ENGROSSED HOUSE BILL NO. 2734,  
HOUSE BILL NO. 2735,  
HOUSE BILL NO. 2748,  
HOUSE BILL NO. 2750,  
SUBSTITUTE HOUSE BILL NO. 2754,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2756,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2761,  
HOUSE BILL NO. 2763,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2769,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2774,  
SUBSTITUTE HOUSE BILL NO. 2785,  
SUBSTITUTE HOUSE BILL NO. 2793,  
SECOND SUBSTITUTE HOUSE BILL NO. 2794,  
SUBSTITUTE HOUSE BILL NO. 2800,  
SUBSTITUTE HOUSE BILL NO. 2811,  
SUBSTITUTE HOUSE BILL NO. 2817,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2818,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2821,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2823,  
SUBSTITUTE HOUSE BILL NO. 2840,  
HOUSE BILL NO. 2841,  
SUBSTITUTE HOUSE BILL NO. 2842,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2845,  
HOUSE BILL NO. 2847,  
SUBSTITUTE HOUSE BILL NO. 2848,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2882,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2887,  
SUBSTITUTE HOUSE BILL NO. 2888,  
HOUSE BILL NO. 2889,  
SUBSTITUTE HOUSE BILL NO. 2890,  
ENGROSSED HOUSE BILL NO. 2897,  
SUBSTITUTE HOUSE BILL NO. 2898,  
SUBSTITUTE HOUSE BILL NO. 2902,  
HOUSE BILL NO. 2908,  
SUBSTITUTE HOUSE BILL NO. 2910,  
SUBSTITUTE HOUSE BILL NO. 2911,  
SUBSTITUTE HOUSE BILL NO. 2912,  
SUBSTITUTE HOUSE BILL NO. 2914,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2915,  
SUBSTITUTE HOUSE BILL NO. 2924,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2925,  
SECOND SUBSTITUTE HOUSE BILL NO. 2929,  
SUBSTITUTE HOUSE BILL NO. 2932,  
HOUSE BILL NO. 2938,  
SUBSTITUTE HOUSE BILL NO. 2953,

HOUSE BILL NO. 2954,  
SUBSTITUTE HOUSE BILL NO. 2955,

SECOND SUBSTITUTE HOUSE BILL NO. 2962,  
SUBSTITUTE HOUSE BILL NO. 2964,  
SUBSTITUTE HOUSE BILL NO. 2967,  
SUBSTITUTE HOUSE BILL NO. 2976,  
SUBSTITUTE HOUSE BILL NO. 2983,  
SUBSTITUTE HOUSE BILL NO. 2988,  
SUBSTITUTE HOUSE BILL NO. 2989,  
HOUSE BILL NO. 2993,  
SUBSTITUTE HOUSE BILL NO. 2997,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3008,  
HOUSE BILL NO. 3022,  
SUBSTITUTE HOUSE BILL NO. 3030,  
HOUSE BILL NO. 3031,  
HOUSE BILL NO. 3044,  
SUBSTITUTE HOUSE BILL NO. 3046,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3049,  
HOUSE BILL NO. 3050,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3054,  
SUBSTITUTE HOUSE BILL NO. 3062,  
HOUSE BILL NO. 3068,  
SUBSTITUTE HOUSE BILL NO. 3073,  
ENGROSSED HOUSE BILL NO. 3078,  
HOUSE BILL NO. 3098,  
HOUSE BILL NO. 3117,  
ENGROSSED HOUSE BILL NO. 3120,  
HOUSE BILL NO. 3122,  
HOUSE BILL NO. 3123,  
HOUSE BILL NO. 3124,  
HOUSE JOINT MEMORIAL NO. 4011,  
HOUSE JOINT MEMORIAL NO. 4014,  
HOUSE JOINT MEMORIAL NO. 4029,  
ENGROSSED HOUSE JOINT MEMORIAL NO. 4033,  
HOUSE JOINT MEMORIAL NO. 4036.

REPORT OF SPECIAL COMMITTEE APPOINTED TO NOTIFY  
HOUSE OF ADJOURNMENT SINE DIE

The Sergeant at Arms announced the return of the special committee, composed of Senators Winsley, Long, Rasmussen and Tim Sheldon, who were appointed under the provisions of Senate Resolution 1998-8736. The committee reported they had notified the House that the Senate is ready to adjourn SINE DIE.

The report was received and the committee was discharged.

MESSAGES FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

The Speaker has signed SENATE CONCURRENT RESOLUTION NO. 8430, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed HOUSE CONCURRENT RESOLUTION NO. 4438, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed HOUSE CONCURRENT RESOLUTION NO. 4439, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

March 12, 1998

MR. PRESIDENT:

The Speaker has signed HOUSE CONCURRENT RESOLUTION NO. 4440, and the same is herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MESSAGE FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

Under the provisions of House Concurrent Resolution No. 4439, the House herewith returns the following Senate Bills to the Senate:

SENATE BILL NO. 5064,  
ENGROSSED SENATE BILL NO. 5065,  
SENATE BILL NO. 5067,  
SECOND SUBSTITUTE SENATE BILL NO. 5084,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5089,  
SENATE BILL NO. 5092,  
SENATE BILL NO. 5094,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5098,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5196,  
SENATE BILL NO. 5203,  
ENGROSSED SENATE BILL NO. 5242,  
SENATE BILL NO. 5258,  
SUBSTITUTE SENATE BILL NO. 5277,  
ENGROSSED THIRD SUBSTITUTE SENATE BILL NO. 5278,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5347,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5424,  
SUBSTITUTE SENATE BILL NO. 5431,  
SUBSTITUTE SENATE BILL NO. 5468,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5479,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5618,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5629,  
SECOND SUBSTITUTE SENATE BILL NO. 5660,  
SENATE BILL NO. 5742,  
SENATE BILL NO. 5775,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5861,  
SUBSTITUTE SENATE BILL NO. 5939,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6050,  
SENATE BILL NO. 6076,

ENGROSSED SUBSTITUTE SENATE BILL NO. 6117,  
SENATE BILL NO. 6131,  
SENATE BILL NO. 6134,  
SUBSTITUTE SENATE BILL NO. 6143,  
SENATE BILL NO. 6144,  
SENATE BILL NO. 6145,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6152,  
SENATE BILL NO. 6157,  
SENATE BILL NO. 6160,  
SENATE BILL NO. 6173,  
SENATE BILL NO. 6179,  
SENATE BILL NO. 6183,  
SENATE BILL NO. 6188,  
SUBSTITUTE SENATE BILL NO. 6195,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6196,  
SUBSTITUTE SENATE BILL NO. 6201,  
SENATE BILL NO. 6210,  
SENATE BILL NO. 6211,  
SUBSTITUTE SENATE BILL NO. 6212,  
SENATE BILL NO. 6213,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6216,  
SUBSTITUTE SENATE BILL NO. 6217,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6231,  
SUBSTITUTE SENATE BILL NO. 6242,  
SUBSTITUTE SENATE BILL NO. 6243,  
SUBSTITUTE SENATE BILL NO. 6251,  
SUBSTITUTE SENATE BILL NO. 6254,  
SENATE BILL NO. 6272,  
SENATE BILL NO. 6279,  
SENATE BILL NO. 6287,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6290,  
SUBSTITUTE SENATE BILL NO. 6298,  
SENATE BILL NO. 6315,  
SUBSTITUTE SENATE BILL NO. 6316,  
SENATE BILL NO. 6337,  
ENGROSSED SENATE BILL NO. 6349,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6354,  
SENATE BILL NO. 6359,

SENATE BILL NO. 6360,  
SENATE BILL NO. 6375,  
SUBSTITUTE SENATE BILL NO. 6379,  
SENATE BILL NO. 6383,  
SENATE BILL NO. 6387,  
SENATE BILL NO. 6406,  
SUBSTITUTE SENATE BILL NO. 6409,  
SUBSTITUTE SENATE BILL NO. 6422,  
SENATE BILL NO. 6451,  
SENATE BILL NO. 6464,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6475,  
SUBSTITUTE SENATE BILL NO. 6501,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6502,  
SENATE BILL NO. 6503,

SENATE BILL NO. 6504,  
SUBSTITUTE SENATE BILL NO. 6516,  
SUBSTITUTE SENATE BILL NO. 6534,  
ENGROSSED SENATE BILL NO. 6537,  
SENATE BILL NO. 6540,  
SUBSTITUTE SENATE BILL NO. 6549,  
SUBSTITUTE SENATE BILL NO. 6558,  
ENGROSSED SENATE BILL NO. 6582,  
SENATE BILL NO. 6585,  
SUBSTITUTE SENATE BILL NO. 6589,  
SUBSTITUTE SENATE BILL NO. 6590,  
SENATE BILL NO. 6591,  
SUBSTITUTE SENATE BILL NO. 6598,  
SENATE BILL NO. 6608,  
SENATE BILL NO. 6634,  
SENATE BILL NO. 6635,  
SENATE BILL NO. 6640,  
SENATE BILL NO. 6645,  
SENATE BILL NO. 6650,  
SUBSTITUTE SENATE BILL NO. 6651,  
SENATE BILL NO. 6665,  
SENATE BILL NO. 6685,  
SENATE BILL NO. 6692,  
SUBSTITUTE SENATE BILL NO. 6701,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6717,  
SENATE BILL NO. 6739, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

MESSAGE FROM THE HOUSE

March 12, 1998

MR. PRESIDENT:

Under the provisions of House Concurrent Resolution No. 4439, the House herewith returns the following Senate Bills to the Senate:

SUBSTITUTE SENATE BILL NO. 5634,  
SUBSTITUTE SENATE BILL NO. 6240,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6461,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6515,  
ENGROSSED SUBSTITUTE SENATE JOINT MEMORIAL NO. 8010,  
SENATE JOINT MEMORIAL NO. 8017,  
SENATE JOINT MEMORIAL NO. 8029,  
SENATE JOINT RESOLUTION NO. 8204, and the same are herewith transmitted.

TIMOTHY A. MARTIN, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
HOUSE CONCURRENT RESOLUTION NO. 4438.

SIGNED BY THE PRESIDENT

The President signed:  
HOUSE CONCURRENT RESOLUTION NO. 4439.

SIGNED BY THE PRESIDENT

The President signed:  
HOUSE CONCURRENT RESOLUTION NO. 4440.

President Pro Tempore Newhouse assumed the Chair.

MOTION

On motion of Senator Johnson, the Senate Journal for the sixtieth day of the 1998 Regular Session of the Fifty-fifth Legislature was approved.

MOTION

At 10:15 p.m., on motion of Senator Johnson, the 1998 Regular Session of the Fifty-fifth Legislature adjourned SINE DIE.

BRAD OWEN, President of the Senate

MIKE O'CONNELL, Secretary of the Senate

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